

24-6493

No.

**In the Supreme Court of the United States**

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OFFICE OF THE CLERK  
SUPREME COURT, U.S.

Washington Windsor,

Petitioner,

v.

United States Court of Appeals for the District of Columbia Circuit,

Respondent.

**Petition for a Writ of Certiorari**

**To the United States Supreme Court**

Case No. 24-7157 (D.C. Cir. Dec. 20, 2024)

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February 3, 2025

## QUESTIONS PRESENTED

1. Whether a lower court's unexplained and unjustified delay in docketing a pro se litigant's motion—thereby prejudicing the petitioner's substantive rights—violates the Fifth Amendment's Due Process Clause and constitutes an unconstitutional deprivation of access to the courts.
2. Whether a court's invocation of the mootness doctrine to dismiss a mandamus petition—where the underlying delay was caused by judicial inaction—contravenes fundamental principles of due process and this Court's jurisprudence, including *Mathews v. Eldridge*, 424 U.S. 319 (1976).
3. Whether the D.C. Circuit's misapplication of the "egregious delay" standard from *Telecommunications Research & Action Center v. FCC*, 750 F.2d 70 (D.C. Cir. 1984), and its failure to conduct a fact-specific inquiry into the prejudicial impact of procedural delays on pro se litigants warrant this Court's review to establish a uniform national standard for adjudicating judicial inaction in indigent cases.
4. Whether systemic judicial delays that disproportionately impact indigent and pro se litigants require heightened procedural safeguards to ensure compliance with 28 U.S.C. § 1915 and the fundamental right to access the courts.
5. Whether the Supreme Court should intervene to clarify that the right to meaningful access to the courts, as recognized in *Boddie v. Connecticut*, 401 U.S. 371 (1971), includes protection against strategic procedural nullification, where judicial delays functionally deprive litigants of their constitutional claims.

## Core Precedents Supporting Petitioner's Constitutional Claims

### ◆ Due Process & Access to Courts

1. *Mathews v. Eldridge*, 424 U.S. 319 (1976)
  - Holding: Due process requires a fact-specific inquiry into procedural fairness before depriving a party of legal rights.
  - Relevance: The D.C. Circuit's failure to assess the harm caused by the 46-day delay contradicts this requirement, necessitating SCOTUS intervention.
2. *Boddie v. Connecticut*, 401 U.S. 371 (1971)

- Holding: Access to the courts is a fundamental right under the Due Process Clause, particularly for indigent litigants.

- Relevance: The judiciary's procedural bottleneck deprived Petitioner of meaningful access to judicial relief, violating this principle.

3. *Turner v. Rogers*, 564 U.S. 431 (2011)

- Holding: Courts must implement procedural safeguards to ensure fair treatment of indigent litigants, even in civil proceedings.

- Relevance: The lower courts' failure to apply heightened protections for a pro se indigent litigant is inconsistent with Turner's due process mandate.

4. *Ex parte Hull*, 312 U.S. 546 (1941)

- Holding: The judiciary cannot create procedural barriers that prevent litigants from accessing the courts.

- Relevance: The 46-day delay in docketing Petitioner's IFP motion constitutes an unconstitutional procedural obstruction in violation of Hull.

### ◆ **Mootness Doctrine & Judicial Accountability**

5. *Friends of the Earth, Inc. v. Laidlaw Env'tl. Servs., Inc.*, 528 U.S. 167 (2000)

- Holding: The mootness doctrine cannot be manipulated to evade judicial review where the harm remains unresolved.

- Relevance: The D.C. Circuit's dismissal as "moot" allowed the judiciary to shield its own procedural failure from appellate review, contradicting Laidlaw's principles.

6. *United States v. W.T. Grant Co.*, 345 U.S. 629 (1953)

- Holding: Voluntary cessation of unconstitutional conduct does not moot a case unless there is no reasonable expectation of recurrence.

- Relevance: The D.C. Circuit's ruling ignores the ongoing harm caused by strategic judicial delays, improperly applying the mootness doctrine.

7. *Church of Scientology v. United States*, 506 U.S. 9 (1992)

- Holding: A case is not moot simply because the procedural posture has changed if the original injury remains.

