

3/17/25

No. 24-1005

In the Supreme Court of the United States

NATHAN YOUNG,
Petitioner,

v.

BURTON W. WIAND, as Receiver for
Oasis International Group, Ltd.; Oasis
Management, LLC; and Satellite
Holdings Company,
Respondent.

—◆—
On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Ninth Circuit
—◆—

PETITION FOR WRIT OF CERTIORARI

—◆—

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QUESTION PRESENTED

Both Petitioner and the LLC of which he is sole member are non-parties to a federal-receivership case in a sister State. Respondent Receiver served a subpoena on the LLC requesting personal communications, but filed after the federal-receivership case was closed, and failed to comply with federal law, rendering the trial court without *in personam* jurisdiction to enforce the subpoena. Petitioner claims standing to appeal this jurisdictional matter where he can establish a personal right or privilege in the documents the subpoena requests he produce.

QUESTION: Does a sole member and shareholder of a nonparty LLC, who specially appeared in the lower court proceedings, have standing to appeal a federal receiver's subpoena which requests the sole member's personal emails and text messages, and where the court lacked jurisdiction over both the LLC and its sole member?

LIST OF PARTIES

The caption contains the names of all interested parties.

CORPORATE DISCLOSURE STATEMENT

Petitioner is an individual, sole member, and indispensable and affected party with respect to Intermountain Precious Metals, LLC (“IPM”), the corporate party which Respondent Receiver attempted to subpoena in this case. IPM has no parent corporation, and no publicly held corporation owns 10 percent or more of its stock.

LIST OF DIRECTLY RELATED CASES

Commodity Futures Trading Comm’n v. Oasis Int’l Group, Ltd., et al., No. 8:19-cv-00886-VMC-SPF, U.S. District Court for the Middle District of Florida. Judgment entered December 7, 2023.

Burton W. Wiand as Receiver for Oasis Int’l Group, Ltd.; Oasis Management LLC; and Satellite Holdings Co. v. Intermountain Precious Metals LLC, No. 1:24-mc-00086-AKB, U.S. District Court for the District of Idaho. Judgment entered August 5, 2024.

Nathan Young v. Burton W. Wiand as Receiver for Oasis Int’l Group, Ltd.; Oasis Management LLC; and Satellite Holdings Co., No. 24-5506, United States Court of Appeals for the Ninth Circuit. Judgment entered December 17, 2024.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Nathan Young respectfully petitions for a writ of certiorari to review a judgment of the United States Court of Appeals for the Ninth Circuit.

OPINIONS BELOW

The Ninth Circuit's opinion of December 17, 2024 appears unavailable and is reproduced at Appendix A. The District Court for the District of Idaho's opinion is available at *Wiand v. Intermountain Precious Metals LLC*, 2024 U.S. Dist. LEXIS 139214 (D. Id. Aug. 5, 2024), and is reproduced at Appendix C. The District Court of Idaho's denial of Petitioner's motion for reconsideration on January 10, 2025 is reproduced at Appendix B.

JURISDICTION

The Ninth Circuit dismissed Petitioner's appeal on December 17, 2024. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONSTITUTION, Amendment V

No person ... shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law ...

U.S. CONSTITUTION, Amendment XIV, § 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

28 U.S.C. § 754

A receiver appointed in any civil action or proceeding involving property, real, personal or mixed, situated in different districts shall, upon giving bond as required by the court, be vested with complete jurisdiction and control of all such property with the right to take possession thereof. ...

Such receiver shall, within ten days after the entry of his order of appointment, file copies of the complaint and such order of appointment in the district court for each district in which property is located. The failure to file such copies in any district shall divest the receiver of jurisdiction and control over all such property in that district.

STATEMENT OF THE CASE

Pro se Petitioner Nathan Young requests that the Court hold his Petition "to less stringent standards than formal pleadings drafted by lawyers." *Haines v. Kerner*, 404 U.S. 519, 520 (1972), and give liberal construction to his arguments herein.

This entire case and its procedural course, beginning with the Florida Middle District's receiver issuing a subpoena into Idaho directed at the LLC of which Petitioner is the sole shareholder and member; the District Court of Idaho's Contempt Order against Petitioner; Petitioner's appeal of that Contempt Order to the Ninth Circuit; and this Petition for Certiorari, are grounded on the District Court of Idaho's lack of both subject-matter and personal jurisdiction over Petitioner and the LLC of which he is sole member.

Jurisdiction being challengeable at any time, Petitioner has not ceased to challenge it in this case for the reasons appearing herein.

