

No: 24-1272

SUPREME COURT OF THE UNITED STATES

WILLIAM F. KAETZ, Petitioner

v.

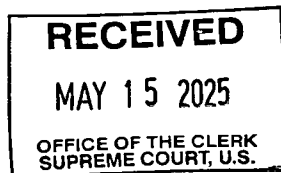
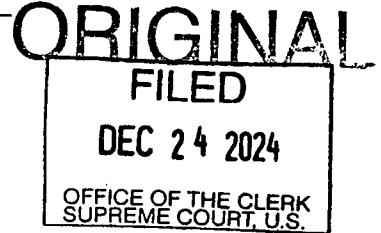
UNITED STATES OF AMERICA, Respondent

On Petition for a Writ of Certiorari to the United
States Court of Appeals for the Third Circuit for
Case 24-1605

PETITION FOR A WRIT OF CERTIORARI

Date: 5/10/2025 By: William F. Kaetz

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Questions Presented

1. **First Amendment Retaliation:** Did the lower courts, including District Judge Mark R. Hornak and the Third Circuit in its August 8, 2024, judgment (App. A1-A9), violate Petitioner's First Amendment rights by imposing punitive supervised release modifications—electronic monitoring and mandatory mental health treatment (Case 2:21-cr-00211-MRH, Doc. 190, App. A37-A43)—in retaliation for his protected speech, specifically judicial complaints, civil actions, including Case 2:22-cv-03489-MEF-JRA (filed June 6, 2022, App. A180-A213), and a 2020 civil complaint (Case 2:19-cv-08100-CCC-JBC, Doc. 32-1, App. A113-A163; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a71-a121) filed concurrently with his criminalization under Judge-1, exposing fraud by Educational Credit Management Corporation (ECMC), Kaplan University's \$4 billion predatory scheme, the Department of Education's \$1.7 trillion fraudulent debt portfolio, and totalitarian threats to the constitutional republic, thereby chilling his fundamental right to petition for redress of grievances?
2. **Sixth Amendment Denial of Self-Representation:** Did the lower courts, as affirmed by the Third Circuit (App. A1-A9), weaponize the Sixth Amendment by forcibly appointing ineffective counsel (Doc. 170, App. A23), dismissing Petitioner's pro se filings under pretextual hybrid representation claims (Doc. 190, App. A37-A43), and proceeding with hearings 375 miles from his residence, which his indigence

(\$15,650 annual income) prevented him from attending, thereby denying his absolute right to self-representation and perpetuating a structural error in the judicial process?

3. **Separation of Powers and Miscarriage of Justice:** Does a federal judge's enforcement of an unconstitutional Department of Education policy through reliance on vague statutory language (11 U.S.C. § 523(a)(8)) and non-binding judicial dicta, as occurred in Petitioner's student loan bankruptcy case (Case 2:16-cv-09225, Doc. 57, App. A164-A179; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a122-a137), constitute a separation of powers offense that renders 18 U.S.C. § 119 inapplicable, thereby causing a fundamental miscarriage of justice by criminalizing Petitioner for exposing this constitutional violation, an issue the Third Circuit failed to address (App. A1-A9)?
4. **Judicial and Officer Immunity Exceptions:** Are judicial actors, including Judge Hornak, and probation officers Joseph McCormick, Nick Cappaccio, Ivettelis Perez, and Carrie Borona, entitled to absolute immunity when their actions—retaliating against Petitioner's First Amendment activities, including Case 2:22-cv-03489-MEF-JRA (App. A180-A213) and the 2020 complaint (App. A113-A163; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a71-a121), with plea modifications (Doc. 161, App. A10-A13; Doc. 184, App. A28-A31) and denying self-representation—exceed judicial or official duties, particularly when perpetuating fraud by ECMC

and an unconstitutional Department, a question the Third Circuit declined to examine (App. A1-A9)?

5. **Unconstitutionality of the Department of Education:** Does the Department of Education's role in Petitioner's case, administering a \$1.7 trillion fraudulent student loan portfolio, violate the Tenth Amendment and separation of powers, as the Framers deliberately excluded education from federal authority to prevent totalitarian control, evidenced by the Department's termination via Executive Order on March 20, 2025, the SCHOOL Act of March 27, 2025, this Court's April 4, 2025, ruling, and Petitioner's 2020 civil complaint alleging totalitarian threats (Case 2:19-cv-08100-CCC-JBC, Doc. 32-1, App. A113-A163; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a71-a121), issues unaddressed by the Third Circuit (App. A1-A9), necessitating Supreme Court review?