- Relevance: The D.C. Circuit erred by failing to address the systemic harm of procedural nullification, contrary to this precedent.

### ◆ **TRAC Standard & Egregious Delay**

8. **Telecommunications Research & Action Center v. FCC (“TRAC”)**, 750 F.2d 70 (D.C. Cir. 1984)

- Holding: Established a six-factor test for evaluating “egregious delay” in administrative decision-making.

- Relevance: The D.C. Circuit’s refusal to apply TRAC to its own procedural delay creates a circuit split requiring Supreme Court intervention.

9. **Bowen v. City of New York**, 476 U.S. 467 (1986)

- Holding: Unreasonable delays in administrative and judicial processes violate due process.
- Relevance: The 46-day delay in docketing a time-sensitive motion constitutes an “unreasonable delay” under Bowen.

### ◆ **Equal Protection & Procedural Safeguards for Indigent Litigants**

10. **M.L.B. v. S.L.J.**, 519 U.S. 102 (1996)

- Holding: The state cannot impose procedural obstacles that disproportionately burden indigent litigants when fundamental rights are at stake.
- Relevance: The deliberate delay in docketing Petitioner’s IFP motion denied meaningful judicial access based on financial status, violating M.L.B.’s protections.

11. **Griffin v. Illinois**, 351 U.S. 12 (1956)

- Holding: Indigent litigants must be given the same access to appellate review as wealthier parties.
- Relevance: The procedural barriers imposed by judicial inaction disproportionately harmed an indigent litigant, contradicting Griffin.

### **PARTIES TO THE PROCEEDING**

Petitioner Washington Windsor was the appellant before the United States Court of Appeals for the District of Columbia Circuit and the plaintiff before the United States District Court for the District of Columbia.

Respondent United States Court of Appeals for the District of Columbia Circuit is the judicial body that issued the decision challenged in this petition.

No corporate entities are involved in this proceeding

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## **TABLE OF AUTHORITIES**

### **Constitutional Provisions**

- U.S. Const. amend. V (Due Process Clause)
- U.S. Const. amend. XIV (Equal Protection Clause)

### **Statutes**

- 28 U.S.C. § 1254(1) (Jurisdiction of the Supreme Court)
- 28 U.S.C. § 1915 (Proceedings in forma pauperis)

### **Supreme Court Cases**

- *Boddie v. Connecticut*, 401 U.S. 371 (1971) – Right to access the courts
- *Bowen v. City of New York*, 476 U.S. 467 (1986) – Due process & systemic delay
- *Church of Scientology v. United States*, 506 U.S. 9 (1992) – Mootness & jurisdiction
- *Elrod v. Burns*, 427 U.S. 347 (1976) – Irreparable harm & constitutional violations
- *Ex parte Hull*, 312 U.S. 546 (1941) – Judiciary’s obligation to facilitate justice
- *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs.*, 528 U.S. 167 (2000) – Mootness doctrine
- *Hollingsworth v. Perry*, 558 U.S. 183 (2010) – Standard for emergency stays
- *Mathews v. Eldridge*, 424 U.S. 319 (1976) – Procedural due process requirements

- Ruckelshaus v. Monsanto Co., 463 U.S. 1315 (1983) – Standard for granting a stay
- Telecomm. Rsch. & Action Ctr. v. FCC (TRAC), 750 F.2d 70 (D.C. Cir. 1984) – Standard for evaluating judicial delays
- Turner v. Rogers, 564 U.S. 431 (2011) – Procedural protections for indigent litigants
- United States v. W.T. Grant Co., 345 U.S. 629 (1953) – Voluntary cessation & mootness

### **D.C. Circuit Cases**

- Telecomm. Rsch. & Action Ctr. v. FCC (TRAC), 750 F.2d 70 (D.C. Cir. 1984) – Mandamus relief for judicial delays

**OPINIONS BELOW**

The opinion of the United States Court of Appeals for the District of Columbia Circuit, dismissing Petitioner's mandamus petition as moot, was issued on December 20, 2024, and is available at Washington Windsor v. United States Court of Appeals for the D.C. Circuit, No. 24-7157 (D.C. Cir. Dec. 20, 2024). It is reproduced in the appendix at App. 1a.