The Idaho Federal District Court has no jurisdiction to enforce the receiver's subpoena to the Petitioner because (1) the receiver failed to timely file notice in the Idaho District Court of his Florida District Court receivership appointment within 10 days after his appointment of April 30, 2019, pursuant to 28 U.S.C. § 754, and (2) the receiver claims no presence of receivership property in Idaho.

But the District Court of Idaho has said that the Petitioner has no standing to challenge its jurisdiction to enforce the receiver's subpoena against the Petitioner, even though the subpoena demands Petitioner's personal communications protected by the Fifth Amendment.

On December 6, 2023, the United States District Court for the Middle District of Florida closed civil case 8:19-cv-00886 VMC-SPF, ending the Court's subpoena power in that case. Nevertheless, on January 2, 2024, Respondent Wiand, the receiver in that closed case, opened a case in the U.S. District Court for the District of Idaho against Intermountain

Precious Metals, LLC ("IPM"), and served a nonparty subpoena duces tecum to IPM LLC, a one-member LLC with Mr. Young as its sole member.

Petitioner Young, learning that the originating federal case in Florida was closed, reasoned that the District Court for the District of Idaho was without jurisdiction to issue a subpoena in that case. Further convinced that the subpoena demanded production of non-corporate, personal information from IPM LLC's single member, himself, Mr. Young appeared by Special Appearance, for himself personally, on April 12, 2024 in the District Court for the District of Idaho, to challenge the validity of the subpoena and the jurisdiction of that court via a motion to quash.

Petitioner also noticed that Receiver Wiand had failed to timely file notice in the State of Idaho of his Florida District Court receivership appointment within 10 days after his appointment on April 30, 2019, as required by 28 U.S.C. § 754, and that the receiver had alleged no belief or claim that receivership property is located in Idaho.

On April 3, 2024, Respondent filed a motion to compel compliance with his invalid subpoena. As IPM's sole member, officer, and sole party in interest, Mr. Young objected to the subpoena, arguing the Court's lack of jurisdiction, and that the subpoena exceeded the scope of the Receiver's authority. The District Court issued an Order to Show Cause, directing IPM to obtain counsel. IPM responded that it was seeking counsel, but was ultimately unsuccessful in that effort.

Meanwhile, on April 19, 2024, Receiver Wiand filed a Receiver's Supplemental Interim Report into the Middle District of Florida, threatening Petitioner with criminal prosecution, putting him in real

accusatory danger and entitling him to personal Fifth Amendment protection. The filed document claimed that Respondent Receiver could exercise authority to aid in criminal investigations under the bankruptcy code, 18 U.S.C. § 3057(a), and that he was providing information he gathered to “appropriate law enforcement agencies.”¹ Petitioner brought this information to the district court’s attention in support of his standing to object to the invalid subpoena.

The District Court for the District of Idaho overruled IPM’s objections, granted the Receiver’s Motion to Compel, and held IPM in contempt on August 5, 2024.

Upon the District Court’s denial of Petitioner’s standing to challenge Respondent’s subpoena infringement upon his Fifth Amendment right of non-production, Petitioner asserted standing to appeal the District Court’s ruling to the Ninth Circuit pursuant to 28 U.S.C. § 1291.

Petitioner filed a timely notice of appeal, and argued to the Ninth Circuit that “[E]quities of this case weigh in favor of allowing Mr. Young to represent IPM as he is the sole party bound by the judgment.”²

The Ninth Circuit, however, claimed that Mr. Young failed to raise the issue of standing, and thus dismissed his case without consideration of the fact

¹ *Commodity Futures Trading Comm’n v. Oasis Int’l Group, Ltd., et al.*, No. 8:19-cv-00886-VMC-SPF, U.S. District Court for the Middle District of Florida, Doc. 811.

² *Nathan Young v. Burton W. Wiand as Receiver for Oasis Int’ Group, Ltd.; Oasis Management LLC; and Satellite Holdings Co.*, No. 24-5506, United States Court of Appeals for the Ninth Circuit, Doc. 9.

that the lower court was without *in personam* jurisdiction over either IPM or Mr. Young.

Mr. Young, Petitioner herein, as a necessary party in interest, and the sole party bound by and affected by the judgment, files this Petition.

REASONS FOR GRANTING THE WRIT

I. Petitioner has personal standing to challenge the subpoena.

Respondent argued that IPM, as a limited liability corporation, must be represented by counsel and cannot proceed *pro se*. While generally true, for reasons explained below, this argument ignores the unique circumstances of this case. The standard to review questions of appellate standing is *de novo*.