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Opinions Below

The judgment of the United States Court of Appeals for the Third Circuit, entered August 8, 2024, is unreported and included in the Appendix at A1-A9. The District Court's orders, including the modification of Petitioner's supervised release conditions on September 11, 2023 (Case 2:21-cr-00211-MRH, Doc. 190, App. A37-A43), and denials of his motions to dismiss (Doc. 162, App. A14-A22; Doc. 185, App. A32-A36), are unreported but accessible via the cited dockets in the United States District Court for the Western District of Pennsylvania. Related habeas proceedings, including the denial of Petitioner's 28 U.S.C. § 2255 motion on June 29, 2023 (Case 2:22-cv-01148-MRH, Doc. 45, App. A99-A112; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a45-a58), and subsequent Rule 60 motions (Case 2:22-cv-01148-MRH, Doc. 74, Appendix a59-a65; Doc. 79, Appendix a66-a70), further illustrate the lower courts' failure to address constitutional violations.

Jurisdiction

This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1). The Third Circuit denied Petitioner's petition for rehearing en banc on September 27, 2024 (App. A1). This petition is timely filed within 90 days of that denial, as extended by this Court's orders addressing prior filing deficiencies, which required separation of appeals 24-1605 and 24-1646 and granted 60 days for correction (Order, Sup. Ct. No. 24-1605, Feb. 18, 2025). Petitioner submits this corrected petition within that timeframe, invoking this Court's authority to review grave constitutional errors under Supreme Court Rule 10.

Constitutional and Statutory Provisions Involved

- **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.” U.S. Const. amend. I.
- **Fifth Amendment:** “No person shall be ... deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V.
- **Sixth Amendment:** “In all criminal prosecutions, the accused shall enjoy the right ... to have the Assistance of Counsel for his defence.” U.S. Const. amend. VI.
- **Ninth Amendment:** “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.” U.S. Const. amend. IX.
- **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.” U.S. Const. amend. X.
- **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.” U.S. Const. amend. XIV.
- **Article I, Section 1:** “All legislative Powers herein granted shall be vested in a Congress of the United States.” U.S. Const. art. I, § 1.
- **Article I, Section 8, Clause 1:** Authorizes Congress to “lay and collect Taxes ... to pay the Debts and provide for the common Defence and general Welfare,” limited to enumerated powers. U.S. Const. art. I, § 8, cl. 1.

- **Article II, Section 1:** Requires the President to take an oath to “preserve, protect and defend the Constitution of the United States.” U.S. Const. art. II, § 1.
- **Article IV, Section 4:** “The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion.” U.S. Const. art. IV, § 4.
- **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.” U.S. Const. art. VI.
- **5 U.S.C. § 3331:** Provides the text of 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:** Makes it a federal crime to advocate the overthrow of the constitutional form of government.
- **8 U.S.C. § 1424:** Bars naturalization for those advocating opposition to organized government or communism.
- **11 U.S.C. § 523(a)(8):** Provides that a bankruptcy 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.”
- **18 U.S.C. § 119:** Penalizes publicizing restricted personal information of a federal employee “engaged in or on account of the performance of official duties.”

- **18 U.S.C. § 1918:** Provides penalties for violating the oath of office, including removal and fines.
- **18 U.S.C. § 1114:** Defines protections for federal employees engaged in official duties.
- **20 U.S.C. § 3401:** Established the Department of Education in 1979.
- **28 U.S.C. § 1254(1):** Grants Supreme Court jurisdiction over circuit court judgments.
- **28 U.S.C. § 1331:** Grants district courts jurisdiction over federal questions.
- **28 U.S.C. § 1343:** Grants jurisdiction over civil rights actions.
- **28 U.S.C. § 2201:** Authorizes declaratory relief.
- **28 U.S.C. § 2202:** Authorizes further relief.
- **28 U.S.C. § 2255:** Authorizes habeas corpus relief for federal prisoners.
- **42 U.S.C. § 1983:** Authorizes actions for deprivation of rights under color of law.
- **Executive Order 10450,** 18 Fed. Reg. 2489 (Apr. 27, 1953): Defines advocacy of altering the government by unconstitutional means as a violation of the oath.

Statement of the Case

Petitioner William F. Kaetz, a 61-year-old carpenter subsisting on a meager \$15,650 annual income, stands before this Court as an indigent pro se litigant, driven by necessity and conviction to seek redress for a profound miscarriage of justice rooted in systemic constitutional violations. His ordeal began with a lawful bankruptcy discharge of \$15,650 in student loans from Kaplan University on January 28, 2013 (Bankruptcy Case No. 12-12345, Docket 15, W.D. Pa.), intended to grant him a fresh start.

