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SUPREME COURT, U.S.

No. 25-1232

IN THE
Supreme Court of the United States

KARL LINARD MALLOY,
Petitioner,

v.

KRISTIN E. SCHELIN AND MARK A. WATSON,
Respondents.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT*

(Case No. 25-1067)

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether a district court may dismiss as moot an appeal from a bankruptcy court's denial of a stay pending appeal when the bankruptcy court's underlying order both remanded state-court litigation and modified the automatic stay to permit that litigation to proceed to final judgment.

PARTIES TO THE PROCEEDINGS

Petitioner, Karl Linard Malloy, was the Defendant—Appellant below.

Respondents, Kristin E. Schelin and Mark A. Watson, were Plaintiffs—Appellees below.

RULE 29.6 STATEMENT

Petitioner is an individual and no Rule 29.6 disclosure statement is required.

RELATED PROCEEDINGS

Petitioner includes all proceedings known to him that are directly related to this case, including proceedings arising from Powhatan County Circuit Court Case No. CL22-242, the resulting bankruptcy case and adversary proceedings, and related contested bankruptcy and appellate proceedings. Proceedings listed below that form the direct appellate path to the judgment of the court of appeals under review are identified in bold italics.

Powhatan County Circuit Court

Schelin et al., v. Malloy, No. CL22-242, Powhatan County Circuit Court. Judgment entered October 20, 2024.

Malloy v. Schelin et al., No. CL22-242-01, Powhatan County Circuit Court. Judgment entered October 20, 2024.

Malloy v. Napier, No. CL23-226, Powhatan County Circuit Court. Pending.

Court of Appeals of Virginia

Malloy v. Schelin et al., No. 041723, Court of Appeals of Virginia. Judgment entered May 1, 2024.

Schelin et al. v. Malloy, No. 190324, Court of Appeals of Virginia. Pending.

Malloy v. Schelin et al., No. 191124, Court of Appeals of Virginia. Pending.

Supreme Court of Virginia

Writ of Mandamus, No. 230463, Supreme Court of Virginia. Judgment entered July 17, 2023.

Writ of Prohibition, No. 230464, Supreme Court of Virginia. Judgment entered July 17, 2023.

Malloy v. Schelin et al., No. 240539, Supreme Court of Virginia. Judgment entered October 22, 2024.

**United States Bankruptcy Court for the
Eastern District of Virginia**

In re Malloy, No. 3:2023-bk-33442, United States Bankruptcy Court for the Eastern District of Virginia. Pending.

Schelin et al. v. Malloy, No. 3:2023-ap-03043, United States Bankruptcy Court for the Eastern District of Virginia. Pending.

Malloy v. Napier, No. 3:2025-ap-03022, United States Bankruptcy Court for the Eastern District of Virginia. Pending.

**United States District Court for the Eastern
District of Virginia**

Malloy v. Schelin et al., No. 3:2024-cv-00002, United States District Court for the Eastern District of Virginia. Judgment entered November 19, 2024.

Malloy v. Schelin et al., No. 3:2024-cv-00058, United States District Court for the Eastern District of Virginia. Judgment entered January 31, 2024.

Malloy v. Schelin et al., No. 3:2024-cv-00059, United States District Court for the Eastern District of Virginia. Judgment entered December 18, 2024.

Malloy v. Schelin et al., No. 3:2024-cv-00170, United States District Court for the Eastern District of Virginia. Judgment entered November 21, 2024.

Malloy v. Unknown, No. 3:2024-cv-00171, United States District Court for the Eastern District of Virginia. Judgment entered June 18, 2024.

Malloy v. Kane, No. 3:2024-cv-00200, United States District Court for the Eastern District of Virginia. Judgment entered March 11, 2025.

Malloy v. Schelin et al., No. 3:2024-cv-00477, United States District Court for the Eastern District of Virginia. Judgment entered February 6, 2025.

Malloy v. Schelin et al., No. 3:2024-cv-00727, United States District Court for the Eastern District of Virginia. Judgment entered April 3, 2025.

Malloy v. Schelin et al., No. 3:2024-cv-00728, United States District Court for the Eastern District of Virginia. Judgment entered January 30, 2025.

Malloy v. Schelin et al., No. 3:2024-cv-00729, United States District Court for the Eastern District of Virginia. Cases consolidated December 18, 2024. Judgment entered May 13, 2025.

