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Supreme Court of Florida

SC2025-1020

Jon May, Petitioner

vs.

The Florida Bar, Respondent.

Corrected Petition for Writ of Mandamus

Introduction

On June 5 of this year, Petitioner Jon May filed a complaint with The Florida Bar, urging it to investigate U.S. Attorney General Pamela Jo Bondi. Petitioner had a clear legal right under the Rules Regulating The Florida Bar to report this alleged professional misconduct. Bar Counsel dismissed the complaint the following day, stating that "The Florida Bar does not investigate or prosecute sitting officers appointed under the U.S. Constitution while they are in office." However, Chapter Three of the Rules Regulating The Florida Bar (hereafter, "Disciplinary Rules") imposes upon The Florida Bar an imperative, ministerial duty to conduct a complete

investigation when it receives a sworn complaint from a member of the public alleging a violation of the Chapter Four of the Rules Regulating The Florida Bar (hereafter, "Rules of Professional Conduct"). This obligation is unqualified. Under Florida law, moreover, “constitutional officers” are only those individuals holding offices created by the Florida Constitution, not the U.S. Constitution. Petitioner has no other adequate remedy to address the refusal of The Florida Bar to investigate Petitioner’s complaint. As explained more fully below, Petitioner is therefore entitled to a writ of mandamus directing The Florida Bar to conduct a complete investigation of his complaint.

Basis for Jurisdiction

This Court has original jurisdiction under Article V, Section (3)(b)(8) of the Florida Constitution to issue writs of mandamus directed to state officers and state agencies. *See also* Fla. R. App. P. 9.030(a)(3). Rule 3-7.7(e) provides that extraordinary writs such as mandamus are the exclusive means of addressing actions of The Florida Bar in disciplinary proceedings.

Facts

On June 5, Petitioner filed a complaint with The Florida Bar, urging it to investigate U.S. Attorney General Pamela Bondi for serious professional misconduct that threatens the rule of law and the administration of justice. Petitioner's complaint was co-signed by three civil society groups (Lawyers Defending American Democracy, Democracy Defenders Fund, and Lawyers for the Rule of Law), as well as 70 prominent legal ethics professors, former judges and lawyers.[1] The complaint is attached as Appendix A.

In brief, the complaint alleges that Ms. Bondi, personally and through her senior management, has sought to compel Department of Justice lawyers to violate their ethical obligations under the guise of "zealous advocacy," as announced in her memorandum to all Department employees, issued on her first day in office. *See* Memorandum of U.S. Att'y Gen. Pamela Bondi to all Department

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[1] These cosigners included two former Chief Justices of the Florida Supreme Court (Barbara J. Pariente and Peggy A. Quince), a former President of the American Bar Association (ABA) (Martha W. Barnett), a former Chief of the U.S. Attorney's Office SDFL Public Integrity Section (Bruce Udolf), and a Past President of both the National Association of Criminal Defense Lawyers and the ABA's Section of Criminal Law (Bruce Lyons).

Employees on General Policy Regarding Zealous Advocacy on Behalf of the United States (Feb. 5, 2025). The complaint describes three examples of Department lawyers being terminated or forced to resign as a result of directives that they act unethically. In the most glaring example, Ms. Bondi fired a Department lawyer for telling the truth in court, despite his duty of candor to the tribunal. The complaint alleges that she has exerted this pressure even though the Rules of Professional Conduct limit the "zeal" of attorneys to "lawful and ethical measures." Rule 4-1.3, Comment. The complaint argues that such conduct violates: Rule 4-8.4(a), which makes it misconduct for a lawyer to "knowingly . . . induce another . . . to violate the Rules of Professional Conduct"; Rule 4-5.1, which imposes ethical duties on Ms. Bondi to take reasonable measures with respect to her managerial duties as Attorney General and her supervisory duties over subordinate lawyers to ensure that lawyers in the Department comply with their ethical duties; and Rule 4-8.4(d), which prohibits a lawyer from engaging "in conduct that is prejudicial to the administration of justice."