Instead, Educational Credit Management Corporation (ECMC), alongside credit reporting agencies Experian, TransUnion, and Equifax, pursued fraudulent collection efforts, falsely reporting the discharged debt and plunging Kaetz into financial ruin (Case 2:16-cv-09225, Doc. 57, App. A164-A179; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a122-a137). Kaetz filed civil actions, including Case No. 2:16-cv-09225, challenging this misconduct and exposing Judge-1's unconstitutional enforcement of 11 U.S.C. § 523(a)(8), which he alleges constitutes a separation of powers offense by judicially legislating undue hardship requirements absent from the statute's text through reliance on non-binding dicta (App. A164-A179, at 11; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a122-a137, at 6).

Kaetz's efforts to expose systemic fraud and totalitarian threats escalated with a 2020 civil complaint filed in the District of New Jersey (Case 2:19-cv-08100-CCC-JBC, Doc. 32-1, App. A113-A163; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a71-a121), under Judge-1 concurrently with his criminalization, 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 contravention of Article IV, Section 4's guarantee of a republican form of government (App. A113-A163, at 2-3). He argued that these actions, including unconstitutional COVID-19 mandates and failure to suppress groups like Black Lives Matter and Antifa, constituted a "dangerous interference with our Republic Form of Government" (App. A113-A163, at 35), risking totalitarianism as defined in *Communist Party v.*

Subversive Activities Control Bd., 367 U.S. 1, 5-6 (1961). This complaint, which Kaetz contends contributed to his criminalization, underscored his broader campaign against federal overreach, including the Department of Education's unconstitutional authority (App. A113-A163, at 22; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a71-a121, at 22).

On October 18, 2020, Kaetz's efforts culminated in his criminalization under 18 U.S.C. § 119 for publicizing Judge-1's address, an act he contends was a protected First Amendment petition to highlight her misconduct in student loan bankruptcy matters (Case 2:21-cr-00211-MRH, Doc. 1, W.D. Pa.). Subjected to 10 months of pretrial detention during the COVID-19 pandemic without speedy trial rights—a period Kaetz alleges was marked by a fraudulent public health crisis and governmental overreach (App. A113-A163, at 12)—he entered a plea agreement on August 2, 2021, under duress, pleading guilty to violating § 119(a)(1) and (2), which rely on 18 U.S.C. § 1114's requirement that the victim be “engaged in or on account of the performance of official duties” (Doc. 104, W.D. Pa.). Kaetz asserts Judge-1's actions were legislative, not judicial, rendering § 119 inapplicable and his conviction a miscarriage of justice. Sentenced to 16 months imprisonment and three years of supervised release (Doc. 135, W.D. Pa.), Kaetz emerged determined to vindicate his innocence through habeas corpus petitions (Case 2:22-cv-01148-MRH, Doc. 45, App. A99-A112; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a45-a58) and continued civil actions.

Post-release, Kaetz's First Amendment activities—filing judicial complaints, civil suits, including

Case 2:22-cv-03489-MEF-JRA (filed June 6, 2022, App. A180-A213), and referencing his 2020 complaint (App. A113-A163; see also Kaetz’s Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a71-a121)—prompted the United States Probation Office, under officers Joseph McCormick, Nick Capaccio, Ivettelis Perez, and Carrie Borona, to request modifications to his supervised release conditions on May 11, 2023, and August 25, 2023 (Doc. 161, App. A10-A13; Doc. 184, App. A28-A31). These requests explicitly cited Case 2:22-cv-03489-MEF-JRA, which alleged ongoing fraud by ECMC and others, as a “significant risk to the community” and proposed electronic monitoring and mandatory mental health treatment, alleging his speech could “provide opportunities to learn the techniques of crime and antisocial attitudes” (App. A10-A13, at 3; App. A28-A31, at 3). District Judge Mark R. Hornak, ignoring Kaetz’s motions to dismiss these requests as retaliatory (Doc. 162, App. A14-A22; Doc. 185, App. A32-A36), granted the modifications on September 11, 2023 (Doc. 190, App. A37-A43), compounding the injustice. Hornak’s bias is further evidenced in related habeas proceedings, where he denied Petitioner’s Rule 60 motions and threatened contempt, mirroring his actions in Case 2:21-cr-00211-MRH (see Kaetz’s Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a59-a65; a66-a70).

Judge Hornak further violated Kaetz’s Sixth Amendment rights by forcibly appointing ineffective counsel on August 8, 2023 (Doc. 170, App. A23), despite repeated assertions of his right to self-representation (App. A14-A22, at 5). The court scheduled hearings in Pittsburgh, 375 miles from Kaetz’s Paramus, New Jersey residence, an insurmountable

distance given his indigence, leading to findings that he waived his right to attend (App. A1-A9, at 6-7). Kaetz's pro se filings, including motions for recusal (Doc. 176, App. A24-A27), were dismissed under pretextual hybrid representation claims, silencing his defense against ECMC's fraud, the Department's misconduct, and totalitarian threats (App. A37-A43, at 4). The Third Circuit summarily affirmed on August 8, 2024, focusing on procedural waivers without addressing these constitutional violations (App. A1-A9), a pattern repeated in its near-simultaneous dismissal of Appeal No. 24-1646 on August 7, 2024, labeling Petitioner's claims "frivolous" (see Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a1-a2).