Malloy v. Huennekens, No. 3:2024-cv-00778, United States District Court for the Eastern District of Virginia. Cases consolidated December 18, 2024.

Malloy v. Huennekens, No. 3:2024-cv-00779, United States District Court for the Eastern District of Virginia. Cases consolidated December 19, 2024. Corrected Judgment entered May 14, 2025.

Malloy v. Taylor, No. 3:2024-cv-00785, United States District Court for the Eastern District of Virginia. Cases consolidated December 18, 2024.

Malloy v. Huennekens, No. 3:2024-cv-00786, United States District Court for the Eastern District of Virginia. Cases consolidated December 18, 2024.

Malloy v. Huennekens, No. 3:2024-cv-00788, United States District Court for the Eastern District of Virginia. Cases consolidated December 19, 2024.

Malloy v. Huennekens, No. 3:2024-cv-00790, United States District Court for the Eastern District of Virginia. Cases consolidated December 19, 2024.

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Malloy v. Huennekens, No. 3:2024-cv-00792, United States District Court for the Eastern District of Virginia. Cases consolidated December 19, 2024.

Malloy v. Napier, No. 3:2024-cv-00793, United States District Court for the Eastern District of Virginia. Cases consolidated December 18, 2024.

Malloy v. Lafayette, No. 3:2024-cv-00794, United States District Court for the Eastern District of Virginia. Cases consolidated December 18, 2024.

Malloy v. Huennekens, No. 3:2024-cv-00795, United States District Court for the Eastern District of Virginia. Cases consolidated December 18, 2024.

Malloy v. Davoli, No. 3:2024-cv-00796, United States District Court for the Eastern District of Virginia. Cases consolidated December 18, 2024.

Malloy v. Huennekens, No. 3:2024-cv-00797, United States District Court for the Eastern District of Virginia. Cases consolidated December 18, 2024.

Malloy v. Schelin et al., No. 3:2024-cv-00828, United States District Court for the Eastern District of Virginia. Cases consolidated January 13, 2025. Judgment entered January 30, 2025.

Malloy v. Schelin et al., No. 3:2024-cv-00832, United States District Court for the Eastern District of Virginia. Cases consolidated January 13, 2025.

Malloy v. Schelin et al., No. 3:2024-cv-00890, United States District Court for the Eastern District of Virginia. Judgment entered July 18, 2025.

Malloy v. Huennekens, No. 3:2024-cv-00891, United States District Court for the Eastern District of Virginia. Judgment entered February 28, 2025.

Malloy v. Schelin et al., No. 3:2025-cv-00021, United States District Court for the Eastern District of Virginia. Judgment entered June 9, 2025.

Malloy v. Schelin et al., No. 3:2025-cv-00104, United States District Court for the Eastern District of Virginia. Judgment entered February 13, 2025.

Malloy v. Schelin et al., No. 3:2025-cv-00300, United States District Court for the Eastern District of Virginia. Judgment entered March 25, 2026.

Malloy v. Schelin et al., No. 3:2025-cv-00416, United States District Court for the Eastern District of Virginia. Judgment entered August 8, 2025.

Malloy v. Schelin et al., No. 3:2025-cv-00417, United States District Court for the Eastern District of Virginia. Pending.

Malloy v. Vogel et al., No. 3:2025-cv-00525, United States District Court for the Eastern District of Virginia. Judgment entered March 19, 2026.

Malloy v. Napier, No. 3:2025-cv-00534, United States District Court for the Eastern District of Virginia. Judgment entered July 11, 2025.

Malloy v. Broscious, No. 3:2025-cv-00760, United States District Court for the Eastern District of Virginia. Pending.

Malloy v. Broscious, No. 3:2025-cv-00780, United States District Court for the Eastern District of Virginia. Pending.

Malloy v. Broscious, No. 3:2025-cv-00781, United States District Court for the Eastern District of Virginia. Pending.

Malloy v. Freeman, No. 3:2025-cv-00834, United States District Court for the Eastern District of Virginia. Pending.

Malloy v. Schelin et al., No. 3:2025-cv-00866, United States District Court for the Eastern District of Virginia. Pending.

Malloy v. Vogel Law Group PLC et al., No. 3:2026-cv-00021, United States District Court for the Eastern District of Virginia. Pending.

Malloy v. Freeman, No. 3:2026-cv-00022, United States District Court for the Eastern District of Virginia. Pending.

Malloy v. Schelin et al., No. 3:2026-cv-00082, United States District Court for the Eastern District of Virginia. Pending.