The following day, Bar Counsel Francisco J. Digon-Greer dismissed the complaint. His explanation, in full, was that

> The Florida Bar does not investigate or prosecute sitting officers appointed under the U.S. Constitution while they are in office. Such proceedings by The Florida Bar, as an arm of the Florida Supreme Court, could encroach on the authority of the federal government concerning these officials and the exercise of their duties.
>
> Therefore, this matter is closed as of the date of this letter . . . .

Letter regarding Pamela Jo Bondi, RFA No. 25-13781 (June 6, 2025) (Appendix B). On June 13, Petitioner emailed The Bar seeking informal review of that decision. That request was denied in an email from Shanell M. Schulyer dated July 7 (Appendix C).

Nature of Relief Sought

Petitioner seeks entry of a writ of mandamus compelling The Florida Bar to comply with Rule 3-7.3 and conduct a "complete investigation" into allegations of unethical conduct by Pamela Bondi, a member of The Florida Bar and Attorney General of the United States.

Argument

A. The Standard for Mandamus Is Met in this Case.

Mandamus is a common law remedy used to enforce a clear legal right by compelling a person in an official capacity to perform an indisputable ministerial duty required by law. *See Tyson v. The Fla. Bar*, 826 So. 2d 265, 268 (Fla. 2002), *Jackson v. Fla. Dep't of Corr.*, 790 So. 2d 381, 386 (Fla. 2000). Mandamus may not be used to establish rights that petitioner does not otherwise possess. *Fla. League of Cities v. Smith*, 607 So. 2d 397, 401 (Fla.1992).

In order to be entitled to a writ of mandamus, "the petitioner must have a clear legal right to the requested relief, the respondent must have an indisputable legal duty to perform the requested action, and the petitioner must have no other adequate remedy available." *Mayfield v. Sec'y, Fla. Dep't of State*, 402 So. 3d 1002,1005 (Fla. 2025) (quoting Huffman v. State, 813 So. 2d 10, 11 (Fla. 2000)). Indeed, "[i]t has long been established that mandamus lies to compel the performance of a specific imperative ministerial duty. It is not an appropriate vehicle for review of a merely erroneous decision nor is it proper to mandate the doing (or

undoing) of a discretionary act." *Tyson,* 826 So. 2d at 268 (quoting *Migliore v. City of Lauderhill,* 415 So. 2d 62, 63 (Fla 4th DCA 1982)).

As this petition establishes below, the standard for mandamus is met in this case: Petitioner has a clear legal right to file a complaint against Ms. Bondi seeking an investigation, The Florida Bar has an indisputable and unconditional obligation under its own rules to perform a ministerial duty, namely, to conduct a complete investigation of that complaint, and Petitioner has no other adequate remedy.

Notably, this Court is not being asked to determine whether Ms. Bondi has violated any Florida Bar rule. This Court is merely being asked to determine whether The Florida Bar had the discretion to refuse to conduct a complete investigation of a complaint against a member of The Florida Bar who is a federal official on the grounds that to do so "could encroach on the authority of the federal government concerning these officials and the exercise of their duties." Letter from Bar Counsel Digon-Greer, *supra* p. 5. As the following discussion demonstrates, the answer to that question is no.

B. Petitioner Has an Obligation to Protect the Public and a Clear Legal Right to Demand that The Florida Bar Fulfill Its Responsibility to Enforce the Rules of Professional Conduct.

Under Florida law, "*any person*" is entitled to file a complaint against a member of The Florida Bar seeking an investigation of an alleged violation of the Rules of Professional Conduct. *See* Rule 3-2.1(d) (a "complainant or any complaining witness is any person who has complained of the conduct of any member of The Florida Bar") (emphasis added); Rule 3-7.3(b), (c) (specifying the form for and procedures for handling complaints). As The Florida Bar's Lawyer Complaints and Discipline website explains, "The division accepts and investigates complaints against lawyers, and prosecutes those who engage in unethical conduct." *See* https://www.floridabar.org/public/acap/.

The Rules of Professional Conduct impose a special obligation on members of The Florida Bar to ensure that all members of the Bar obey the Rules. As stated at the conclusion of the Preamble to the Rules:

> [E]very lawyer is responsible for observance of the Rules of Professional Conduct. A lawyer should also aid in securing their observance by other lawyers. Neglect of

> these responsibilities compromises the independence of the profession and the public interest that it serves.