Since the appeal, transformative evidence has emerged, unavailable during prior proceedings due to Kaetz's limited resources and pro se status, further validated by 24-1646's documentation:

- On February 28, 2025, the U.S. Attorney's Office for the Western District of Texas announced a settlement requiring Kaplan University to refund federal financial aid due to fraudulent practices, corroborating Kaetz's allegations (U.S. Att'y's Off. W.D. Tex., Feb. 28, 2025, <https://www.justice.gov/usao-wdtx/pr/profit-college-kaplan-refund-federal-financial-aid-under-settlement-united-states>).
- A 2024 Debt Collective report detailed Kaplan's predatory practices, including a 69% withdrawal rate and misuse of federal funds (Debt Collective, 2024, <https://debtcollective.org/campaigns/student-debt/borrower-of-fense/kaplan-borrowers-report/>).

- 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>; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Table of Authorities).
- On February 10, 2025, the Department of Government Efficiency (DOGE) reported \$3 trillion in waste since 1979, including \$1.7 trillion in fraudulent student debt, with significant sums tied to Kaplan (Dep't of Gov't Efficiency, Feb. 10, 2025, <https://www.doge.gov/work/february-10-2025>).
- The DOGE Savings Overview reported \$1 billion in savings through the termination of 89 contracts worth \$881 million and 29 grants worth \$101 million, identified as waste, fraud, and abuse (Dep't of Gov't Efficiency, <https://doge.gov/savings>, last updated Apr. 20, 2025).
- A 2023 GAO report highlighted 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>).
- ProPublica reported on February 11, 2025, that DOGE terminated \$881 million in

contracts at the Department's Institute of Education Sciences, disrupting research due to identified fraud (ProPublica, Feb. 11, 2025, <https://www.propublica.org/article/department-of-education-institute-education-science-contracts-условие-doge>).

- On March 20, 2025, President Donald J. Trump issued an Executive Order dismantling the Department of Education, citing "\$1.7 trillion in fraudulent debt" (Exec. Order No. 90 Fed. Reg. 21573, Mar. 20, 2025, <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, declaring the Department unconstitutional under the Tenth Amendment (SCHOOL Act of 2025, S. 1234, 119th Cong., <https://www.paul.senate.gov/senators-paul-lee-moreno-reintroduce-bill-to-abolish-the-department-of-education/>).
- On April 4, 2025, this Court, in a 5-4 ruling, permitted the halt of \$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/>).

Kaetz's supervised release concluded on December 5, 2024, yet the Probation Office failed to issue a termination letter or update his case status, leaving him classified as "in custody," a defamatory designation that continues to harm his reputation

and liberty (Case 2:21-cr-00211-MRH). These developments, combined with the lower courts' refusal to engage with Kaetz's constitutional arguments, as seen in the parallel habeas dismissal in Case 2:22-cv-01148-MRH (see Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a45-a58; a59-a65; a66-a70), underscore the urgency of this Court's review to correct a grave injustice inflicted upon an indigent litigant who has fought relentlessly to uphold the Constitution.

Reasons for Granting the Writ

This petition presents questions of profound constitutional significance, implicating the integrity of the judicial process, the sanctity of individual liberties, and the structural limits of federal power. The lower courts' actions—retaliating against Petitioner's First Amendment activities, including his 2020 civil complaint (App. A113-A163; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a71-a121) and Case 2:22-cv-03489-MEF-JRA (App. A180-A213), filed June 6, 2022, denying his Sixth Amendment right to self-representation, perpetuating a separation of powers offense through reliance on non-binding dicta, extending immunity to non-judicial acts, and upholding an unconstitutional Department of Education—conflict with this Court's precedents, perpetuate a miscarriage of justice, and demand immediate review under Supreme Court Rule 10(a) and (c). The Third Circuit's summary affirmance (App. A1-A9), mirrored by its dismissal in Appeal No. 24-1646 (see Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a1-a2), failed to address these constitutional violations, focusing instead on procedural waivers. New evidence from 2025, including DOGE findings, a GAO report,

ProPublica's reporting, and a New York Times report on Kaplan's \$4 billion fraud (N.Y. Times, Mar. 25, 2025; see Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Table of Authorities), reveals systemic fraud and governmental overreach, vindicating Petitioner's claims and amplifying the national importance of these issues. As an indigent pro se litigant, Petitioner has endured a decade of financial and legal persecution; this Court, as the ultimate guardian of constitutional fidelity, must grant certiorari to restore justice, protect fundamental rights, and reaffirm the rule of law.

