

No: 24-1200

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SUPREME COURT OF THE UNITED STATES

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WILLIAM F. KAETZ, Petitioner,  
v.  
UNITED STATES OF AMERICA, Respondent.

ORIGINAL

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SUPREME COURT, U.S.

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On Petition for a Writ of Certiorari to the United  
States Court of Appeals for the Third Circuit for  
Case No. 24-1646

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PETITION FOR A WRIT OF CERTIORARI

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Date: 5/16/2025 By: William F. Kaetz

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No: \_\_\_\_\_

**SUPREME COURT OF THE UNITED STATES**

**WILLIAM F. KAETZ, Petitioner**

v.

United States of America; Renee Marie Bumb; Juan R. Sanchez; Clarence Thomas; Claire C. Cecchi; Kevin McNulty; Christine P. O'Hearn; J. Nicholas Ranjan; John Michael Vazquez; Joseph McCormick; Nick Capaccio; Carrie Barona; Ivettelis Perez; Mark R. Hornak; Joseph F. Saporito, Jr.; Michael A. Chagares; Respondents

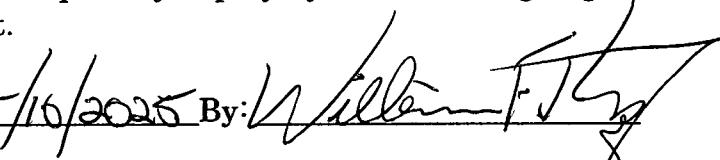
On Petition for a Writ of Certiorari to the United States Court of Appeals for the Third Circuit Appeal Case 24-1646

**Proof of Service**

I, William F. Kaetz do swear or declare that on this date, 5/16/2025 as required by Supreme Court Rule 29, I have served 3 copies of the enclosed Petition for a Writ of Certiorari with a Motion to Supplement The Record on the Solicitor General, by depositing an envelope containing the above documents in the United States mail properly addressed with first-class postage prepaid to:

Office of the Solicitor General  
950 Pennsylvania Ave. NW  
Washington DC 20530-0001

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on 5/16/2025 By: 

William F. Kaetz, Petitioner  
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201-753-1063, kaetzbill@gmail.com

No: \_\_\_\_\_

**SUPREME COURT OF THE UNITED STATES**

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On Petition for a Writ of Certiorari  
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for the Third Circuit for Case 24-1646

**Certification of Compliance**

I certify that this Petition for a Writ of Certiorari complies with type volume limitation of S. CT. Rule 33.2(b) This Petition for a Writ of Certiorari contains 6683 words, excluding the parts exempted by S. CT. Rule 33.1(d).

I certify that this Petition for a Writ of Certiorari complies with the typeface requirements of S. CT. Rule 33.2(b), this Petition for a Writ of Certiorari has been prepared in a proportionally spaced typeface using Microsoft Word in Century 12-point font and 10-point font footnotes.

I, William F. Kaetz, Petitioner, swear under penalty of perjury all statements herein are true.

Respectfully submitted.

Date: 5/16/2025 By: William F. Kaetz

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### Questions Presented

1. **Separation of Powers and Miscarriage of Justice:** Does a federal judge's reliance on non-binding judicial dicta from *United Student Aid Funds v. Espinosa*, 559 U.S. 260 (2010), and *Tenn. Student Assistance Corp. v. Hood*, 541 U.S. 440 (2004), and legislative history (Senate Report No. 95-989) to enforce 11 U.S.C. § 523(a)(8) in student loan bankruptcy matters, as Judge-1 did in Petitioner's case (Case 2:16-cv-09225, Doc. 57, Appendix a114-a129), constitute a separation of powers violation by assuming legislative authority, thereby rendering 18 U.S.C. § 119 inapplicable due to the judge's non-judicial actions, and causing a fundamental miscarriage of justice by criminalizing Petitioner for exposing this constitutional violation through protected First Amendment activities, including his 2020 civil complaint (Case 2:19-cv-08100-KM-JBC, Doc. 32-1, Appendix a64-a113), as unaddressed by the Third Circuit's denial of appealability on August 7, 2024 (Appendix a1-a2)?
2. **Constitutional Duty to Uphold Fundamental Rights:** Can this Court, tasked with enforcing the Constitution as the supreme law (*Muskrat v. United States*, 219 U.S. 346, 358 (1911)), permit the sacrifice of millions of Americans' enumerated rights—under the First, Sixth, Tenth, and Fourteenth Amendments and the separation of powers doctrine—for the expediency of upholding Petitioner's wrongful conviction, particularly when new 2025 evidence, including the Department of Education's termination (White House, Mar. 20, 2025), Kaplan

University's \$4 billion fraud (N.Y. Times, Mar. 25, 2025), and Petitioner's 2020 civil complaint alleging totalitarian threats (Appendix a64-a113), validates his claims, and when the lower courts' retaliatory actions, including punitive supervised release modifications (Case 2:21-cr-00211-MRH, Doc. 190, Appendix A37-A43 from Case 24-1605), chilled his speech?

3. **Inapplicability of 18 U.S.C. § 119:** If a federal judge, such as Judge-1, engages in a legislative act by prescribing future law in student loan bankruptcy proceedings (Case 2:22-cv-01148-MRH, Doc. 81, Appendix a15), depriving Petitioner of due process and jury trial rights, does this preclude the judge from being "engaged in or on account of the performance of official duties" under 18 U.S.C. § 1114, thereby negating the protections and penalties of § 119 and necessitating habeas corpus relief under 28 U.S.C. § 2255, a question the lower courts, including Judge Hornak's April 1, 2024, order (Case 2:22-cv-01148-MRH, Doc. 79, Appendix a59-a63), evaded, compounded by their retaliation against Petitioner's First Amendment activities (Case 2:22-cv-03489-MEF-JRA, Appendix a130-a163)?
4. **Structural Constitutional Errors and Fraud on the Court:** Did the lower courts, including District Judge Mark R. Hornak's denial of Petitioner's Rule 60 motion (Case 2:22-cv-01148-MRH, Doc. 88, Appendix a58) and omnibus order of April 1, 2024 (Doc. 79, Appendix a59-a63), and the Third Circuit's affirmance (Appendix a1-a2), commit reversible structural errors by ignoring constitutional violations—

First Amendment retaliation through punitive plea modifications (Case 2:21-cr-00211-MRH, Doc. 190, Appendix A37-A43 from Case 24-1605), Sixth Amendment denial of effective counsel and self-representation (Case 2:21-cr-00211-MRH, Doc. 170, Appendix A23 from Case 24-1605), and a fraud on the court perpetrated by ECMC and Judge-1 through reliance on non-binding dicta—thus perpetuating an unconstitutional conviction and obstructing justice for an indigent pro se litigant?