The order of the United States District Court for the District of Columbia, which failed to timely docket Petitioner's amended motion for in forma pauperis ("IFP") status.

No opinion was issued by the District Court explaining the 46-day procedural delay that rendered Petitioner's case moot, constituting an unexplained deprivation of due process and forming the central constitutional question before this Court.

## **JURISDICTION**

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1), which grants the Supreme Court authority to review cases from the United States Courts of Appeals by writ of certiorari.

The United States Court of Appeals for the District of Columbia Circuit issued its opinion on December 20, 2024, dismissing Petitioner's mandamus petition as moot. This decision presents substantial constitutional questions regarding procedural due process violations, strategic mootness doctrine, and judicial accountability for procedural delays that warrant this Court's review.

This petition is timely filed pursuant to Supreme Court Rule 13.1, which provides that a petition for writ of certiorari must be filed within 90 days after entry of judgment in the court of appeals. The 90-day deadline expires on March 20, 2025,

and this petition is being filed on February 2, 2025, well within the permissible timeframe.

The issues presented are of national importance, affecting the due process rights of indigent litigants nationwide. Therefore, this Court has both the jurisdiction and the imperative duty to grant certiorari and resolve the constitutional violations at issue.

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The following constitutional provisions and statutes are implicated in this case and are reproduced in full in the appendix at App. 5a-6a:

### **1. U.S. Constitution**

- U.S. Const. amend. V (Due Process Clause):

“No person shall be ... deprived of life, liberty, or property, without due process of law.”

- U.S. Const. amend. XIV (Equal Protection Clause):

“No State shall ... deny to any person within its jurisdiction the equal protection of the laws.”

## **2. Federal Statutes**

- 28 U.S.C. § 1254(1) (Jurisdiction of the Supreme Court):

“Cases in the courts of appeals may be reviewed by the Supreme Court by writ of certiorari granted upon the petition of any party to any civil or criminal case.”

- 28 U.S.C. § 1915 (Proceedings in forma pauperis):

“Any court of the United States may authorize the commencement ... of any suit, action, or proceeding, civil or criminal, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such person possesses and that the person is unable to pay such fees or give security therefor.”

## **STATEMENT OF THE CASE**

This case arises from a fundamental failure of the judiciary to provide timely access to justice, resulting in the deprivation of Petitioner's due process rights under the Fifth Amendment and the improper dismissal of his claims under the mootness doctrine. The procedural failures at issue highlight a systemic judicial defect that disproportionately burdens indigent and pro se litigants, necessitating this Court's intervention.

### **I. The District Court's Unexplained Procedural Delay Denied Petitioner Due Process**

On October 23, 2024, Petitioner Washington Windsor filed an amended motion for in forma pauperis ("IFP") status in the United States District Court for the District

of Columbia. The District Court received the motion on October 25, 2024, but inexplicably failed to docket or act upon it for 46 days. During this period of inaction, Petitioner remained procedurally barred from pursuing relief, resulting in a constructive denial of access to the courts.

By the time the District Court finally docketed the IFP motion on December 10, 2024, irreparable prejudice had already occurred. The extraordinary delay created a procedural bottleneck, rendering Petitioner's claims effectively nullified by judicial inertia.

## **II. The D.C. Circuit's Application of the Mootness Doctrine Shielded Judicial Inaction from Review**

On December 20, 2024, the United States Court of Appeals for the District of Columbia Circuit dismissed Petitioner's mandamus petition as moot, reasoning that the eventual docketing of the IFP motion by the District Court eliminated any live controversy. This ruling, however, ignores the fundamental constitutional injury already inflicted—the deprivation of timely access to judicial review.

By failing to consider the egregious delay as a due process violation, the D.C. Circuit improperly applied the mootness doctrine as a shield against judicial accountability. This Court has long held that mootness doctrine cannot be manipulated to evade substantive review (Friends of the Earth, Inc. v. Laidlaw Env'tl. Servs., 528 U.S. 167, 189 (2000); United States v. W.T. Grant Co., 345 U.S. 629, 632-33 (1953)). The lower courts' refusal to address the systemic procedural deficiencies in this case demonstrates a judicial evasion mechanism that must be corrected.