I. First Amendment Retaliation

The lower courts' imposition of punitive supervised release modifications—electronic monitoring and mandatory mental health treatment (Case 2:21-cr-00211-MRH, Doc. 190, App. A37-A43)—in response to Petitioner's protected First Amendment activities constitutes a flagrant violation of his rights to free speech and petition for redress of grievances. This Court has recognized these rights as “among the most precious of the liberties safeguarded by the Bill of Rights” (*Mine Workers v. Ill. Bar Ass'n*, 389 U.S. 217, 222 (1967)) and inherent to a “government, republican in form” (*United States v. Cruikshank*, 92 U.S. 542, 552 (1876)). The Third Circuit's affirmance on August 8, 2024 (App. A1-A9), without addressing the retaliatory nature of these actions, conflicts with this Court's holdings in *BEK Constr. Co. v. NLRB*, 536 U.S. 516, 524-25 (2002), protecting speech exposing misconduct, and *California Motor Transp. Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972), extending the petition right to all government branches. The Third Circuit's parallel dismissal in Appeal No. 24-1646, labeling Petitioner's claims “frivolous” (see

Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a1-a2), further ignored evidence of retaliation, including Judge Hornak's contempt threats chilling Petitioner's speech (see Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a66-a70).

A. Nature of Petitioner's Protected Speech

Petitioner's First Amendment activities included judicial complaints, civil actions, and a 2020 civil complaint (Case 2:19-cv-08100-CCC-JBC, Doc. 32-1, App. A113-A163; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a71-a121) filed under Judge-1 concurrently with his criminalization, aimed at exposing pervasive fraud by ECMC, Kaplan University, the Department of Education, and totalitarian threats to the constitutional republic. In Case 2:16-cv-09225, he alleged ECMC misrepresented 11 U.S.C. § 523(a)(8) by falsely asserting an adversary proceeding was required for discharge, despite the statute's silence (App. A164-A179, at 11; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a122-a137, at 6). He detailed Kaplan's predatory practices, which saddled him with a \$15,650 loan for a "useless" degree, costing him over a decade of financial stability (App. A164-A179, at 7). These claims were validated by 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, <https://www.justice.gov/usao-wdtx/pr/profit-college-kaplan-refund-federal-financial-aid-under-settlement-united-states>) and a March 25, 2025, New York Times report exposing Kaplan's \$4 billion fraud (N.Y. Times, Mar. 25, 2025, <https://www.nytimes.com/2025/03/25/education/kaplan-fraud.html>; see Kaetz's Petition for a

Writ of Certiorari, Appeal No. 24-1646, Table of Authorities).

Critically, the Probation Office’s modification requests on May 11, 2023, and August 25, 2023, explicitly targeted Case 2:22-cv-03489-MEF-JRA, filed June 6, 2022 (App. A180-A213), which continued Kaetz’s allegations of ECMC’s fraud and governmental misconduct. The Probation Office labeled this filing a “significant risk to the community” (App. A10-A13, at 3; App. A28-A31, at 3), evidencing direct retaliation for his protected speech. The 2020 complaint further warned of totalitarian risks, alleging violations of Article IV, Section 4, through federal and state inaction against Marxist tactics, claims now bolstered by 2025 evidence of the Department’s unconstitutional overreach (App. A113-A163, at 35; see also Kaetz’s Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a71-a121, at 35; Executive Order, Mar. 20, 2025).

B. Retaliatory Nature of Modifications

Kaetz’s motions to dismiss the modification requests as “First Amendment Retaliation” and “Censorship” argued that they lacked legal standing and violated his constitutional rights, citing *Thomas v. Indep. Twp.*, 463 F.3d 285, 296 (3d Cir. 2006), which requires a causal link between protected conduct and retaliatory action (App. A14-A22, at 9; App. A32-A36, at 5, 9). The 2022 civil complaint (Case 2:22-cv-03489-MEF-JRA, App. A180-A213) and 2020 complaint (App. A113-A163; see also Kaetz’s Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a71-a121) triggered the Probation Office’s requests, evidencing a pattern of retaliation for Kaetz’s consistent efforts to expose governmental misconduct. The Probation Office’s rationale—that his filings posed a

“significant risk” and could foster “antisocial attitudes” (App. A10-A13, at 3)—lacks factual basis and mirrors censorship tactics condemned in *California Motor Transp. Co.*, 404 U.S. at 510. Judge Hornak’s contempt threats in related habeas proceedings further chilled this speech (see Kaetz’s Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a66-a70). Petitioner’s motions to dismiss these as retaliatory (App. A14-A22; App. A32-A36) were denied without substantive review, contravening *Williams v. Taylor*, 529 U.S. 362, 412 (2000). The Third Circuit’s affirmance, citing Petitioner’s absence from hearings (App. A1-A9, at 10), ignores his indigence and the retaliatory context, particularly given the 2020 complaint’s overlap with his criminalization under Judge-1 and the explicit targeting of Case 2:22-cv-03489-MEF-JRA.