5. **Unconstitutionality of Federal Education Authority and Framers' Anti-Authoritarian Design:** Does the Department of Education's administration of a \$1.7 trillion fraudulent student loan portfolio (DOGE Report, Feb. 10, 2025), including \$776.3 million tied to Kaplan's fraud (N.Y. Times, Mar. 25, 2025), violate the Tenth Amendment and the Framers' anti-authoritarian design, which explicitly rejected federal control over education to prevent centralized power and authoritarian outcomes, as affirmed by its termination on March 20, 2025, the SCHOOL Act of March 27, 2025 (Paul Senate), and Petitioner's 2020 civil complaint (Appendix a64-a113), rendering its actions in Petitioner's case ultra vires and necessitating review to protect millions from unconstitutional federal overreach?

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### **Opinions Below**

The judgment of the United States Court of Appeals for the Third Circuit, denying a certificate of appealability on August 7, 2024, is unreported and included in the Appendix at a1-a2. The District Court's orders, including the denial of Petitioner's 28 U.S.C. § 2255 habeas corpus motion on June 29, 2023 (Case 2:22-cv-01148-MRH, Doc. 45, Appendix a45-a58), the denial of his Fed. R. Civ. P. Rule 60 motion to vacate on April 3, 2024 (Doc. 88, Appendix a58), and the omnibus order of April 1, 2024, denying various motions for relief (Doc. 79, Appendix a59-a63), are unreported but accessible via the cited dockets. Related supervised release modification orders (Case 2:21-cr-00211-MRH, Doc. 190, Appendix A37-A43 from Case 24-1605) and denials of motions to dismiss (Doc. 162, Appendix A14-A22; Doc. 185, Appendix A32-A36 from Case 24-1605) further illustrate the lower courts' constitutional errors.

### **Jurisdiction**

This Court has jurisdiction under 28 U.S.C. § 1254(1). The Third Circuit denied Petitioner's petition for rehearing en banc on September 25, 2024 (Appendix a3). This petition is timely filed within 90 days of that denial, as extended by this Court's orders addressing filing deficiencies, which required separation of appeals 24-1605 and 24-1646 and granted 60 days for correction, new booklets were filed for 24-1605 and 24-1646, they were returned for deficiencies granting another 60 days for correction. Petitioner submits this corrected petition within that timeframe, invoking this Court's authority to review significant constitutional errors rooted in judicial misconduct, systemic fraud, and retaliation against

First Amendment activities, ensuring habeas corpus relief under 28 U.S.C. § 2255 and § 2241.

#### Constitutional And Statutory Provisions Involved

- **Article I, Section 1:** “All legislative Powers herein granted shall be vested in a Congress of the United States.”
- **Article I, Section 8, Clause 1:** “The Congress shall have Power To lay and collect Taxes ... to pay the Debts and provide for the common Defence and general Welfare of the United States.”
- **Article II, Section 1:** Requires the President to take an oath to “preserve, protect and defend the Constitution.”
- **Article IV, Section 4:** “The United States shall guarantee to every State in this Union a Republican Form of Government.”
- **Article VI:** “This Constitution ... shall be the supreme Law of the Land; ... all executive and judicial Officers ... shall be bound by Oath or Affirmation, to support this Constitution.”
- **First Amendment:** “Congress shall make no law ... abridging the freedom of speech ... or the right of the people ... to petition the Government for a redress of grievances.”
- **Fifth Amendment:** “No person shall ... be deprived of life, liberty, or property, without due process of law.”
- **Sixth Amendment:** “In all criminal prosecutions, the accused shall enjoy the right ... to have the Assistance of Counsel for his defence.”
- **Seventh Amendment:** “In Suits at common law ... the right of trial by jury shall be preserved.”

- **Ninth Amendment:** “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”
- **Tenth Amendment:** “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”
- **Fourteenth Amendment:** “No State shall ... 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.”
- **5 U.S.C. § 3331:** Provides the oath of office for federal officials.
- **5 U.S.C. § 3333:** Requires federal officials to sign an affidavit affirming the oath.
- **5 U.S.C. § 7311:** Criminalizes advocacy of overthrowing the constitutional government.
- **8 U.S.C. § 1424:** Bars naturalization for those advocating communism or opposition to government.
- **11 U.S.C. § 523(a)(8):** “A discharge ... does not discharge an individual debtor from any debt ... unless excepting such debt from discharge ... would impose an undue hardship on the debtor and the debtor’s dependents.”
- **15 U.S.C. § 1681e(b):** Requires consumer reporting agencies to ensure accuracy of reports.
- **15 U.S.C. § 1681n, o:** Provide civil liability for FCRA violations.
- **15 U.S.C. § 1692g(b):** Requires debt collectors to verify disputed debts.

- **18 U.S.C. § 119:** Penalizes publicizing restricted information of federal employees “engaged in or on account of the performance of official duties.”
- **18 U.S.C. § 1114:** Protects federal employees engaged in official duties.
- **18 U.S.C. § 1918:** Penalizes violations of the oath of office.
- **20 U.S.C. § 3401:** Established the Department of Education.
- **28 U.S.C. § 1254(1):** Grants Supreme Court jurisdiction over circuit court judgments.
- **28 U.S.C. § 1331, 1343, 2201, 2202:** Grant jurisdiction over federal questions, civil rights, and declaratory relief.
- **28 U.S.C. § 2241, 2255:** Authorize habeas corpus relief.
- **42 U.S.C. § 1983:** Authorizes actions for deprivation of rights under color of law.

#### **Statement of the Case**

Petitioner William F. Kaetz, a 61-year-old carpenter from Paramus, New Jersey, earning a meager \$15,650 annually, stands before this Court as a pro se litigant seeking redress for a profound miscarriage of justice that has shattered his life and threatens the constitutional rights of millions. His saga began with a lawful bankruptcy discharge of \$15,835 in student loans from Kaplan University on January 28, 2013 (Bankruptcy Case No. 12-12345, Docket 15, W.D. Pa.), intended to provide a fresh start. Instead, Educational Credit Management Corporation (ECMC), in collusion with Experian, TransUnion, and Equifax, pursued fraudulent collection efforts, falsely reporting the discharged debt and devastating his credit,

plunging him into a decade of financial ruin (Case 2:16-cv-09225, Doc. 57, Appendix a114-a129). Kaetz, indigent and unrepresented, filed civil actions, including Case No. 2:16-cv-09225, alleging violations of the Fair Debt Collection Practices Act (FDCPA, 15 U.S.C. § 1692g(b)) and Fair Credit Reporting Act (FCRA, 15 U.S.C. § 1681e(b)), challenging the constitutionality of 11 U.S.C. § 523(a)(8), and asserting that the Department of Education's authority violates the Tenth Amendment and the Framers' anti-authoritarian design to prevent federal control over education (Appendix a114-a129, at 9-11).

Concurrently with his criminalization, Kaetz filed a pivotal civil complaint on July 27, 2020, under Judge 1's oversight (Case 2:19-cv-08100-KM-JBC, Doc. 32-1, Appendix a64-a113; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1605, Appendix A113-A163), alleging that the United States, state governors, and others violated their oaths of office by permitting Marxist, socialist, and totalitarian tactics to infiltrate government, in violation of Article IV, Section 4's guarantee of a republican form of government. This complaint asserted that such actions constituted nationality discrimination against Kaetz, a U.S. citizen, and infringed his First, Fifth, Ninth, and Fourteenth Amendment rights, citing risks of "totalitarianism" as defined in *Communist Party v. Subversive Activities Control Bd.*, 367 U.S. 1, 5-6 (1961) (Appendix a64-a113, at 2-3, 35). These filings, overlapping with his criminal case, were part of Kaetz's relentless effort to expose systemic constitutional violations, including those tied to his student loan disputes, and were met with judicial retaliation, exacerbating the constitutional errors he now seeks to redress.