Malloy v. Schelin et al., No. 3:2026-cv-00083, United States District Court for the Eastern District of Virginia. Pending.

**United States Court of Appeals for the Fourth
Circuit**

Schelin et al. v. Malloy, No. 24-1201, United States Court of Appeals for the Fourth Circuit. Judgment entered July 29, 2024.

Schelin et al. v. Malloy, No. 24-1451, United States Court of Appeals for the Fourth Circuit. Judgment entered July 30, 2024.

Malloy v. Unknown, No. 24-1664, United States Court of Appeals for the Fourth Circuit. Judgment entered July 28, 2025.

Schelin et al. v. Malloy, No. 24-2271, United States Court of Appeals for the Fourth Circuit. Judgment entered December 1, 2025.

Malloy v. Schelin et al., No. 24-2272, United States Court of Appeals for the Fourth Circuit. Judgment entered December 1, 2025.

Schelin et al. v. Malloy, No. 25-1067, United States Court of Appeals for the Fourth Circuit. Judgment entered December 1, 2025.

Malloy v. Schelin et al., No. 25-1208, United States Court of Appeals for the Fourth Circuit. Judgment entered December 30, 2025.

Schelin et al. v. Malloy, No. 25-1234, United States Court of Appeals for the Fourth Circuit. Judgment entered December 1, 2025.

Schelin et al. v. Malloy, No. 25-1275, United States Court of Appeals for the Fourth Circuit. Judgment entered December 30, 2025.

Kane v. Malloy, No. 25-1389, United States Court of Appeals for the Fourth Circuit. Judgment entered December 30, 2025.

Huennekens v. Malloy, No. 25-1695, United States Court of Appeals for the Fourth Circuit. Judgment entered December 30, 2025.

Schelin et al. v. Malloy, No. 25-1700, United States Court of Appeals for the Fourth Circuit. Judgment entered December 30, 2025.

Schelin et al. v. Malloy, No. 25-1793, United States Court of Appeals for the Fourth Circuit. Judgment entered December 30, 2025.

Napier v. Malloy, No. 25-1932, United States Court of Appeals for the Fourth Circuit. Judgment entered December 30, 2025.

Schelin et al. v. Malloy, No. 25-1529, United States Court of Appeals for the Fourth Circuit. Judgment entered December 30, 2025.

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INTRODUCTION

This case presents a fundamental question about the integrity of appellate review. A bankruptcy court denied a stay pending appeal of an order that both remanded removed state-court litigation and modified the automatic stay to permit that litigation to proceed to final judgment. Petitioner warned the bankruptcy court that, absent a stay, the appeal could become moot and “essentially be for naught.” App., *infra*, 75a. The bankruptcy court nonetheless denied a stay and made clear that, unless a higher court intervened, Respondents could proceed in state court to final judgment. App., *infra*, 25a.

Petitioner appealed that stay-denial order to the district court. The district court did not affirm the denial on the merits. Instead, after rejecting Petitioner’s separate appeal from the underlying remand order, it dismissed the stay appeal as moot on the ground that no effectual relief remained available. App., *infra*, 7a. The court of appeals affirmed on the same theory, holding that because the remand order had already been affirmed and was unreviewable under 28 U.S.C. § 1334(d), the district court properly dismissed the appeal from the stay-denial order as moot. App., *infra*, 3a.

That reasoning creates a closed loop. The bankruptcy court’s denial of a stay permitted the state-court proceedings to go forward. The district court then dismissed the appeal from that denial as moot because the proceedings were allowed to go forward. The court of appeals affirmed for the same reason.

Under that framework, the denial of a stay produces the very consequences that later extinguish appellate review.

This Court's intervention is warranted because that framework cannot be reconciled with the basic premise of meaningful appellate review, or with this Court's recognition that stay-relief determinations are discrete, final, immediately appealable bankruptcy orders. See *Ritzen Group, Inc. v. Jackson Masonry, LLC*, 140 S. Ct. 582 (2020). If courts may deny a stay, permit the challenged proceedings to continue, and then dismiss the appeal as moot because those proceedings occurred, the right to appellate review of final bankruptcy orders becomes illusory in practice.

OPINIONS BELOW

The court of appeals issued an unpublished per curiam opinion affirming the district court's dismissal of Petitioner's appeal as moot. The Fourth Circuit held that, because the district court had already affirmed the bankruptcy court's remand order and because the court of appeals lacked jurisdiction to review that remand order under 28 U.S.C. § 1334(d), the district court properly dismissed the appeal from the bankruptcy court's denial of a stay pending appeal as moot. App., *infra*, 3a.