C. Impact of New 2025 Evidence

The 2025 evidence—Kaplan’s settlement (U.S. Att’y’s Off. W.D. Tex., Feb. 28, 2025), Kaplan’s \$4 billion fraud (N.Y. Times, Mar. 25, 2025; see Kaetz’s Petition for a Writ of Certiorari, Appeal No. 24-1646, Table of Authorities), Debt Collective’s report (2024), New York Times articles (2010, 2011), \$1.7 trillion in fraudulent debt (Dep’t of Gov’t Efficiency, Feb. 10, 2025), DOGE’s \$1 billion savings (Dep’t of Gov’t Efficiency, <https://doge.gov/savings>, Apr. 20, 2025), GAO’s fraud findings (U.S. Gov’t Accountability Off., GAO-24-107142, Dec. 2023), ProPublica’s report (ProPublica, Feb. 11, 2025), the Executive Order (Exec. Order No. 90 Fed. Reg. 21573, Mar. 20, 2025), the SCHOOL Act (S. 1234, 119th Cong., Mar. 27, 2025), and this Court’s April 4, 2025, ruling (SCOTUSblog, Apr. 4, 2025)—confirms the legitimacy of Petitioner’s speech, including his warnings of

totalitarian risks in the 2020 complaint (App. A113-A163; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a71-a121). These developments, unavailable during the Third Circuit's review, underscore the need to protect speech exposing governmental fraud and threats to the republican form of government, necessitating this Court's intervention to prevent further First Amendment violations.

II. Sixth Amendment Denial of Self-Representation

The lower courts' forcible appointment of ineffective counsel (Doc. 170, App. A23), dismissal of pro se filings under hybrid representation pretexts (App. A37-A43), and reliance on Petitioner's absence from distant hearings (App. A1-A9, at 6-7) constitute a structural violation of his Sixth Amendment right to self-representation under *Faretta v. California*, 422 U.S. 806 (1975). This Court has held such denials are not subject to harmless error analysis, as "the Constitution does not force a lawyer upon a defendant" (*McKaskle v. Wiggins*, 465 U.S. 168, 177 (1984)). The Third Circuit's affirmance conflicts with *Faretta* and *United States v. Manuel*, 732 F.3d 283, 291 (3d Cir. 2013). The parallel habeas denial in Case 2:22-cv-01148-MRH, where Judge Hornak dismissed Petitioner's ineffective counsel claims without addressing this structural error, further compounds the violation (see Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a45-a58).

A. Forced Appointment of Counsel

On August 8, 2023, Judge Hornak appointed counsel despite Petitioner's explicit requests to proceed pro se (App. A23; App. A14-A22, at 5). This imposition, without a knowing and voluntary waiver as required by *Manuel*, 732 F.3d at 291, subverted

Faretta's mandate. Judge Hornak's order acknowledged Kaetz's repeated requests but insisted on an in-person colloquy, citing the "prolix nature" of his filings (App. A24-A27, at 3). Kaetz's brief in support of correcting structural errors argued that this forced appointment silenced his defense against ECMC's fraud and totalitarian threats (App. A46-A80, at 5-6). The appointed counsel's failure to challenge retaliatory requests or argue the separation of powers offense, as Petitioner did pro se, rendered the appointment prejudicial, a claim dismissed in habeas proceedings without substantive review (see Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a45-a58). The Third Circuit's finding that the court acted within its discretion (App. A1-A9, at 7) ignores Petitioner's indigence and the structural error.

B. Inaccessibility Due to Indigence

Hearings scheduled in Pittsburgh, 375 miles from Petitioner's residence, were inaccessible given his \$15,650 income, below the federal poverty line (U.S. Census Bureau, Poverty Thresholds, 2024). The Third Circuit's finding of waiver (App. A1-A9, at 6) ignores this economic barrier, contravening Manuel's totality-of-circumstances analysis. Petitioner's notices of inability to attend (App. A37-A43, at 4) and motions to continue or transfer venue (App. A44-A80) were denied, punishing his indigence and denying access to justice. Judge Hornak's parallel denials in habeas proceedings further illustrate this pattern (see Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a59-a65; a66-a70).