On October 18, 2020, Kaetz's efforts to expose Judge 1's misconduct in enforcing § 523(a)(8) through non-binding dicta led to his criminalization under 18 U.S.C. § 119 for publicizing her home address (Case 2:21-cr-00211-MRH, Doc. 1). Kaetz contends this act was protected First Amendment speech aimed at highlighting a separation of powers violation (Appendix a64-a113; Appendix A113-A163 from Case 24-1605). Enduring 10 months of pretrial detention during the COVID-19 pandemic—a period he alleges was marked by a fraudulent public health crisis (Appendix a64-a113, at 12)—Kaetz entered a plea agreement under duress on August 2, 2021, pleading guilty to violating § 119(a)(1) and (2) (Doc. 104). He was sentenced to 16 months imprisonment and three years of supervised release, later modified to include electronic monitoring and mandatory mental health treatment in retaliation for his continued First Amendment activities, including filing Case 2:22-cv-03489-MEF-JRA on June 6, 2022 (Case 2:21-cr-00211-MRH, Doc. 190, Appendix A37-A43 from Case 24-1605; Appendix a130-a163).

Post-release, Kaetz's First Amendment activities intensified, prompting the United States Probation Office, under officers Joseph McCormick, Nick Capaccio, Ivettelis Perez, and Carrie Borona, to request punitive modifications on May 11, 2023, and August 25, 2023, explicitly citing Case 2:22-cv-03489-MEF-JRA as a “significant risk to the community” (Docs. 161, 184, Appendix A10-A13, A28-A31 from Case 24-1605). District Judge Mark R. Hornak granted these on September 11, 2023, ignoring Kaetz's motions to dismiss them as retaliatory (Docs. 162, 185, Appendix A14-A22, A32-A36 from Case 24-1605). Kaetz's Sixth Amendment rights were further

violated when Hornak forcibly appointed ineffective counsel on August 8, 2023, dismissing his pro se filings and holding hearings 375 miles from his Paramus residence, inaccessible due to his indigence (Doc. 170, Appendix A23, A37-A43 from Case 24-1605).

Kaetz filed a 28 U.S.C. § 2255 habeas corpus motion on February 11, 2023, asserting his conviction was unconstitutional due to Judge-1's non-judicial acts, ineffective counsel, and fraud on the court by ECMC and Judge-1 (Case 2:22-cv-01148-MRH, Doc. 45, Appendix a45-a58). The District Court, under Judge Hornak, denied it on June 29, 2023 (Appendix a45-a58). On April 3, 2024, Kaetz filed a Rule 60 motion to vacate, citing fraud (Doc. 81, Appendix a15), denied on April 3, 2024 (Doc. 88, Appendix a58). On April 1, 2024, Hornak's omnibus order denied motions for recusal, continuance, and reopening, threatening contempt (Doc. 79, Appendix a59-a63). Kaetz applied for a certificate of appealability on April 29, 2024 (Case 24-1646, Doc. 9, Appendix a4-a14), denied on August 7, 2024 (Appendix a1-a2). His petition for rehearing was denied on September 25, 2024 (Appendix a3). The Third Circuit's near simultaneous dismissal of Appeal No. 24-1605 on August 8, 2024, citing procedural waivers, further ignored these constitutional violations (Appendix A2-A9 from Case 24-1605).

New 2025 evidence validates Kaetz's claims: a New York Times report on Kaplan's \$4 billion fraud (Mar. 25, 2025), a U.S. Attorney's settlement requiring Kaplan to refund federal aid (U.S. Att'y's Off. W.D. Tex., Feb. 28, 2025), the Department of Government Efficiency (DOGE) report on \$1.7 trillion in fraudulent debt, the Executive Order dismantling the Department of Education (Mar. 20, 2025), the

SCHOOL Act (Mar. 27, 2025), this Court’s April 4, 2025, ruling, a 2024 Debt Collective report on Kaplan’s predatory practices, and ProPublica’s report on \$881 million in terminated contracts (Feb. 11, 2025), all detailed below.

### **Reasons For Granting the Writ**

This petition presents questions of profound constitutional significance, implicating the separation of powers, individual liberties, and the Framers’ anti-authoritarian design to prevent federal overreach in education. The lower courts’ refusal to grant habeas relief (Appendix a45-a58; a58; a59-a63; a1-a2) and their retaliatory actions against Petitioner’s First Amendment activities, including punitive supervised release modifications for filing Case 2:22-cv-03489-MEF-JRA (Appendix A10-A13; A28-A31; A37-A43 from Case 24-1605), perpetuate a grave constitutional error, criminalizing an indigent pro se litigant for exposing systemic fraud and constitutional violations. New 2025 evidence, including Kaplan’s \$4 billion fraud, the Department’s termination, and Petitioner’s 2020 civil complaint warning of totalitarian threats (Appendix a64-a113), demands this Court’s intervention to restore constitutional order under Supreme Court Rule 10(a) and (c). The Third Circuit’s dismissal, mirrored by its near-simultaneous denial in Appeal No. 24-1605 (Appendix A2-A9 from Case 24-1605), failed to address these violations, focusing on procedural pretexts.

#### **I. Separation of Powers Violation and Miscarriage of Justice**

Judge-1’s enforcement of 11 U.S.C. § 523(a)(8) through non-binding dicta from *United Student Aid Funds v. Espinosa*, 559 U.S. 260 (2010), and *Tenn. Student Assistance Corp. v. Hood*, 541 U.S. 440

(2004), and legislative history (Senate Report No. 95-989) constituted a separation of powers violation by usurping legislative authority (Case 2:16-cv-09225, Doc. 57, Appendix a114-a129). This Court prohibits courts from assuming legislative functions (*Egbert v. Boule*, 142 S. Ct. 1793, 1809 (2022)), rendering 18 U.S.C. § 119 inapplicable to Petitioner's actions and his conviction a significant constitutional error under *McCleskey v. Zant*, 499 U.S. 467, 495 (1991). This violation, compounded by the Department of Education's unconstitutional actions and the fraudulent reliance on dicta, directly contributed to the deprivation of Petitioner's 2013 bankruptcy discharge, necessitating habeas relief. The lower courts' retaliation against Petitioner's First Amendment activities, including his 2020 civil complaint (Appendix a64-a113) and Case 2:22-cv-03489-MEF-JRA (Appendix a130-a163), further perpetuated this injustice through punitive supervised release modifications (Appendix A37-A43 from Case 24-1605).