The judgment of the court of appeals entered December 1, 2025, affirmed the judgment of the district court. App., *infra*, 5a.

The court of appeals later denied Petitioner's petition for rehearing and rehearing en banc. No judge requested a poll on rehearing en banc. App., *infra*, 6a.

The district court's order, entered December 18, 2024, dismissed as moot Petitioner's appeal from the bankruptcy court's January 12, 2024 order denying a stay pending appeal. The district court reasoned that, because it had already dismissed Petitioner's separate appeal from the remand order, the stay appeal was moot. App., *infra*, 7a.

The bankruptcy court's corrected memorandum opinion and order, entered January 12, 2024, denied Petitioner's motion to stay pending appeal. That order held that Petitioner had failed to satisfy the standard for a stay pending appeal and further provided that, unless a higher court entered a stay, Respondents could proceed in state court to continue the state-court litigation to final judgment. App., *infra*, 25a.

The bankruptcy court's underlying remand order, entered December 20, 2023, granted the motion to remand, remanded the removed state-court litigation to the Powhatan County Circuit Court, and modified the automatic stay to permit Respondents to continue that litigation to final judgment, subject to further relief before execution on any judgment. App., *infra*, 10a.

JURISDICTION

The judgment of the United States Court of Appeals for the Fourth Circuit was entered on December 1, 2025. App., *infra*, 5a. A timely petition for rehearing and rehearing en banc was denied on December 30, 2025. App., *infra*, 6a. This Court has jurisdiction under 28 U.S.C. § 1254(1). This petition is timely under 28 U.S.C. § 2101(c) and Rule 13.3 of the Rules of this Court because it is filed within 90 days after the denial of rehearing.

RELEVANT STATUTORY PROVISIONS

The relevant provisions are 11 U.S.C. § 362, governing the automatic stay; 28 U.S.C. § 1334(d), governing review of remand orders in bankruptcy matters; 28 U.S.C. § 1452, governing bankruptcy removal and remand; 28 U.S.C. § 1254(1), conferring this Court's certiorari jurisdiction over judgments of the courts of appeals; and 28 U.S.C. § 2101(c), governing the time for filing this petition. The pertinent provisions are reproduced in the appendix.

STATEMENT OF THE CASE

A. Background

This case arises from a dispute over Petitioner's principal residence and from the interaction between that dispute and the automatic stay protections of the Bankruptcy Code. Respondents sued Petitioner in the Powhatan County Circuit Court in March 2022, seeking specific performance of a residential real-estate purchase agreement, damages, declaratory

relief, and injunctive relief. Petitioner filed counterclaims.

On October 5, 2023, Petitioner filed a voluntary petition under Chapter 13 in the United States Bankruptcy Court for the Eastern District of Virginia. By operation of 11 U.S.C. § 362(a), the state-court litigation was stayed.

On November 20, 2023, Petitioner removed the state-court litigation to the bankruptcy court, commencing Adversary Proceeding No. 23-03043-KRH. Respondents then sought remand. After a hearing, the bankruptcy court entered an order on December 20, 2023, granting remand and sending the case back to the Powhatan County Circuit Court. That same order also modified the automatic stay “to permit the Plaintiffs to continue the State Court Litigation to a final judgment,” while requiring further relief from the bankruptcy court before any execution on a state-court judgment.

The underlying remand order thus did two things at once. It returned the litigation to state court, and it modified the automatic stay so that the state-court proceedings could go forward to final judgment. That combination is central to the question presented here.

B. Procedural History

Petitioner timely appealed the remand-and-stay-relief order to the district court on January 2, 2024. The next day, he moved in the bankruptcy court for a stay pending appeal under Bankruptcy

Rule 8007(a)(1)(A), seeking to preserve the status quo while the district court considered the appeal.

At the January 10, 2024 hearing on that motion, Petitioner expressly warned the bankruptcy court that, absent a stay, the appeal could become moot and would “essentially be for naught.” He also argued that the December 20 order was immediately appealable because it modified the automatic stay, and that allowing the state-court case to proceed while the appeal was pending threatened meaningful appellate review.