Petitioner appealed, and petitions herein, as the sole person-in-interest bound and affected by the judgment. In *S. California Edison Co. v. Lynch*, 307 F.3d 794, 804 (9th Cir. 2002) and *Bank of Am. v. M/V Exec.*, 797 F.2d 772, 774 (9th Cir. 1986), the Ninth Circuit gave standing to appellants who were not named parties because they had participated in the district court proceedings and equities of the case weighed in favor of hearing their appeal.

A nonparty has standing to appeal a district court's decision "only in exceptional circumstances." *Citibank Int'l. v. Collier-Traino, Inc.*, 809 F.2d 1438, 1441 (9th Cir.1987):

In this [Ninth] circuit, a nonparty to the litigation on the merits will have standing to appeal the decision only in exceptional

circumstances when: (1) the party participated in the proceedings below; and (2) the equities favor hearing the appeal. *Bank of America v. M/V Executive*, 797 F.2d 772, 774 (9th Cir. 1986); *SEC v. Wencke*, 783 F.2d 829, 834-35 (9th Cir.), cert. denied, ___ U.S. ___, 107 S.Ct. 77, 93 L.Ed.2d 33 (1986).

Petitioner has a personal interest in the outcome of this matter, participated in the district court, and is directly affected by the judgment. The equities of this case weigh in favor of allowing Petitioner standing to appeal the Idaho District Court's decision as he is the sole party bound by the judgment. This is particularly true where the Receiver cited a criminal statute, 18 U.S.C. § 3057(a), involving bankruptcy investigations, as applying to his authority as Receiver, and relaying that the information he gathered was being reported to "appropriate" law enforcement agencies. Mr. Young has a real and appreciable danger of being criminally prosecuted, and is entitled to personally appear and object to a subpoena which is to be used to gather personal communications he made with others in order to develop criminal accusations, not to maintain or distribute receivership property.

II. The question presented is important and recurring.

The Ninth Circuit's decision, coupled with the formidable power of the federal receivership, signals the importance of three recurring issues, arising from the question presented and nagging the federal

courts of appeal. *First*, whether a receiver has subpoena power where the originating receivership case under which the subpoena has issued, is closed; *second*, whether a receiver has subpoena power where the receiver claims no receivership property in the sister State into which the subpoena is directed; *third*, whether a receiver may infringe the Fifth Amendment rights of a nonparty LLC with only one member-shareholder where the receiver's subpoena to the nonparty LLC of another State requests personal emails and phone messages.

Allowing standing to the sole member of an LLC to challenge the constitutionality of such a subpoena directed to the LLC puts a ready remedy into the sole LLC member's hand to challenge an overreaching subpoena that infringes on his Fifth Amendment rights of nonproduction.

Federal receivers, being an arm of the court's appointment, hold a broad and formidable delegation of power from the federal court. Not surprisingly, the arm of such receivership power tends to grow longer and reach ever further. As one lawyer was heard to say, "If I get a second chance at life, I want to come back as a federal receiver." But who or what checks overreaching federal-court granted power placed into the hands of a mere lawyer appointed as a receiver?

If a court characterizes a federal receiver as a common-law trustee, the beneficiaries of the receivership would be the natural enforcers of the receiver's duty limits. If, on the other hand, a court characterizes a federal receivership as a "horse of a different color" and calls the beneficiaries "victims," the court bars their standing to enforce the receiver's fiduciary obligations.

Treatises on receiverships and courts seem unable to land on whether a receivership is (1) a common-law trust, binding a receiver to a trustee's duty, with a beneficiary's standing to enforce that trustee's duty, or (2) an arm of the federal court's formidable power, depending solely upon the judge, who may bar the beneficiaries of the receivership from petitioning the court with their grievances and observations of abuse.

Thus does the federal receiver enjoy, not only the immunity and prestige of the court's broad powers and trust, but also the incentive to push the limits of those powers for profit, threatening any who would question him. Indeed, law limits the receiver's activities, but without nonparty standing to challenge abuses such as unlawful subpoenas, there is no real remedy. And though our *law* does not trust a receiver to limit himself, too many courts tend to.

Hence, it seems reasonable and practical to allow standing to a nonparty, sole member of an LLC, who had appeared and engaged in the lower court proceedings, to appeal a federal receiver's subpoena for production of documents from an LLC of which he is the sole member.