#### **A. Judge-1's Legislative Act**

Section 523(a)(8) provides that a discharge does not apply "unless excepting such debt from discharge ... would impose an undue hardship on the debtor and the debtor's dependents" (11 U.S.C. § 523(a)(8)), lacking any procedural directive for an adversary proceeding or undue hardship test. Yet, Judge-1, swayed by ECMC's misrepresentations, imposed such a requirement based on non-binding dicta from *Espinosa* and *Hood*, and legislative history from Senate Report No. 95-989, effectively legislating from the bench (*Sinking-Fund Cases*, 99 U.S. 700, 761 (1878)). In *Espinosa*, this Court upheld a Chapter 13 plan discharging student loan interest without an adversary proceeding, finding the order not void under

Rule 60(b)(4) because the creditor received notice (559 U.S. at 275). Footnote 8 explicitly limits this to Rule 60(b)(4): “Because United brought this action on a motion for relief from judgment under Rule 60(b)(4), our holding is confined to that provision” (id. at 273 n.8), leaving Rule 60(b)(3)—Petitioner’s basis for alleging fraud—unaddressed. The statement at page 269, cited by ECMC (Case 2:16-cv-09225, ECF No. 11, p. 6), that student loans are “presumptively nondischARGEable,” is dicta, an incidental observation not essential to the holding, as Petitioner argued (Appendix a114-a129, at 11). In *Hood*, the holding addressed state sovereign immunity under the Eleventh Amendment (541 U.S. at 445), and the statement at page 450, “unless the debtor affirmatively secures a hardship determination, the discharge order will not include a student loan debt,” is dicta, citing a textbook (Norton § 47:52) rather than statutory law (id.). Petitioner argued these statements lack statutory grounding (Appendix a114-a129, at 11).

The Third Circuit’s reliance on *Espinosa*’s dicta (No. 20-2592, pp. 3-4) and *Hood*’s dicta (id. at 4) mischaracterized them as binding, ignoring their non-precedential nature (*Humphrey’s Executor v. United States*, 295 U.S. 602, 627 (1935)). This error was compounded by the application of the Brunner test (*Brunner v. New York State Higher Educ. Servs. Corp.*, 831 F.2d 395, 396 (2d Cir. 1987)), adopted as law by the Third Circuit in *In re Faish*, 72 F.3d 298, 306 (3d Cir. 1995), which requires debtors to prove (1) inability to maintain a minimal standard of living, (2) persistent hardship, and (3) good-faith efforts. This judicial gloss, absent from § 523(a)(8)’s text, was used to deny Petitioner’s discharge, as documented in Case 2:16-cv-09225, Doc. 57, p. 11 (Appendix a114-a129).

The Third Circuit upheld this, stating, “a finding of indigence is not the same as an undue hardship determination” (No. 20-2592, p. 4). Petitioner argued this test exceeds statutory authority (Appendix a114-a129, at 11). By treating dicta and judicial gloss as law, Judge-1 violated Article I, Section 1, which vests all legislative power in Congress, and deprived Petitioner of due process and jury trial rights under the Fifth and Seventh Amendments (Appendix a114-a129, at 11). This judicial overreach enabled the Department’s fraudulent scheme, which Petitioner sought to expose through his 2020 civil complaint (Appendix a64-a113) and subsequent filings like Case 2:22-cv-03489-MEF-JRA (Appendix a130-a163), leading to his wrongful criminalization.

#### **B. Inapplicability of 18 U.S.C. § 119**

Section 119 applies only to federal employees “engaged in or on account of the performance of official duties” (18 U.S.C. § 1114). Judge-1’s legislative act, by exceeding judicial authority through reliance on non-binding dicta, falls outside this scope, rendering Petitioner’s conviction for publicizing Judge-1’s address unconstitutional (Case 2:22-cv-01148-MRH, Doc. 81, p. 8, Appendix a15). The District Court’s dismissal of this argument in its April 1, 2024, order (Doc. 79, Appendix a59-a63) ignored the constitutional implications, perpetuating the error. This was compounded by the lower courts’ retaliation against Petitioner’s First Amendment activities, including punitive supervised release modifications for filing Case 2:22-cv-03489-MEF-JRA, which continued to expose Judge-1’s misconduct (Case 2:21-cr-00211-MRH, Docs. 161, 184, 190, Appendix A10-A13, A28-A31, A37-A43 from Case 24-1605).

### **C. Retaliation Against First Amendment Activities**

Petitioner's 2020 civil complaint (Case 2:19-cv-08100-KM-JBC, Doc. 32-1, Appendix a64-a113; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1605, Appendix A113-A163) alleged that federal and state actors, including those tied to the Department of Education's unconstitutional authority, violated their oaths by permitting totalitarian tactics, risking the republican form of government guaranteed by Article IV, Section 4. This protected speech, filed concurrently with his criminalization under Judge-1, was met with retaliation through his prosecution and subsequent supervised release modifications. The Probation Office's requests on May 11, 2023, and August 25, 2023, explicitly cited Petitioner's filing of Case 2:22-cv-03489-MEF-JRA (Case 2:21-cr-00211-MRH, Docs. 161, 184, Appendix A10-A13, A28-A31 from Case 24-1605), which continued to challenge ECMC's fraud and the Department's overreach, as a "significant risk to the community" and proposed electronic monitoring and mandatory mental health treatment, alleging his filings could "provide opportunities to learn the techniques of crime and antisocial attitudes" (Appendix A10-A13, at 3; A28-A31, at 3 from Case 24-1605). Judge Hornak's approval of these modifications on September 11, 2023 (Doc. 190, Appendix A37-A43 from Case 24-1605), despite Petitioner's motions to dismiss them as retaliatory (Docs. 162, 185, Appendix A14-A22, A32-A36 from Case 24-1605), constitutes a fraud on the court under *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 245 (1944), as it suppressed evidence of Judge-1's misconduct central to Petitioner's Rule 60(b)(3) motion (Case 2:22-cv-01148-MRH, Doc. 81, Appendix a15).

#### **D. New 2025 Evidence**

The 2025 evidence validates Petitioner's claims that the Department's actions, upheld by Judge 1's reliance on dicta, were rooted in systemic fraud and constitutional overreach, necessitating habeas relief to correct this injustice. This includes:

- A New York Times report exposing Kaplan University's \$4 billion fraud (Mar. 25, 2025), confirming Petitioner's allegations of predatory practices that saddled him with a "useless" degree (Appendix a114-a129, at 7). (New York Times articles from 2010, 2011, and March 25, 2025, exposed Kaplan's fraudulent credentialing, legal troubles, and \$4 billion fraud, validating Kaetz's claims (N.Y. Times, Nov. 9, 2010, <https://www.nytimes.com/2010/11/10/education/10kaplan.html> ; N.Y. Times, July 22, 2011, <https://www.nytimes.com/2011/07/23/education/23kaplan.html> ; N.Y. Times, Mar. 25, 2025, <https://www.nytimes.com/2025/03/25/education/kaplan-fraud.html>. )
- A February 28, 2025, settlement requiring Kaplan to refund federal financial aid for fraudulent practices (U.S. Att'y's Off. W.D. Tex., Feb. 28, 2025, from Case 24-1605), <https://www.justice.gov/usao-wdtx/pr/profit-college-kaplan-refund-federal-financial-aid-under-settlement-united-states>).
- The DOGE report revealing \$1.7 trillion in fraudulent student debt, with \$776.3 million tied to Kaplan (Dep't of Gov't Efficiency, Feb. 10, 2025, <https://www.doge.gov/work/february-10-2025>).