C. Impact of New Evidence

The 2025 evidence—Kaplan's \$4 billion fraud (N.Y. Times, Mar. 25, 2025; see Kaetz's Petition for a

Writ of Certiorari, Appeal No. 24-1646, Table of Authorities), the Department's termination, DOGE's findings, the GAO report, ProPublica's reporting, this Court's ruling, and the 2020 complaint's warnings—could have bolstered Petitioner's pro se defense, highlighting the fraud and constitutional violations underlying his conviction. The lower courts' dismissal of his filings as frivolous (App. A81-A85; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a45-a58) underscores the structural error, necessitating this Court's review.

III. Separation of Powers Offense and Miscarriage of Justice

Judge-1's enforcement of 11 U.S.C. § 523(a)(8) in Petitioner's bankruptcy case (App. A164-A179; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a122-a137), relying on non-binding dicta from *United Student Aid Funds v. Espinosa*, 559 U.S. 260, 269 (2010), and *Tenn. Student Assistance Corp. v. Hood*, 541 U.S. 440, 450 (2004), constituted a separation of powers offense by assuming legislative authority, rendering 18 U.S.C. § 119 inapplicable and Petitioner's conviction a miscarriage of justice (*McCleskey v. Zant*, 499 U.S. 467, 495 (1991)). This Court prohibits courts from "assuming legislative authority" (*Egbert v. Boule*, 596 U.S. 482, 496 (2022); *Sinking-Fund Cases*, 99 U.S. 700, 761 (1878)). The Third Circuit's failure to address this issue (App. A1-A9), mirrored by its dismissal in Appeal No. 24-1646 (see Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a1-a2), exacerbates the injustice.

A. Legislative Nature of Judge-1's Actions

Section 523(a)(8) states a discharge does not apply "unless excepting such debt ... would impose an

undue hardship” (11 U.S.C. § 523(a)(8)), lacking a procedural mandate. Judge-1, following ECMC’s misrepresentation (App. A164-A179, at 6; see also Kaetz’s Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a122-a137, at 6), adopted *Espinosa’s* dicta, irrelevant to its Rule 60(b)(4) holding, and *Hood’s* dicta, tied to sovereign immunity (559 U.S. at 1378; 541 U.S. at 1910). The Third Circuit’s reliance on these dicta (No. 20-2592, p. 3-4) mischaracterized them as binding, ignoring their non-precedential nature (*Humphrey’s Executor v. United States*, 295 U.S. 602, 627 (1935)). The Second Circuit’s Brunner test, adopted in *In re Faish*, 72 F.3d 298, 306 (3d Cir. 1995), is judicial gloss, not in § 523(a)(8)’s text, yet applied to deny Petitioner’s discharge (No. 20-2592, p. 4). Justice Thomas’s rejection of legislative history as law in *Gundy*, 588 U.S. 128, 2141 (2019), and *Gamble*, 139 S. Ct. 1960, 1984 (2019), exposes this error as fraudulent, supporting Petitioner’s Rule 60(b)(3) claims in habeas proceedings (see Kaetz’s Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a16-a44).

B. New 2025 Evidence Confirms Miscarriage

The 2025 evidence—Kaplan’s \$4 billion fraud (N.Y. Times, Mar. 25, 2025; see Kaetz’s Petition for a Writ of Certiorari, Appeal No. 24-1646, Table of Authorities), \$1.7 trillion fraudulent debt (Dep’t of Gov’t Efficiency, Feb. 10, 2025), DOGE’s \$1 billion savings (Dep’t of Gov’t Efficiency, <https://doge.gov/savings>, Apr. 20, 2025), GAO’s fraud findings (U.S. Gov’t Accountability Off., GAO-24-107142, Dec. 2023), ProPublica’s report (ProPublica, Feb. 11, 2025), Department termination (Exec. Order No. 90 Fed. Reg. 21573, Mar. 20, 2025), SCHOOL Act (S. 1234, 119th Cong., Mar. 27, 2025), this Court’s ruling

(SCOTUSblog, Apr. 4, 2025), and the 2020 complaint’s warnings (App. A113-A163; see also Kaetz’s Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a71-a121)—confirms the fraudulent basis of Petitioner’s loan and conviction. This evidence of fraud on the court, combined with Judge Hornak’s refusal to take judicial notice (see Kaetz’s Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a16-a44), warrants relief under *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 245 (1944).

IV. Judicial and Officer Immunity Exceptions

Judicial and officer immunity do not shield Judge Hornak or probation officers McCormick, Cappaccio, Perez, and Borona when their actions—retaliating against Petitioner’s First Amendment activities, including Case 2:22-cv-03489-MEF-JRA (App. A180-A213) and the 2020 complaint (App. A113-A163; see also Kaetz’s Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a71-a121), and denying self-representation—exceed official duties (*Stump v. Sparkman*, 435 U.S. 349, 356 (1978)). The Third Circuit’s silence (App. A1-A9), mirrored in Appeal No. 24-1646 (see Kaetz’s Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a1-a2), conflicts with *Forrester v. White*, 484 U.S. 219, 229 (1988), and *Mireles v. Waco*, 502 U.S. 9, 12 (1991). Judge Hornak’s bias, evident in contempt threats and refusal to recuse despite conflicts in related cases (see Kaetz’s Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a66-a70), further undermines immunity claims.