To sum up, receivership-subpoena overreach is a potential in every federal receivership, due to the federal court's often broad delegation of receivership powers and an aggressiveness borne of immunity. By recognizing the standing of a nonparty LLC's sole shareholder as the person whose constitutional rights are concretely injured, and allowing such person to challenge the overreach of a receiver's illegal subpoena to that LLC, the courts can provide a natural check for the aggrieved party, easing the court's burden of such oversight responsibility. The

nonparty LLC's sole member's standing to challenge the receiver's subpoena to the LLC provides a practical safeguard to an ever-potential problem.

III. The question presented is of fundamental legal significance.

Establishing federal recognition of the standing of a sole member of a nonparty LLC to challenge a receiver's subpoena to the LLC, especially where it overreaches into such member's personal emails and text messages, is of fundamental legal significance. Indeed, it involves the reach of the federal courts into other States and the balance of State-federal power.

This petition's question presents a genuine issue this Court has left open.

In *U.S. v. Braswell*, 487 U.S. 99 (1988) this Court, by 5-4 decision (Rehnquist, C.J., White, Blackmun, Stevens, and O'Connor, JJ., joining in majority; and Kennedy, Brennan, Marshall, and Scalia, JJ., dissenting), ruled that the corporate entity in that case did not enjoy Fifth Amendment protection against nonproduction, but dropped a footnote:

We leave open the question whether the agency rationale supports compelling a custodian to produce corporate records when the custodian is able to establish, *by showing for example that he is the sole employee and officer of the corporation*, that the jury would inevitably conclude that he produced the records.

Id., at fn. 11. (emphasis added).

But the majority in *U.S. v. Braswell* denied Fifth Amendment protection for nonproduction of corporate records for the collective entity's agent, reasoning that to do so would "have ... a deleterious effect on law enforcement efforts." *Id.*, at fn. 11. But unlike the situation in *Braswell*, the federal receiver in Petitioner's case has no prosecutorial law-enforcement jurisdiction or function.

Bottom line, the *Braswell* majority held against allowing the collective entity's agent to enjoy the protection of nonproduction because they opined that to do so would hamper *law enforcement*:

The majority's abiding concern is that, if a corporate officer who is the target of a subpoena is allowed to assert the privilege, it will impede the Government's power to investigate corporations, unions, and partnerships, to uncover and prosecute white-collar crimes, and otherwise to enforce its visitatorial powers.

Id., at 129.

Petitioner's case here is distinguishable in that the receiver has no jurisdiction to prosecute crime, but only to *take possession of receivership property and distribute it*. No receivership property in Idaho was identified or noted in accordance with law by the Receiver herein.

Thus the question presented here has fundamental legal significance because it concerns the separations of the powers of our general government. The federal court receiver is an enforcement arm of the U.S. District Court for the Florida Central District. As an officer of that court,

he has no prosecutorial powers of the executive branch, and his purpose is not to investigate and uncover white-collar crimes as an adjunct to his receivership duties. *See, e.g., Ledbetter v. Farmers Bank & Tr. Co.*, 142 F.2d 147, 150 (4th Cir. 1944) (“It is well recognized that a receiver is the agent only of the court appointing him.”)

Because a receiver is an agent of a federal district court, this bars him from playing the role of prosecutor (an agent of the executive branch), and from acting as a criminal investigator.

Further, *Crescent City Remodeling, LLC v. CMR Construction & Roofing, LLC*, 643 F.Supp.3d 613, 615–16, 619–20 (E.D. La. 2022) highlights that individuals have a personal privacy interest in their cell-phone records, even if the subpoena is issued to a third-party provider. This principle can be extended to personal emails and phone messages at issue in this case.

While an LLC can be compelled to produce business records, including those in the possession of its sole member, there is a distinction between business records and personal communications. Personal emails and phone messages of the sole member may be protected

Further, subpoenas targeting nonparties must avoid imposing undue burden or expense. Federal Rule of Civil Procedure 45 provides protections to non-parties from undue burdens, and requires that subpoenas be narrowly tailored to avoid unnecessary intrusion.

A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue

burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney’s fees—on a party or attorney who fails to comply.

Mount Hope Church v. Bash Back!, 705 F.3d 418, 425 (9th Cir. 2012)

When a subpoena targets a corporation, but affects the principals of the corporation, those principals will have standing if the subpoena affects their personal interests. For example, a CEO was held to have standing to move to quash a subpoena to the extent it sought records/statements concerning any account held by him because he had a privacy interest in his own financial information. See *Falato v. Fotografixusa, L.L.C.*, 2013 U.S. Dist. LEXIS 61188 (D.N.J. Apr. 29, 2013).