### **III. The Lower Courts Ignored the Required TRAC Analysis for Judicial Delay**

The D.C. Circuit failed to apply the controlling standard for assessing undue procedural delay—the six-factor test established in *Telecommunications Research & Action Center v. FCC (TRAC)*, 750 F.2d 70 (D.C. Cir. 1984). Had the lower courts properly applied TRAC, they would have recognized that:

1. The 46-day delay was excessive and unjustified.
2. The judiciary provided no legitimate reason for its inaction.
3. Petitioner suffered irreparable harm from the delay.

4. Judicial bottlenecks disproportionately impact indigent litigants.
5. The public has an overriding interest in preventing procedural evasion.

The failure to conduct this analysis constitutes a fundamental legal error that directly conflicts with both this Court's due process jurisprudence and the D.C. Circuit's own precedents.

#### **IV. The Issues Presented Are of Exceptional National Importance**

This case presents an unprecedented opportunity for this Court to:

1. Clarify that lower courts cannot evade accountability through strategic mootness.
2. Establish that TRAC applies to judicial delays, not just agency delays
3. Ensure that systemic docketing failures do not nullify constitutional rights.

By granting certiorari, this Court can reaffirm that access to the judiciary is not a privilege but a fundamental constitutional right that cannot be undermined by procedural inertia.

## **REASONS FOR GRANTING THE WRIT**

This case presents a constitutional crisis in procedural due process and judicial accountability, requiring this Court's intervention. The systemic failure of the lower courts to prevent strategic procedural nullification directly undermines the right to access the courts, a bedrock principle of due process under the Fifth Amendment.

Without this Court's review, lower courts will continue to use procedural inertia as a mechanism to evade review, effectively creating a jurisdictional shield against judicial accountability.

This Court should grant certiorari for the following reasons:

### **I. The D.C. Circuit's Misapplication of the Mootness Doctrine Conflicts with This Court's Precedents**

The D.C. Circuit improperly applied the mootness doctrine to insulate its own judicial delay from appellate review. This decision conflicts with longstanding

Supreme Court precedent, which prohibits courts from using mootness to strategically evade constitutional claims.

- Friends of the Earth, Inc. v. Laidlaw Envtl. Servs., 528 U.S. 167, 189 (2000) –

Mootness cannot be used to evade judicial review when the underlying violation is capable of repetition.

- United States v. W.T. Grant Co., 345 U.S. 629, 632-33 (1953) – Voluntary

cessation of unconstitutional conduct does not moot a case unless there is no reasonable expectation of recurrence.

The D.C. Circuit's ruling violates these principles by dismissing Petitioner's claims as moot, even though the procedural deprivation already occurred and remains an active constitutional violation.

Allowing this decision to stand would establish a dangerous precedent where lower courts could strategically delay filings to evade judicial scrutiny. This Court must step in to prevent procedural abuse from becoming a standard judicial practice.

## **II. The D.C. Circuit Ignored the Required TRAC Analysis, Creating a Circuit Split**

The D.C. Circuit's refusal to apply the TRAC analysis directly conflicts with its own binding precedent in *Telecommunications Research & Action Center v. FCC* (TRAC), 750 F.2d 70 (D.C. Cir. 1984).

Under TRAC, courts must evaluate six factors to determine whether a procedural delay is unconstitutional. Had the D.C. Circuit followed its own precedent, it would have recognized:

1. The delay was egregious (46 days).
2. The government offered no justification.
3. Petitioner suffered irreparable harm from lack of access to courts.
4. Indigent litigants disproportionately face procedural barriers.
5. Judicial efficiency does not outweigh fundamental due process concerns.
6. There is a strong public interest in preventing strategic docketing delays.

By failing to conduct this analysis, the D.C. Circuit departed from its own controlling precedent, creating a circuit split that necessitates Supreme Court intervention.