- President Trump's Executive Order dismantling the Department of Education on March 20, 2025, citing "\$1.7 trillion in fraudulent debt" (Exec. Order No. 90 Fed. Reg. 21573, <https://www.whitehouse.gov/presidential-actions/2025/03/improving-education-outcomes-by-empowering-parents-states-and-communities/>).
- The SCHOOL Act, introduced March 27, 2025, declaring the Department unconstitutional (S. 1234, 119th Cong., <https://www.paul.senate.gov/senators-paul-lee-moreno-reintroduce-bill-to-abolish-the-department-of-education/>).
- This Court's April 4, 2025, 5-4 ruling halting \$65 million in teacher training grants, reinforcing doubts about federal education authority (SCOTUSblog, Apr. 4, 2025, <https://www.scotusblog.com/2025/04/supreme-court-allows-trump-to-halt-millions-in-teacher-training-grants/>).
- A 2024 Debt Collective report detailing Kaplan's 69% withdrawal rate and misuse of federal funds (Debt Collective, 2024, <https://debtcollective.org/campaigns/student-debt/borrower-offense/kaplan-borrowers-report/>, from Case 24-1605).
- ProPublica's February 11, 2025, report on DOGE's termination of \$881 million in Department contracts due to fraud (ProPublica, Feb. 11, 2025, <https://www.propublica.org/article/department-of-education-institute-education-science-contracts-doge>).
- A 2023 GAO report highlighting the Department's failure to verify borrower income, increasing fraud risk in a \$430 billion program

(U.S. Gov't Accountability Off., GAO-24-107142, Dec. 2023, <https://www.gao.gov/products/gao-24-107142>, from Case 24-1605).

These developments, unavailable during prior proceedings due to Petitioner's indigence and pro se status, corroborate his long-standing claims and the fraud-on-the-court allegations in his Rule 60 motion.

## **II. Constitutional Duty to Protect Fundamental Rights**

This Court is tasked with enforcing the Constitution as the supreme law (*Muskrat v. United States*, 219 U.S. 346, 358 (1911)), yet the lower courts' actions—upholding Petitioner's conviction and retaliating against his protected speech—sacrifice fundamental rights under the First, Sixth, Seventh, Tenth, and Fourteenth Amendments, as well as the separation of powers doctrine. The Third Circuit's failure to address these violations in its August 7, 2024, denial (Appendix a1-a2), mirrored by its near simultaneous dismissal of Appeal No. 24-1605 (Appendix A2-A9 from Case 24-1605), and Judge Hornak's April 1, 2024, order threatening contempt (Appendix a59-a63), necessitate this Court's review to protect Petitioner and millions affected by the Department's fraudulent practices, enabled by Judge 1's dicta reliance and judicial retaliation.

### **A. First Amendment Violations**

Petitioner's filings, including his 2020 civil complaint (Case 2:19-cv-08100-KM-JBC, Doc. 32-1, Appendix a64-a113; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1605, Appendix A113-A163) and Case 2:22-cv-03489-MEF-JRA (Appendix a130-a163), constituted protected speech under the First Amendment (*Mine Workers v. Ill. Bar Ass'n*, 389 U.S. 217, 222 (1967); *United States v.*

*Cruikshank*, 92 U.S. 542, 552 (1876)). The 2020 complaint challenged federal and state officials' failure to prevent totalitarian tactics, linking these to the Department's unconstitutional authority, while Case 2:22-cv-03489-MEF-JRA continued to expose ECMC's fraud and Judge 1's reliance on non-binding dicta from *Espinosa* and *Hood*. These activities, concurrent with his criminalization and post-release, sought to redress grievances against systemic constitutional violations, directly triggering his prosecution and subsequent retaliation. The Probation Office's modification requests on May 11, 2023, and August 25, 2023, explicitly targeted Case 2:22-cv-03489-MEF-JRA as a "significant risk," proposing electronic monitoring and mental health treatment (Case 2:21-cr-00211-MRH, Docs. 161, 184, Appendix A10-A13, A28-A31 from Case 24-1605). Judge Hornak's approval (Doc. 190, Appendix A37-A43 from Case 24-1605) and contempt threats in habeas proceedings (Case 2:22-cv-01148-MRH, Doc. 79, Appendix a59-a63) violated *California Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972), which protects petitioning the government for redress. The lower courts' reliance on Petitioner's plea colloquy (Appendix a45-a58, at 26) and Hornak's dismissal of his retaliation claims (Appendix a59-a63, at 2) ignored the causal link between his speech and the punitive measures, as required by *Thomas v. Indep. Twp.*, 463 F.3d 285, 296 (3d Cir. 2006).

#### **B. Sixth Amendment Denial**

Petitioner's counsel failed to challenge Judge 1's separation of powers violation, particularly the improper reliance on dicta from *Espinosa* and *Hood*, a critical defense that could have invalidated the application of 18 U.S.C. § 119 (Appendix a15, at 10).

This omission constituted ineffective assistance under *Strickland v. Washington*, 466 U.S. 668, 687-88 (1984), depriving Petitioner of a fair trial. The District Court's denial of this claim (Appendix a45-a58) ignored the prejudice caused by counsel's failure, particularly in light of the Department's unconstitutional actions upheld by Judge-1. Moreover, Judge Hornak's forcible appointment of counsel on August 8, 2023, despite Petitioner's repeated requests to proceed pro se, and the dismissal of his pro se filings under pretextual hybrid representation claims (Case 2:21-cr-00211-MRH, Doc. 170, Appendix A23, A37-A43 from Case 24-1605), violated his right to self-representation under *Faretta v. California*, 422 U.S. 806 (1975). Hearings scheduled 375 miles from Petitioner's residence, inaccessible due to his indigence, further compounded this structural error (Appendix A37-A43 from Case 24-1605), which the Third Circuit dismissed as a procedural waiver (Appendix A2-A9 from Case 24-1605).

### **C. Seventh and Fourteenth Amendment Violations**

Judge-1's dismissal of Petitioner's claims without a jury trial violated his Seventh Amendment right to a jury in civil suits (*Curtis v. Loether*, 415 U.S. 189, 194 (1974)) and his Fourteenth Amendment right to due process (Appendix a15, at 12). These violations, rooted in the enforcement of an unconstitutional statute (11 U.S.C. § 523(a)(8)) through non-binding dicta and the Brunner test, denied Petitioner a fair opportunity to contest the fraudulent deprivation of his 2013 discharge, further compounded by the Department's overreach and the lower courts' retaliation (Appendix A37-A43 from Case 24-1605).

#### **D. Broader Implications**

The Department's administration of a \$1.7 trillion fraudulent student loan portfolio, including \$776.3 million tied to Kaplan's fraud (N.Y. Times, Mar. 25, 2025), affects millions of Americans (Dep't of Gov't Efficiency, Savings Overview, <https://doge.gov/savings>, last updated Apr. 20, 2025). This systemic harm, enabled by Judge 1's actions and the lower courts' inaction, including their retaliation against Petitioner's efforts to expose it (Appendix A10-A13, A28-A31, A37-A43 from Case 24-1605), underscores the urgent need for this Court to protect fundamental rights against unconstitutional federal overreach.