Rules of Professional Conduct; Preamble: A Lawyer's Responsibilities. Consistently, Rule 4-8.3(a) states:

> A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects must inform the appropriate professional authority.

The Petitioner, Jon May, is a member of The Florida Bar. Consequently, he and the other Florida lawyers who co-signed the Complaint at issue in this case had an obligation to file it and also have a clear legal right to expect that The Florida Bar will conduct a complete investigation of it.

Importantly, persons filing complaints under the Disciplinary Rules are not seeking to vindicate a private right, they are initiating a process designed to protect the public. *See Tyson*, 826 So. 2d at 268 ("[T]he purpose of an attorney disciplinary proceeding is the protection of the public, not the vindication of private rights. . . .") Again, The Florida Bar's website makes this clear: "As an official arm of the Florida Supreme Court, The Florida Bar's Division of Lawyer Regulation protects the public by providing a means to

address lawyer misconduct." *See* https://www.floridabar.org/public/acap/. Members of the public, and particularly lawyers, thus have a legal right under this regime to file a sworn complaint seeking an investigation. And, as discussed immediately below, The Florida Bar in turn is obligated to conduct that investigation completely.[2]

C. The Florida Bar Has a Clear Duty to Conduct a Complete Investigation of the Complaint.

1. Ms. Bondi Is Subject to the Florida Rules of Professional Conduct.

The McDade Amendment, enacted by Congress in 1998, establishes that an attorney for the federal government is bound by State laws, ethical rules and federal court rules in the State "where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State." Ms. Bondi is a member of The Florida Bar. Under Rule 4-8.5, she "is

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[2] In *Tyson*, this Court held that a petitioner did not have a clear legal right to have The Bar "reopen its investigation" of a case after The Bar, following Rule 3-7.3, had conducted an investigation and determined that no further action was warranted. 826 So. 2d at 267. By contrast, the Petitioner in this case is asking the Court to require The Bar to *conduct* the investigation that it is required to conduct under Rule 3-7.3.

subject to the disciplinary authority of this jurisdiction although engaged in practice elsewhere."

Although Ms. Bondi heads a federal agency headquartered in the District of Columbia, she is not a member of the D.C. Bar and is not subject to the disciplinary authority of the D.C. Bar under the rules issued by the D.C. Court of Appeals.[3] While the plain language of the McDade Amendment would seem to indicate that Ms. Bondi is subject to the D.C. rules (since that is "where [she] engages in [her] duties"), under the choice of law rules issued by the Department of Justice to implement the McDade Amendment, Ms. Bondi is subject to Florida's ethical rules.[4]

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[3] Pursuant to Rule XI, Section 1(a) of the D.C. Court of Appeals' Rules Governing the District of Columbia Bar, the D.C. Court of Appeals and the D.C. Board on Professional Responsibility only have disciplinary jurisdiction over members of the D.C. Bar, persons appearing *pro hac vice* in a D.C. case, licensed special legal consultants, clinical professors providing legal services, and persons who have been suspended or disbarred by the D.C. Court of Appeals. *See also* D.C. R. Pro. Conduct 8.5(a). ("A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer's conduct occurs.").

[4] *See* 28 C.F.R. § 77.4(c)(1) ("Where no case is pending, the attorney should generally comply with the ethical rules of the attorney's state of licensure, unless application of traditional choice-of-law principles direct the attorney to comply with the ethical rule of another jurisdiction or court, such as the ethical rule adopted by

2. The Florida Bar Is Obligated by Its Own Rules to Conduct a Complete Investigation of the Complaint.

The Florida Bar has a clear duty to conduct a complete investigation when it receives a sworn complaint, as it did here, from a member of the public alleging a violation of the Rules of Professional Responsibility. As Rule 3-7.3(b) states, "Bar counsel *must investigate* the allegations contained in any written complaint that is signed under oath as provided in this rule" (emphasis added). Consistently, Rule 3-7.3(d) ("Dismissal of Disciplinary Cases") provides that "Bar counsel may dismiss disciplinary cases if bar counsel determines, *after complete investigation*, that the facts show the respondent did not violate the Rules Regulating The Florida Bar" (emphasis added).