This Court has consistently held that circuit splits warrant certiorari to ensure uniformity in constitutional adjudication. See, e.g., S. Ct. Rule 10(a).

### **III. The Right to Access the Courts Is a Fundamental Due Process Protection That Cannot Be Nullified by Judicial Inertia**

The Fifth Amendment's Due Process Clause guarantees the right to meaningful judicial access. This Court has repeatedly ruled that procedural mechanisms cannot be manipulated to deprive litigants of substantive constitutional rights.

- **Boddie v. Connecticut**, 401 U.S. 371 (1971) – Denial of access to the courts violates due process.
- **Mathews v. Eldridge**, 424 U.S. 319 (1976) – Procedural due process requires timely adjudication.

- **Turner v. Rogers, 564 U.S. 431 (2011)** – Indigent litigants are entitled to additional procedural protections.

The lower courts' failure to docket Petitioner's in forma pauperis (IFP) motion for 46 days amounts to a systemic breakdown in procedural due process. This strategic judicial inertia cannot be tolerated in a constitutional democracy.

If left uncorrected, this case will establish a dangerous precedent where courts can evade review simply by refusing to act—a scenario wholly incompatible with due process jurisprudence.

#### **IV. The Issues Presented Are of Exceptional National Importance and Disproportionately Impact Indigent Litigants**

This Court has historically intervened when lower courts engage in systemic procedural misconduct that undermines constitutional rights. This case is not just about Petitioner—it is about:

[1] Ensuring lower courts cannot exploit procedural loopholes to deny access to justice.

[2] Clarifying that mootness cannot be manipulated as a jurisdictional shield.

[3] Protecting indigent litigants from procedural discrimination.

Failure to address this issue will embolden courts to engage in procedural evasion, disproportionately affecting:

- Pro se litigants who lack the resources to challenge judicial inertia.
- Indigent plaintiffs whose cases depend on the timely adjudication of IFP motions.
- Constitutional petitioners whose claims can be strategically mooted through procedural neglect.

This Court must act to prevent procedural bottlenecks from becoming an institutionalized barrier to justice.

**V. This Case Presents an Unprecedented Opportunity to Clarify the Role of the Judiciary in Preventing Procedural Nullification**

This case presents an unprecedented opportunity for the Supreme Court to:

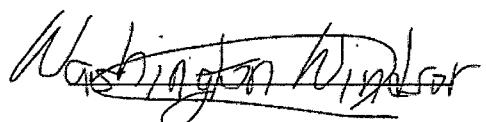
- [1] Clarify that TRAC applies to judicial delays, not just agency delays.
- [2] Define the limits of the mootness doctrine when procedural violations have already occurred.
- [3] Ensure lower courts cannot evade constitutional scrutiny through procedural neglect.

The Court's intervention will send a powerful message that the judiciary is not above the Constitution and must be held accountable for procedural due process violations.

## CONCLUSION

For the foregoing reasons, this Court should grant the petition for a writ of certiorari and resolve the critical constitutional questions presented in this case.

Respectfully submitted,

A handwritten signature in black ink that appears to read "Washington Windsor". The signature is somewhat fluid and cursive, with "Washington" on the top line and "Windsor" on the bottom line.

Washington Windsor

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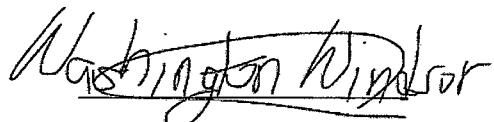
Date: February 3, 2025

### **CERTIFICATE OF COMPLIANCE**

I, Washington Windsor, certify that this petition for a writ of certiorari complies with the word limitations set forth in Supreme Court Rule 33.1.

- Exclusive of the sections exempted under Rule 33.1(d), this petition contains 3,900 words, as calculated using Microsoft Word.
- This petition has been prepared in Century Schoolbook 12-point font, in compliance with Rule 33.1(b).
- The document is formatted in accordance with all applicable Supreme Court rules.