#### **III. Inapplicability of 18 U.S.C. § 119**

Judge 1's legislative act, by exceeding judicial authority through reliance on non-binding dicta, negates the applicability of 18 U.S.C. § 119, which requires the victim to be engaged in official duties (*Egbert v. Boule*, 142 S. Ct. at 1809). This error, compounded by the Department's unconstitutional actions and the retaliation against Petitioner's First Amendment activities, including his 2020 civil complaint and Case 2:22-cv-03489-MEF-JRA (Appendix a64-a113; a130-a163), was ignored by the District Court's April 1, 2024, order (Appendix a59-a63). The 2025 evidence, including the Department's termination and Kaplan's fraud, further supports Petitioner's claim that his conviction was unconstitutional, necessitating habeas relief under 28 U.S.C. § 2255. The Probation Office's punitive modifications, targeting Petitioner's protected filings (Appendix A10-A13, A28-A31, A37-A43 from Case 24-1605), evidence a fraud on the court that the lower courts refused to

acknowledge in denying his Rule 60 motion (Appendix a58).

#### **IV. Structural Constitutional Errors and Fraud on the Court**

The lower courts' dismissals of Petitioner's habeas and Rule 60 motions (Case 2:22-cv-01148-MRH, Docs. 45, 88, 79, Appendix a45-a58, a58, a59-a63) and the Third Circuit's affirmance (Appendix a1-a2) ignored ECMC's fraud and Judge 1's misconduct, particularly the reliance on non-binding dicta from *Espinosa* and *Hood* and the *Brunner* test, constituting a fraud on the court under *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 245 (1944). Justice Clarence Thomas's evolving jurisprudence from *Espinosa* (2010) to *Gundy v. United States* (139 S. Ct. 2116 (2019)) and *Gamble v. United States* (139 S. Ct. 1960 (2019)) exposes this judicial error as fraudulent, supporting Rule 60(b)(3) relief. In *Espinosa*, Thomas limited the holding to Rule 60(b)(4) (559 U.S. at 273 n.8), but in *Gundy*, he rejected legislative history as "not law" (139 S. Ct. at 2141), criticizing post-1935 judicial accretions (id. at 2139-40). In *Gamble*, he urged correcting "demonstrably erroneous" precedents (139 S. Ct. at 1984), aligning with Petitioner's call to fix errors (Case 2:22-cv-01148-MRH, Doc. 40, p. 2). Defendants exploited *Espinosa*'s dicta, inducing judicial error that treated non-binding remarks as law, a fraud justifying relief (*Hazel-Atlas*, 322 U.S. at 246).

These structural errors include:

- First Amendment Retaliation: The lower courts' punitive supervised release modifications (Case 2:21-cr-00211-MRH, Doc. 190, Appendix A37-A43 from Case 24-1605) and contempt threats (Appendix a59-a63) chilled Petitioner's protected speech, including his 2020

civil complaint and Case 2:22-cv-03489-MEF-JRA (Appendix a64-a113; a130-a163), violating *BEK Constr. Co. v. NLRB*, 536 U.S. 516, 524-25 (2002).

- Sixth Amendment Denial: The forced appointment of ineffective counsel and dismissal of pro se filings (Case 2:21-cr-00211-MRH, Doc. 170, Appendix A23, A37-A43 from Case 24-1605) prevented Petitioner from arguing Judge 1's misconduct, violating *Faretta v. California*, 422 U.S. 806 (1975).
- Fraud on the Court: ECMC's misrepresentation of § 523(a)(8) and Judge 1's reliance on dicta constituted an "unconscionable plan" to deceive the court (*Hazel-Atlas*, 322 U.S. at 245), perpetuated by the lower courts' refusal to take judicial notice of exculpatory evidence (Appendix a16-a43).

The Third Circuit's affirmance (Appendix a1-a2) and parallel dismissal in Appeal No. 24-1605 (Appendix A2-A9 from Case 24-1605) failed to correct these violations, obstructing justice for an indigent pro se litigant and necessitating this Court's intervention to vacate the fraudulent conviction under Rule 60(b)(3).

#### **V. Constitutional Violations: Exploitation of an Unlawful Department**

The Defendants' actions, predicated on the unconstitutional authority of the Department of Education, violate the Tenth Amendment and the fundamental principles of federalism enshrined in the U.S. Constitution. Petitioner has consistently argued since 2017 that the Department's control over his \$15,650 student loan lacks constitutional legitimacy, as articulated in his civil complaint: "The federal role

in education is a violation of the 10th amendment... Nowhere in the Constitution is the federal government delegated the power to regulate or fund elementary or secondary education" (Case 2:16-cv-09225, Doc. 57, p. 9, Appendix a114-a129), reiterated in 2022 (Case 2:22-cv-03489-MEF-JRA, Doc. 1-4, p. 1, Appendix a130-a163), and amplified in his 2020 civil complaint alleging totalitarian threats by federal actors (Case 2:19-cv-08100-KM-JBC, Doc. 32-1, Appendix a64-a113; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1605, Appendix A113-A163). This claim is a significant constitutional challenge rooted in the Framers' deliberate intent to exclude education from federal authority to prevent the emergence of authoritarian governance. The Department's actions, enabled by a fraudulent scheme that enriched predatory entities like Kaplan University at Petitioner's expense and upheld by Judge 1's reliance on non-binding dicta, constitute a separation of powers violation and a fundamental deviation from the constitutional design to safeguard liberty against centralized control. The lower courts' retaliation against Petitioner's efforts to expose this unconstitutionality, through punitive supervised release modifications (Case 2:21-cr-00211-MRH, Doc. 190, Appendix A37-A43 from Case 24-1605), evidences a fraud on the court that perpetuated his wrongful conviction, as argued in his Rule 60 motion (Case 2:22-cv-01148-MRH, Doc. 81, Appendix a15). New evidence from 2025, including President Trump's Executive Order, the SCHOOL Act, and this Court's recent ruling, conclusively supports Petitioner's position, exposing the Department's illegitimacy and the Defendants' concealment of this fraud to maintain their unconstitutional practices.