Unsworn "inquiries," by contrast, are subject to a "screening"-level review by Bar Counsel to determine whether the alleged conduct would constitute a violation of the rules that would warrant

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the court in which the case is likely to be brought.") *See also* Rule 4-8.5, Comment ("If the Rules of Professional Conduct in the 2 jurisdictions differ, principles of conflicts of laws may apply."). There are no material differences between the Florida and District of Columbia Rules of Professional Conduct that Ms. Bondi allegedly violated and therefore Florida's conflicts of laws rule does not apply.

discipline. *See* Rule 3-7.3(a) ("Screening of Inquiries"). This distinction is intentional. As the Court noted in *The Fla. Bar v. Rue*, "the rule 'differentiates between inquiries into professional conduct and complaints and sets forth the procedures to be followed for each.'" *See* 643 So. 2d 1080, 1083 (Fla. 1994) (quoting *The Fla. Bar re Amend. to the Rules Regulating The Fla. Bar*, 558 So. 2d 1008, 1010-1011 (Fla. 1990)).

Rule 3-7.3 does not afford The Florida Bar discretion to decline to investigate a sworn complaint. *Cf. Mayfield*, 402 So. 3d at 1005-1007 (filing officer tasked simply with determining whether candidate-qualifying paperwork is complete on its face; filing office may not determine whether contents of the qualifying paperwork are accurate). Accordingly, The Bar had an unqualified obligation to completely investigate the complaint. That rule was not followed here. Instead, the complaint was summarily dismissed, without any investigation, the day after it was received.

3. Rule 3-7.16(d) Is Inapposite to this Case.

Bar Counsel's letter dismissing the complaint cited no authority for the assertion that the bar "does not investigate or

prosecute sitting officers appointed under the U.S. Constitution while they are in office." No such exclusion is contained in Rule 3-7.3. The only reference to "constitutional officers" contained in the Disciplinary Rules is Rule 3-7.16(d), a rule providing that inquiries or complaints "about the conduct of a constitutional officer who is required to be a member in good standing of The Florida Bar" must be filed within six years after the constitutional officer vacates office. This provision is inapposite to the complaint in this case, however, for two principal reasons.

a. The concept of a "constitutional officer" has always and only ever been applied to officers appointed under the Florida Constitution.

As far back as 1875 – apparently the first reference to the concept in this Court's case law – the Court observed that amending the Florida Constitution could change the powers of a "constitutional officer". *See, e.g.*, *In re. Exec. Commc'n of Oct. 5, 1875*, 15 Fla. 735, 738 (1875). The rationale behind the concept – that the state legislature should not be permitted to create "state" offices whose authority "conflict[s] with the authority conferred by the Constitution on a constitutional officer" – by its very terms is limited to offices created by The Florida Constitution. *See State ex*

rel. Landis v. Wheat, 103 Fla. 1, 14 (1931). Subsequent decisions of this Court have continued to link the term "constitutional officer" to the Florida Constitution. This is best illustrated in the relatively recent case of *Pub. Def., Eleventh Jud. Cir. of Fla. v. State*, which noted that the state legislature had amended the Florida Constitution "and elevate[d] the Office of the Public Defender to the level of a constitutional officer." 115 So. 3d 261, 267 (Fla. 2013) (citing a state legislative summary of the relevant enactment: "position of public defender gains constitutional status"). Similar cases are legion. *See, e.g, The Fla. Bar v. Sibley,* 995 So. 2d 346, 350 (Fla. 2008) (the Florida Constitution establishes oath requirements for constitutional officers), *Code of Jud. Conduct*, 816 So. 2d 1084 (Fla. 2002) (discussing a change to canon 6B to conform it to Florida Statutes § 112.3144(1), "which requires that constitutional officers file annual disclosures of financial interests with the Florida Commission on Ethics"), *Kane v. Robbins*, 556 So. 2d 1381, 1382 (Fla. 1989) ("In any event, school board members are now accorded constitutional status by article IX, section 4(a), Florida Constitution.").