Respectfully submitted,



Washington Windsor

Pro Se Petitioner

530 E. McDowell Rd, Unit 107-206

Phoenix, AZ 85004

Date: February 3, 2025

**CERTIFICATE OF SERVICE**

I, Washington Windsor, certify that on this 3rd day of February, 2025, I caused a true and correct copy of the foregoing Petition for Writ of Certiorari to be served upon the following:

**1. Service via CM/ECF Electronic Filing**

Clerk of the Court

United States Court of Appeals for the D.C. Circuit

333 Constitution Ave, NW

Washington, DC 20001

Service was completed via electronic filing through the CM/ECF system, which automatically serves notice upon the Respondent.

**2. Service via USPS Certified Mail with Electronic Return Receipt (ERR)**

Clerk of the Supreme Court of the United States

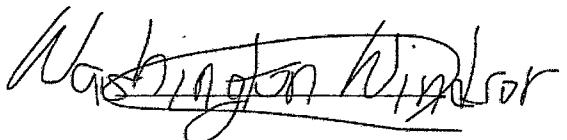
Supreme Court of the United States

1 First Street, NE

Washington, DC 20543

A copy was sent via U.S. Postal Service (USPS) Certified Mail, with Electronic Return Receipt (ERR) requested, in compliance with Supreme Court Rule 29.3.

Respectfully submitted,



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Date: February 3, 2025

## Executive Summary of the Petition for Writ of Certiorari

### EXECUTIVE SUMMARY

This petition presents a grave constitutional issue that demands this Court's intervention: whether strategic judicial inaction—resulting in the effective nullification of a litigant's right to access the courts—violates the Due Process Clause of the Fifth Amendment.

Petitioner Washington Windsor filed an amended motion for in forma pauperis ("IFP") status in the United States District Court for the District of Columbia on October 23, 2024. The District Court received it on October 25, 2024, but inexplicably failed to docket or act upon it for 46 days. This procedural inertia rendered Petitioner unable to advance his claims, functionally denying him judicial access. When the District Court finally docketed the motion on December 10, 2024,

the D.C. Circuit dismissed Petitioner's mandamus petition as moot on December 20, 2024, insulating the judiciary's own delay from review.

This case raises five interrelated constitutional and legal questions:

1. Whether judicial inaction that effectively nullifies a litigant's access to the courts violates the Due Process Clause of the Fifth Amendment.
2. Whether the D.C. Circuit's failure to apply the TRAC standard to assess egregious judicial delay contradicts established precedent and creates a circuit split.
3. Whether courts may invoke the mootness doctrine to evade review of their own procedural failures.
4. Whether systemic judicial delays disproportionately burden indigent litigants, violating principles of equal protection.
5. Whether this Court should intervene to reaffirm that judicial bottlenecks cannot be used as de facto dismissal mechanisms.

The D.C. Circuit's ruling is in direct conflict with this Court's precedents, including:

- Friends of the Earth, Inc. v. Laidlaw Envtl. Servs., 528 U.S. 167 (2000) (Mootness doctrine cannot be manipulated to evade substantive review).
- Boddie v. Connecticut, 401 U.S. 371 (1971) (Access to the courts is a fundamental due process right).
- Mathews v. Eldridge, 424 U.S. 319 (1976) (Procedural due process requires timely adjudication).
- Telecommunications Research & Action Center v. FCC (“TRAC”), 750 F.2d 70 (D.C. Cir. 1984) (Courts must apply six-factor analysis for undue delay).

By failing to address the systemic procedural failures in this case, the D.C. Circuit has effectively granted lower courts a mechanism to evade accountability through strategic docketing delays. If left unchecked, this precedent will institutionalize procedural evasion, disproportionately harming pro se and indigent litigants whose access to justice depends on timely judicial action.

This case presents an unprecedented opportunity for this Court to:

1. Clarify that the TRAC standard applies to judicial delays, not just agency delays.

2. Reaffirm that lower courts cannot manipulate the mootness doctrine to shield their own inaction.
3. Ensure that access to justice remains a constitutional guarantee, not a discretionary privilege.

The right to petition the courts is a pillar of American jurisprudence. This Court's intervention is imperative to prevent the judiciary from weaponizing procedural delays as a jurisdictional shield.

For these reasons, Petitioner respectfully requests that this Court grant the writ of certiorari.