IV. The District Court erred in taking jurisdiction.

In Petitioner’s case, the Respondent receiver did not comply with the filing requirements of 28 U.S.C. § 754 to assert that receivership property could exist in Idaho. A receiver’s failure to comply with § 754 means that the receiver lacks jurisdiction over the property in the sister State, and thus, any subpoena issued to a nonparty LLC in that state is invalid. The receiver must establish jurisdiction over the property by timely filing the necessary documents in the district where the property is located, *see, e.g., S.E.C. v. Vision Communications, Inc.*, 74 F.3d 287, 290 (D.C. Cir. 1996). Respondent therefore lacked jurisdiction over any receivership property in the

Idaho District from which the subpoena issued, and since exercising jurisdiction over such property constitutes the limit of a receiver's authority, the subpoena issued by the Receiver in this case was invalid, and could not invoke or convey *in personam* jurisdiction over either IPM or Mr. Young to the District Court.

Under 28 U.S.C. § 754, a receiver appointed in any civil action involving property situated in different districts *must* file copies of the complaint and the order of appointment in the district court for each district where the property is located within ten days of the appointment. Failure to do so *divests* the receiver of jurisdiction and control over the property in that district. *See, e.g., S.E.C. v. Ross*, 504 F.3d 1130, 1145–48, 1151 (9th Cir. 2007); *Carney v. Beracha*, 996 F.Supp.2d 56, 64–67, 73 (D. Conn. 2014).

Consequently, any subpoena issued to a non-party LLC in a sister State without evidence of property or its relevance to the case is overbroad and burdensome, and the receiver is without authority to enforce it.

In *Carney v. Beracha*, the court stressed that the receiver must believe that receivership property is located in the judicial district where he files the required documents, and there is no requirement to specifically identify the location of the property in the filings. *Carney*, at 67. However, if the receiver fails to comply with the filing requirements of 28 U.S.C. § 754, the receiver loses jurisdiction over any property in that district, which bars the court from exercising jurisdiction over the property. *See S.E.C. v. Vision Communications, Inc.*, at 290; *U.S. v. Arizona Fuels Corp.*, 739 F.2d 455, 458 (9th Cir. 1984).

In sum, the receiver's failure to comply with § 754 divested him of jurisdiction over the property in Idaho, and made any subpoena issued to a nonparty LLC in that State invalid and unenforceable. Where the District Court lacked *in personam* jurisdiction over both IPM and Mr. Young with respect to the subpoena, it is clear that the sole member of IPM, whose personal emails were subpoenaed, had standing to challenge the underlying jurisdiction of the court.

V. The federal circuits are conflicted.

There is a conflict among the federal circuit courts regarding an appointed receiver's failure to follow 28 U.S.C. § 754, particularly in the context of issuing subpoenas to nonparties in other districts, such as to Petitioner herein.

Haile v. Henderson Nat. Bank, 657 F.2d 816, 823 (6th Cir. 1981) held that a receiver's compliance with § 754 extends the territorial jurisdiction of the appointing court to any district where receivership property is believed to be located, provided the proper documents are filed in each such district. This view was supported by the D.C. Circuit in *S.E.C. v. Bilzerian*, 378 F.3d 1100, 1103 (D.C. Cir. 2004), which stressed that § 754 is a necessary step for a court to exercise *in personam* jurisdiction over property in another district.

Conversely, the Ninth Circuit in *S.E.C. v. Ross*, 504 F.3d 1130, 1147 (9th Cir. 2007) allowed for an exception, where strict compliance with § 754 was not necessary if an independent basis for jurisdiction existed. This suggests a more flexible approach, allowing for jurisdiction even if the receiver fails to

file the required documents within the ten-day period, provided there is another legally sound basis for jurisdiction.

Additionally, the First Circuit, in *American Freedom Train Foundation v. Spurney*, 747 F.2d 1069, 1070 (1st Cir. 1984), reiterated the importance of filing the necessary documents under § 754 to maintain jurisdiction over property in other districts.

The Ninth Circuit's decision in *F.T.C. v. Johnson*, 567 Fed.Appx. 512, 517 (9th Cir. 2014), further highlights the conflict, upholding a district court's jurisdiction over assets in other districts because the receiver complied with § 754 by filing the required documents in each district where the assets were located.

In sum, while some circuits require strict compliance with § 754 to extend jurisdiction, others allow for exceptions if there is an independent basis for jurisdiction. This divergence creates a conflict among the federal circuit courts regarding the necessity and strictness of compliance with § 754 in receivership actions; a conflict which results in some receivers allowed power which others are denied.

CONCLUSION

Petitioner requests this court grant the writ.

Respectfully submitted,

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