Perhaps the clearest illustration that "constitutional officer" refers solely to offices created by the Florida Constitution is the area of ethics in government. At the constitutional level, article II, section 8 of the Florida Constitution establishes a comprehensive scheme of ethics regulation. Section 8, subsection (a) requires "[a]ll elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees [to] file full and public disclosure of their financial interests." The legislation implementing this Section similarly speaks of "constitutional officers" exclusively in terms of officials whose positions were created by the Florida Constitution. Even more to the point, Section 112.3142(1), Florida Statutes (2020) defines "constitutional officers" for purposes of ethics training to include "the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools.") If the legislature intended to enumerate any category of federal officials also

considered to be "constitutional officers," they easily could have done so. But they did not.

One of the few other provisions of the Florida Constitution that employs the term "constitutional officer" – article I, section 24, subsection (a) – strongly indicates that the term is limited to offices created by the state Constitution. This provision states that the right of access to public records that it creates extends to documents made or received by "the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or *this Constitution*" (emphasis added).

b. Ms. Bondi is not "required," as a legal or practical matter, "to be a member in good standing of The Florida Bar."

Further, Rule 3-7.16(d) is inapplicable to this case because it explicitly applies only to "a constitutional officer *who is required to be a member in good standing of The Florida Bar*" (emphasis added). The U.S. Attorney General is not required by law to be a member of The Florida Bar, much less one in good standing. The U.S. Attorney General is not required by law to be a member of *any* bar; indeed,

the U.S. Attorney General is not even required to be a lawyer. *See* 28 U.S.C. § 503 (providing merely that "[t]he President shall appoint, by and with the advice and consent of the Senate, an Attorney General of the United States. The Attorney General is the head of the Department of Justice.").[5] Nor is Ms. Bondi required as a practical matter to be a member in good standing of The Florida Bar, since she currently practices law in the District of Columbia, not in Florida.

This Court has recently emphasized that a Florida court must "give effect to every clause and word of the statutory provisions at issue." *Tsuji v. Fleet*, 366 So. 3d 1020, 1030 (Fla. 2023). While the text at issue here is a Court-adopted rule rather than a statute, the principles of construction are the same. Giving effect to the clause "who is required to be a member in good standing of The Florida Bar" has the inevitable consequence of excluding the office of U.S. Attorney General – and its current occupant – from the universe of "constitutional officers" covered by Rule 3-7.16(d).

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[5] *Cf.* 28 U.S.C. § 505 (the Solicitor General shall be "learned in the law").

In conclusion, while Ms. Bondi is subject to the Rules Professional Conduct because she is a member of The Florida Bar, she is not entitled to any special treatment under Rule 3-7.16(d) as a "constitutional officer" because that provision only applies to persons who are (i) officers under the Florida constitution *and* (ii) required to be a member in good standing of The Florida Bar. She is neither.[6]

4. Congress Has Established a National Policy that Federal Lawyers Be Subject to State Ethics Rules and Discipline.

Ethics complaints against Florida lawyers are governed exclusively by the Disciplinary Rules, and there should be no leeway for Bar Counsel or this Court to invent practices or policies that conflict with them.

Moreover, the concern identified by Bar Counsel as the basis for this brand new policy is unfounded. Bar Counsel claimed that subjecting federal constitutional officers to state ethics oversight

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6 In addition to the two foregoing reasons, Rule 3-7.16(d) is also inapposite to this case because (i) it does not explicitly release The Bar from its obligations under Rule 3-7.3(b), and (ii) Bar Counsel did not cite Rule 3-7.16(d) in his letter to Petitioner, and so has waived The Bar's right to rely on that rule now.