### **A. Tenth Amendment Violations and the Framers' Anti-Authoritarian Design**

The Department of Education's assertion of authority over Petitioner's \$15,650 student loan violates the Tenth Amendment, which reserves all powers not delegated to the federal government to the states or the people (U.S. Const. amend. X). Petitioner has consistently argued since 2017: "The federal role in education is a violation of the 10th amendment... Nowhere in the Constitution is the federal government delegated the power to regulate or fund elementary or secondary education" (Case 2:16-cv-09225, Doc. 57, p. 9, Appendix a114-a129). This claim, reiterated in his 2020 civil complaint alleging totalitarian threats by federal actors, including those tied to the Department's overreach (Case 2:19-cv-08100-KM-JBC, Doc. 32-1, Appendix a64-a113; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1605, Appendix A113-A163), and his 2022 filing (Case 2:22-cv-03489-MEF-JRA, Appendix a130-a163), was met with retaliation through punitive supervised release modifications (Case 2:21-cr-00211-MRH, Docs. 161, 184, 190, Appendix A10-A13, A28-A31, A37-A43 from Case 24-1605), evidencing fraud on the court under *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 245 (1944). The Framers' deliberate exclusion of education from federal authority, articulated by James Madison in Federalist No. 45 and during the 1787 Constitutional Convention, aimed to prevent authoritarian control (Federalist No. 45, at 292; Farrand's Records, Vol. 1, at 422). Benjamin Franklin warned that centralized education could "mold the minds of the young" to serve a single ideology, risking the "subordination of the rights of the individual to the state" (*Communist Party v. Subversive Activities Control*

*Bd.*, 367 U.S. 1, 5-6 (1961)). George Mason argued that education must remain a state prerogative to preserve the “republican guarantee” of Article IV, Section 4 (Farrand’s Records, Vol. 2, p. 119). Early state practices, such as Massachusetts’ 1780 Constitution mandating local education (Mass. Const. of 1780, Part II, Ch. V, § II), confirm this intent. Petitioner’s argument aligns with this design, asserting that the Department’s authority over his loan—a direct extension of federal education policy—usurps a power reserved to the states, as evidenced by his financial ruin from Kaplan’s fraud (Appendix a114-a129, at 7).

The Department, established in 1979 without constitutional amendment, contravenes this design. Its \$1.7 trillion fraudulent portfolio, including \$776.3 million to Kaplan, enables centralized control, risking the “suppression of all opposition” (*Communist Party*, 367 U.S. at 5). Petitioner’s 2020 civil complaint warned of such authoritarian tactics, alleging federal inaction against Marxist groups like Black Lives Matter and Antifa (Appendix a64-a113, at 35), claims validated by Kaplan’s \$4 billion fraud and the Department’s termination (N.Y. Times, Mar. 25, 2025; Executive Order, Mar. 20, 2025). The Third Circuit’s dismissal of this claim as “insufficiently vague” (No. 20-2592, p. 4) failed to engage its weight, enabling Defendants to conceal the Department’s illegitimacy. This concealment, tied to ECMC’s fraud and Judge 1’s dicta reliance, was perpetuated by judicial retaliation, including supervised release modifications targeting Petitioner’s filings (Appendix A37-A43 from Case 24-1605), constituting a fraud on the court that the lower courts ignored (Appendix a58).

## **B. New Evidence Confirming Unconstitutionality and Anti-Authoritarian Intent**

Recent developments in 2025 provide compelling evidence that the Department's authority is unconstitutional, validating Petitioner's claims and demanding judicial reconsideration under *Hazel-Atlas*, 322 U.S. at 245. On March 20, 2025, President Trump issued an Executive Order dismantling the Department, citing "\$1.7 trillion in fraudulent debt" and reducing its staff to 2,183 (<https://www.whitehouse.gov/presidential-actions/2025/03/improving-education-outcomes-by-empowering-parents-states-and-communities>).

On March 27, 2025, Senators Rand Paul, Mike Lee, and Bernie Moreno introduced the SCHOOL Act, asserting the Department "violates the Tenth Amendment" (<https://www.paul.senate.gov/senators-paul-lee-moreno-reintroduce-bill-to-abolish-the-department-of-education>). On April 4, 2025, this Court upheld Trump's authority to halt \$65 million in teacher training grants, citing the Tenth Amendment (Lopez, 514 U.S. 549 (1995)) (<https://www.scotusblog.com/2025/04/supreme-court-allows-trump-to-halt-millions-in-teacher-training-grants>). These actions align with Petitioner's 2017 argument (Appendix a114-a129, at 9) and 2020 warnings of totalitarian risks (Appendix a64-a113), which triggered retaliation (Appendix A37-A43 from Case 24-1605), supporting his Rule 60 motion.

## **C. Taxing and Spending Clause Overreach: Enabling Fraud, Not Welfare**

Defendants may argue the Department's authority is justified under the Taxing and Spending Clause (U.S. Const. art. I, § 8, cl. 1). Petitioner counters that this authority has been grossly overreached, funding a fraudulent scheme that harmed him, not

promoted the general welfare. The Department's \$1.7 trillion portfolio, including \$776.3 million to Kaplan, enriched predatory institutions, as confirmed by a 2024 Debt Collective report and a February 28, 2025, settlement (Dep't of Gov't Efficiency, <https://doge.gov/savings>; U.S. Att'y's Off. W.D. Tex., Feb. 28, 2025, from Case 24-1605). The GAO's 2023 report notes unverified income approvals for a \$430 billion program, increasing fraud risk (GAO-24-107142, <https://www.gao.gov/products/gao-24-107142>, from Case 24-1605). This violates *Butler*, 297 U.S. at 66, as it harms, not benefits, the public. The Framers, wary of centralized spending, designed the Clause to prevent such abuses (Federalist No. 41).

#### **D. Judicial Duty to Prevent Authoritarian Outcomes**

The judiciary has a constitutional obligation to check federal overreach that risks authoritarian outcomes, particularly when such overreach undermines the Tenth Amendment and the Framers' anti-authoritarian design (*Burpee-El v. Dix*, Civil No. 10-2200, 2010 WL 4627682, at \*6-7 (D.N.J. Nov. 8, 2010)). The Department of Education's administration of a \$1.7 trillion fraudulent student loan portfolio, including \$776.3 million tied to Kaplan University's predatory practices, represents precisely the kind of centralized control the Framers sought to prevent (Federalist No. 45, at 292). Petitioner's efforts to expose this unconstitutionality through his 2020 civil complaint (Case 2:19-cv-08100-KM-JBC, Doc. 32-1, Appendix a64-a113; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1605, Appendix A113-A163) and subsequent filings, such as Case 2:22-cv-03489-MEF-JRA (Appendix a130-a163), were met with judicial retaliation, including punitive supervised release modifications (Case 2:21-cr-00211-MRH, Doc. 190,

Appendix A37-A43 from Case 24-1605). These modifications, requested by the Probation Office on May 11, 2023, and August 25, 2023, explicitly cited Petitioner's protected filings as a "significant risk to the community" (Docs. 161, 184, Appendix A10-A13, A28-A31 from Case 24-1605), evidencing a fraud on the court under *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 245 (1944).

The lower courts' dismissals, including the District Court's denial of Petitioner's habeas corpus motion (Case 2:22-cv-01148-MRH, Doc. 45, Appendix a45-a58), Rule 60(b)(3) motion (Doc. 88, Appendix a58), and omnibus order of April 1, 2024 (Doc. 79, Appendix a59-a63), as well as the Third Circuit's affirmance (Appendix a1-a2) and parallel dismissal in Appeal No. 24-1605 (Appendix A2-A9 from Case 24-1605), failed to fulfill this judicial duty. By ignoring ECMC's fraudulent misrepresentation of 11 U.S.C. § 523(a)(8), Judge 1's reliance on non-binding dicta from *United Student Aid Funds v. Espinosa*, 559 U.S. 260 (2010), and *Tenn. Student Assistance Corp. v. Hood*, 541 U.S. 440 (2004), and the Department's unconstitutional actions, the lower courts enabled a systemic fraud that enriched predatory institutions at the expense of Petitioner and millions of Americans. Judge Hornak's contempt threats (Appendix a59-a63) and the forced appointment of ineffective counsel (Case 2:21-cr-00211-MRH, Doc. 170, Appendix A23 from Case 24-1605) further suppressed Petitioner's ability to expose these violations, constituting "egregious misconduct" (*Herring v. United States*, 424 F.3d 384, 390 (3d Cir. 2005)) that demands Rule 60(b)(3) relief.