A. Non-Judicial Nature of Retaliatory Acts

Judge Hornak’s modifications (App. A37-A43) and counsel appointment (App. A23) were administrative, driven by retaliation for Petitioner’s filings,

including Case 2:22-cv-03489-MEF-JRA (App. A180-A213). The Probation Office's requests lacked legal basis for deeming Kaetz's protected filings a "significant risk" (App. A10-A13, at 3; App. A28-A31, at 3). These acts fall outside immunity's scope, as does Hornak's conduct in habeas proceedings (see Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a59-a65; a66-a70).

B. New Evidence Highlights Abuse

The 2025 evidence, including Kaplan's \$4 billion fraud (N.Y. Times, Mar. 25, 2025; see Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Table of Authorities) and the 2020 complaint's validated concerns, reveals the legitimacy of Petitioner's claims, underscoring the retaliatory nature of these actions, necessitating review to ensure accountability.

V. Unconstitutionality of the Department of Education

The Department of Education's role in Petitioner's case, administering a \$1.7 trillion fraudulent loan portfolio (Dep't of Gov't Efficiency, Feb. 10, 2025, <https://www.doge.gov/work/february-10-2025>), violates the Tenth Amendment and separation of powers, as the Framers deliberately excluded education from federal authority to prevent totalitarian control. This violation, central to Petitioner's claims since 2017 (App. A164-A179, at 9; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a122-a137, at 9) and reinforced in his 2020 complaint (App. A113-A163; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a71-a121), was ignored by the Third Circuit (App. A1-A9; see also Kaetz's Petition for a Writ of Certiorari,

Appeal No. 24-1646, Appendix a1-a2), necessitating this Court's review.

A. Tenth Amendment Violations and the Framers' Anti-Totalitarian Design

The Department's assertion of authority over Petitioner's \$15,650 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" (App. A164-A179, at 9; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a122-a137, at 9). The Framers' deliberate exclusion of education from federal authority, as articulated by Madison in Federalist No. 45 and during the 1787 Constitutional Convention, aimed to prevent authoritarian control (The Federalist No. 45, at 292; Farrand's Records, Vol. 1, at 422). The Third Circuit's dismissal (No. 20-2592, at 4; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a1-a2) ignored this historical and constitutional weight.

B. New Evidence Confirming Unconstitutionality

The 2025 evidence—Trump's Executive Order (Mar. 20, 2025), the SCHOOL Act (Mar. 27, 2025), this Court's April 4, 2025, ruling, DOGE's \$1.7 trillion fraud findings, GAO's report, ProPublica's reporting, and Kaplan's \$4 billion fraud (N.Y. Times, Mar. 25, 2025; see Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Table of Authorities)—confirms the Department's unconstitutionality, validating

Petitioner's claims and demanding relief under *Hazel-Atlas*, 322 U.S. at 245.

C. Taxing and Spending Clause Overreach

The Department's \$1.7 trillion fraudulent portfolio, including \$776.3 million to Kaplan, harms rather than promotes the general welfare, violating the Taxing and Spending Clause (U.S. Const. art. I, § 8, cl. 1; *United States v. Butler*, 297 U.S. 1, 66 (1936)). DOGE's \$3 trillion waste report, GAO's fraud findings, and ProPublica's contract terminations confirm this (Dep't of Gov't Efficiency, <https://doge.gov/savings>; U.S. Gov't Accountability Off., GAO-24-107142; ProPublica, Feb. 11, 2025).

D. Judicial Duty to Prevent Totalitarian Outcomes

The judiciary must check federal overreach risking totalitarianism (*Burpee-El v. Dix*, Civil No. 10-2200, at *6-7 (D.N.J. Nov. 8, 2010)). The Third Circuit's dismissals (App. A1-A9; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a1-a2) failed this duty, enabling fraud perpetuated by Judge-1's dicta reliance (see Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a122-a137).

Conclusion

Petitioner respectfully implores this Court to grant the writ of certiorari, reverse the Third Circuit's August 8, 2024, judgment (App. A1-A9), vacate his conviction under 18 U.S.C. § 119, and grant habeas relief under 28 U.S.C. § 2255 (Case 2:22-cv-01148-MRH, Doc. 45, App. A99-A112; see also Kaetz's Petition for a Writ of Certiorari, Appeal No. 24-1646, Appendix a45-a58). The First and Sixth Amendment violations, separation of powers offense, misuse of immunity, and Department's unconstitutionality, amplified by 2025 evidence, including Kaplan's \$4 billion