"could encroach on the authority of the federal government concerning these officials and the exercise of their duties." But the U.S. Congress has already spoken to this precise question. In the 1980s and 1990s, the Department of Justice took the position that federal government lawyers were not bound by state ethics rules regarding contacting witnesses represented by counsel. *See* Nina Marino & Richard Kaplan, *Moving Towards a Meaningful Limitation on Wrongful Prosecutorial Contact with Represented Parties*, 4 RICH. PUB. INT. L. REV. 36 (1999); *see also* Stephen Gillers, *Because They Are Lawyers First and Foremost: Ethics Rules and Other Strategies to Protect the Justice Department from a Faithless President*, 57 GA. L. REV. 163, 199-200 (2022). Congress passed the McDade Amendment in 1998 to overrule the Department's position and require accountability. The McDade Amendment establishes that an attorney for the federal government shall be bound by State laws and ethical rules and federal court rules in the State "where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State." 28 U.S.C. § 530B(a). This law now binds *all* federal government lawyers, including the Attorney General. *See* 28 U.S.C. § 530B(c) (cross-

referencing 28 C.F.R. § 77.2(a)) ("The phrase 'attorney for the government' means the Attorney General . . . ."). Congress has thus determined that state ethical oversight of federal lawyers will not encroach on the authority of the federal government concerning these officials and the exercise of their duties – and, to the extent it does, Congress has made plain that this burden is worth the cost. Neither The Florida Bar nor this Court should undermine Congress's determination that federal government lawyers be accountable to state ethical rules for their conduct.

D. Petitioner Has No Other Adequate Remedy.

The Disciplinary Rules expressly deny a complainant the right to take an appeal from a decision by The Florida Bar. *See* Rule 3.7-4(i). However, writs of mandamus are authorized. *See* Rule 3-7.7(e); *See also Tyson*, 826 So. 2d at 268 (mandamus appropriate where the petitioner has a clear legal right to the requested relief, the respondent has a specific imperative ministerial duty, and the petitioner has no other adequate remedy available).

As noted above, because Ms. Bondi is not a member of the bar of the District of Columbia, she is not subject to its supervision.

However, she is subject to the jurisdiction of The Florida Bar no matter where her office is located.

The Department of Justice's Office of Professional Responsibility (OPR) reviews allegations of misconduct by Department lawyers. However, where an OPR investigation concludes with a finding of intentional misconduct and that finding is approved by the Deputy Attorney General, OPR's practice is to notify the relevant state bar. *See* U.S. GOV'T ACCOUNTABILITY OFF., GAO-00-187, DEPARTMENT OF JUSTICE: INFORMATION ON THE OFFICE OF PROFESSIONAL RESPONSIBILITY'S OPERATIONS (2000). It is also unclear whether OPR is even functional at the moment. Ms. Bondi removed the Director and Chief Counsel of OPR, Jeffrey Ragsdale, more than two months ago. *See* Perry Stein, Shayna Jacobs, Carol Leoning & Ann Marimow, *Several top career officials ousted at Justice Department*, Wash. Post, Mar. 7, 2025, https://www.washingtonpost.com/national-security/2025/03/07/justice-department-trump-firings/. But OPR's website still does not identify anyone as having replaced him as head of the Office. All it states under the heading "Leadership" is

"Counsel." *See* OFF. OF PRO. RESP., https://www.justice.gov/opr (last visited July 12, 2025).

E. The Complaint Is Not a "Political Tactic." But to the Extent It Raises Policy Issues, Those Issues Support Issuance of the Requested Writ of Mandamus.

Some have criticized ethics complaints against public officials as being "politics," or a vehicle for adjudicating policy disputes. As a review of the complaint will make clear, however, its aim is to assure that lawyers who occupy positions of public trust continue to abide by the Rules of Professional Conduct that they are obliged to follow. The long list of signatories to the complaint, many of whom are distinguished professors of legal ethics, vindicates that intent.

Bar Counsel's letter dismissing the complaint does appear to be motivated by policy concerns. First, by referring to the "U.S. Constitution" and the "federal government," the letter implicitly suggests that principles of federalism weigh against allowing the Florida Supreme Court to investigate or discipline federal officials for ethical violations. As noted above, however, the U.S. Congress rejected that position when it enacted the McDade Amendment.