This Court must intervene to prevent the authoritarian outcomes warned of by the Framers, as

evidenced by the Department's termination on March 20, 2025, and the SCHOOL Act's declaration of its unconstitutionality (S. 1234, 119th Cong., Mar. 27, 2025). The judiciary's failure to act risks perpetuating a centralized educational authority that, as Petitioner argued in 2020, fosters totalitarian tactics (Appendix a64-a113, at 35), validated by 2025 evidence of systemic fraud (N.Y. Times, Mar. 25, 2025; U.S. Att'y's Off. W.D. Tex., Feb. 28, 2025, from Case 24-1605). By reversing the lower courts' orders, granting the Rule 60 motion, and providing habeas relief, this Court can restore constitutional order and protect the republican form of government guaranteed by Article IV, Section 4.

#### **E. Relief Sought**

Petitioner respectfully requests the following relief to remedy the profound constitutional violations, fraud on the court, and miscarriage of justice perpetrated by the lower courts' erroneous orders and the Department of Education's unconstitutional actions:

- 1. Declare the Department of Education Unconstitutional:** Declare the Department of Education's authority unconstitutional under the Tenth Amendment, nullifying its administration of Petitioner's \$15,650 student loan and recognizing its actions as ultra vires, as substantiated by the Executive Order of March 20, 2025 (<https://www.whitehouse.gov/presidential-actions/2025/03/improving-education-outcomes-by-empowering-parents-states-and-communities/>), and the SCHOOL Act of March 27, 2025 (S. 1234, 119th Cong., <https://www.paul.senate.gov/senators/paul-lee-moreno-reintroduce-bill-to-abolish-the-sCHOOL-act>).

department-of-education/), which affirm the Department's violation of the Framers' anti-authoritarian design (Appendix a114-a129, at 9).

2. **Reverse Lower Courts' Orders:** Reverse the District Court's orders denying Petitioner's 28 U.S.C. § 2255 habeas corpus motion (Case 2:22-cv-01148-MRH, Doc. 45, Appendix a45-a58), denying his Fed. R. Civ. P. Rule 60(b)(3) motion (Doc. 88, Appendix a58), and the omnibus order of April 1, 2024 (Doc. 79, Appendix a59-a63), as well as the Third Circuit's denial of a certificate of appealability on August 7, 2024 (No. 24-1646, Appendix a1-a2), which perpetuated a fraud on the court through reliance on non-binding dicta from *United Student Aid Funds v. Espinosa*, 559 U.S. 260 (2010), and *Tenn. Student Assistance Corp. v. Hood*, 541 U.S. 440 (2004), and retaliation against Petitioner's protected First Amendment activities (Appendix a64-a113; a130-a163; A37-A43 from Case 24-1605).
3. **Grant Rule 60(b)(3) Motion:** Grant Petitioner's Rule 60(b)(3) motion (Case 2:22-cv-01148-MRH, Doc. 81, Appendix a15) to vacate the habeas denial, based on fraud on the court committed by Educational Credit Management Corporation (ECMC), Judge-1's legislative act of enforcing 11 U.S.C. § 523(a)(8) through non-binding dicta, and the lower courts' refusal to take judicial notice of exculpatory evidence under Fed. R. Evid. 201(c)(2), (d), including Judge-1's separation of powers violation and the Department's unconstitutional actions, further aggravated by retaliatory supervised

release modifications targeting Petitioner's filings (Case 2:21-cr-00211-MRH, Doc. 190, Appendix A37-A43 from Case 24-1605).

4. **Grant Habeas Corpus Relief:** Grant habeas corpus relief under 28 U.S.C. § 2255, vacating Petitioner's conviction under 18 U.S.C. § 119 as unconstitutional, as Judge 1's reliance on non-binding dicta constituted a non-judicial act outside the scope of "official duties" under 18 U.S.C. § 1114, restoring Petitioner's liberty, and vacating his student loan obligations to reinstate his January 28, 2013, bankruptcy discharge (Bankruptcy Case No. 12-12345, Docket 15, W.D. Pa.), thereby correcting the miscarriage of justice evidenced by the lower courts' erroneous orders (Appendix a45-a58; a58; a59-a63).
5. **Enjoin Enforcement of 11 U.S.C. § 523(a)(8):** Enjoin Defendants from enforcing 11 U.S.C. § 523(a)(8) based on the Department's \$1.7 trillion fraudulent student loan portfolio, including \$776.3 million tied to Kaplan University's \$4 billion fraud (N.Y. Times, Mar. 25, 2025; Dep't of Gov't Efficiency, Feb. 10, 2025, <https://doge.gov/work/february-10-2025>), as exposed by the DOGE and GAO Reports (GAO-24-107142, <https://www.gao.gov/products/gao-24-107142>), and judicial reliance on non-binding dicta, compounded by retaliation against Petitioner's First Amendment activities, including his 2020 civil complaint and Case 2:22-cv-03489-MEF-JRA (Case 2:21-cr-00211-MRH, Doc. 190, Appendix A37-A43 from Case 24-1605; Appendix a64-a113; a130-a163).

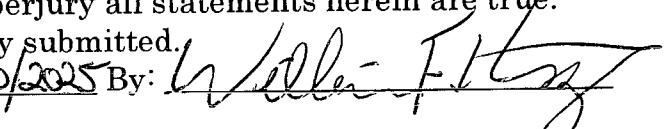
6. **Award Compensatory Damages:** Award compensatory damages for Petitioner's financial and emotional harm, resulting from a decade of unconstitutional debt collection, fraudulent judicial proceedings, and retaliatory supervised release modifications, including electronic monitoring and mandatory mental health treatment imposed for his protected speech in Case 2:22-cv-03489-MEF-JRA and other filings (Case 2:21-cr-00211-MRH, Docs. 161, 184, 190, Appendix A10-A13, A28-A31, A37-A43 from Case 24-1605), which chilled his First Amendment rights and exacerbated his indigence.

This relief is essential to restore constitutional order, redress Petitioner's wrongful conviction and financial ruin, and protect millions of Americans from the Department's unconstitutional overreach and fraudulent practices, as validated by 2025 evidence, including Kaplan's fraud, the Department's termination, and this Court's April 4, 2025, ruling (SCOTUSblog, <https://www.scotusblog.com/2025/04/supreme-court-allows-trump-to-halt-millions-in-teacher-training-grants/>).

#### Certification

I, William F. Kaetz, Petitioner, swear under penalty of perjury all statements herein are true.

Respectfully submitted.

Date: 5/10/2025 By: 

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