Instead, the federal government relies on the states to police the ethical conduct of federal officials. As the U.S. Supreme Court has held:

> Since the founding of the Republic, the licensing and regulation of lawyers has been left exclusively to the States and the District of Columbia within their respective jurisdictions. The States prescribe the qualifications for admission to practice and the standards of professional conduct. They also are responsible for the discipline of lawyers.[7]

Second, by contrasting the role of this Court with the duties of federal government officials, Bar Counsel's letter seems to implicate concerns similar to separation of powers issues that arise between branches of our federal government, albeit involving different levels

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[7] *Leis v. Flynt*, 439 U.S. 438, 442 (1979). In at least two recent cases, former Justice Department officials have challenged the jurisdiction of their state of bar admission to enforce its ethical rules against them for official conduct. In both cases, the courts emphatically rejected those challenges. *See In re Clark*, 311 A.3d 882, 887-889 (D.C. 2024) (citing the McDade Amendment); *Matter of Howes*, 940 P.2d 159, 169 (1997) ("Respondent has not cited and cannot point to any federal law which requires him to carry out his duties as an AUSA in an unethical manner or to any intent of Congress that he even be permitted to do so. To the contrary, the intent of Congress still appears to be that respondent and others in his position should adhere to the ethical standards prescribed by their licensing courts.").

of government. But the position announced in Bar Counsel's letter actually undermines the balance between the state and federal government that has prevailed before and since the McDade Amendment by divesting this Court of its proper role in overseeing compliance with the Rules of Professional Conduct by Florida lawyers who are federal executive branch officials.

Those rules not only require that lawyers who are public officials be accountable for their conduct, they specifically state that "[l]awyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of attorney." Rule 4-8.4, Comment.[8] Nowhere in the Rule or Comments is there an exemption for lawyers who are federal public officials. Accordingly, the position conveyed in The Florida Bar's letter is an abdication of its jurisdiction and responsibility to regulate the legal profession. This Court should allow The Bar the opportunity to correct its error through issuance of the requested writ of mandamus.

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[8] The Comment expands upon Rule 8.4(d), which states: "A lawyer shall not engage in conduct in connection with the practice of law that is prejudicial to the administration of justice."

F. This Court's Supervisory Duties Over the Disciplinary Process Requires it to Grant Petitioner's Petition for a Writ of Mandamus.

This Court has delegated its inherent authority over the discipline of members of The Florida Bar under Rule 3-1.2 to The Bar's Board of Governors, grievance committees and referees. Rule 3-3.1. However, the Court's delegation of its disciplinary authority is subject to its supervisory duty to oversee the disciplinary process. Rule 3-3.1 states:

> The exclusive jurisdiction of the Supreme Court of Florida over the discipline of persons admitted to the practice of law will be administered . . . subject to the supervision and review of the court. . . .

Thus, even though this Court has delegated its disciplinary authority, it retains and must fulfill its duty to supervise The Florida Bar by directing it to investigate Petitioner's complaint. Petitioner has demonstrated that he has a clear legal right to file a bar complaint alleging ethical violations by Ms. Bondi, that the Florida Bar has an indisputable legal duty to investigate the complaint, and that its refusal to do so is an abdication of its responsibility to regulate the legal profession. This Court can only fulfill its supervisory duties over the administration of the

disciplinary process if it issues a writ of mandamus directing The Florida Bar to comply with its delegated duty under Rule 3-7.3(b) to investigate the sworn allegations in Petitioner's complaint.

WHEREFORE, Petitioner respectfully requests that this Court:

A. Accept jurisdiction to review this Petition;

B. Issue a Writ of Mandamus compelling The Florida Bar to conduct a complete investigation into the allegations made in the complaint against Ms. Bondi; and

C. Issue such further and other relief as the Court deems appropriate.

Respectfully signed and submitted electronically this 12th day of August, 2025.

/s/ Jon May
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document was filed electronically and was sent by E-Mail from the Florida Courts' E-Filing Portal system on all counsel or parties of record listed below, this 12th day of August, 2025.

Mark Mason
The Florida Bar
Appellate Counsel, Lawyer Regulation
651 East Jefferson Street
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mmason@floridabar.org

/s/ Jon May

Certificate Of Compliance

I hereby certify that this motion was typed in 14 point Bookman Old Style. The body of the petition is less than 13,000 words long.

/s/ Jon May
Creative Criminal
Defense Consultants