On January 11, 2024, the bankruptcy court denied the motion to stay. The court held that Petitioner had failed to satisfy the standards for a stay pending appeal. Most importantly, the court’s written order provided that, unless the district court entered a stay, “the Plaintiffs may proceed in the State Court to continue the State Court Litigation to a final judgment.” Petitioner appealed that stay-denial order to the district court on January 23, 2024.

In the district court, Petitioner argued that denial of a stay pending appeal would cause a “de facto deprivation of the basic right to appeal” by permitting the state-court proceedings to continue and potentially moot the federal appeal. He further argued that relief from the automatic stay is an immediately appealable bankruptcy determination and that lower courts should not be allowed to destroy review by denying interim protection. Respondents, by contrast, argued that “an appeal being rendered moot does not itself constitute irreparable injury.”

On December 18, 2024, the district court dismissed the appeal from the stay-denial order as moot. The district court reasoned that, because it had already rejected Petitioner's separate appeal from the remand order, "his present appeal of the Bankruptcy Court's Corrected Memorandum Opinion and Order Denying Motion to Stay Order Pending Appeal is moot and must be dismissed."

Petitioner then appealed to the United States Court of Appeals for the Fourth Circuit. On December 1, 2025, the court of appeals affirmed in an unpublished per curiam opinion. The Fourth Circuit held that, because the district court had already affirmed the bankruptcy court's remand order and because the court of appeals lacked jurisdiction to review that remand order under 28 U.S.C. § 1334(d), the district court properly dismissed the appeal as moot. Judgment entered the same day.

Petitioner timely sought panel rehearing and rehearing en banc, arguing that the court of appeals had overlooked the independent significance of the stay-relief ruling and the availability of effectual relief notwithstanding the disposition of the remand appeal. On December 30, 2025, the court of appeals denied rehearing and rehearing en banc.

REASONS FOR GRANTING THE WRIT

I. The Decision Below Permits Lower Courts To Extinguish Appellate Review And Then Invoke Mootness As A Reason Not To Review At All.

This case presents a recurring and fundamental defect in appellate review. The bankruptcy court denied a stay pending appeal and expressly authorized Respondents to proceed in state court "to a final judgment" unless a higher court entered a stay. App., *infra*, 25a. At the hearing on the motion to stay pending appeal, Petitioner warned the bankruptcy court that without a stay "the appeal may be moot" and would "essentially be for naught." App., *infra*, 75a. The bankruptcy court denied the stay anyway and confirmed on the record that its order remained in effect unless a higher court entered a stay. App., *infra*, 25a.

The district court then dismissed Petitioner's appeal from that stay-denial order as moot because Petitioner's separate appeal from the remand order had already been rejected. App., *infra*, 7a. The court of appeals affirmed on the same theory, holding that because the remand order had already been affirmed and because further review of that remand order was barred by 28 U.S.C. § 1334(d), the district court properly dismissed the stay appeal as moot. App., *infra*, 3a.

This Court has explained that a stay is not an end in itself; it is the mechanism by which a court

preserves the status quo long enough for appellate review to matter. A stay “hold[s] a ruling in abeyance to allow an appellate court the time necessary to review it.” *Nken v. Holder*, 556 U.S. 418, 421, 434 (2009). The decision below turns that principle on its head. The lower courts allowed the challenged state-court proceedings to go forward after denial of a stay, and then treated the consequences of that denial as a reason to dismiss the appeal as moot.

That reasoning creates a closed loop. The bankruptcy court’s denial of a stay allows the challenged state-court proceedings to go forward. Those proceedings then go forward. The district court and the court of appeals then invoke the consequences of that denial as a reason to dismiss the appeal as moot. If that framework is correct, the denial of a stay can itself ensure that meaningful review never occurs. The right to appellate review becomes contingent, not on the existence of an appealable order, but on whether lower courts choose to preserve the controversy long enough for appellate review to happen.

That is not ordinary mootness. Mootness ordinarily arises from intervening events independent of the judicial ruling under review. Here, by contrast, the event said to make relief impossible was the direct and foreseeable consequence of the denial of appellate protection itself. Petitioner identified that precise danger in advance. The

bankruptcy court was told, on the record, that absent a stay the appeal could become moot. App., *infra*, 75a. The lower courts nonetheless treated the resulting loss of review as a basis for mootness rather than as the very reason meaningful review was needed.

This Court's intervention is warranted because the logic of the decision below is not confined to this case. In any case in which interim relief is necessary to preserve a live controversy, the same sequence can recur: deny the stay, permit the challenged process to continue, and then dismiss the appeal because the process continued. That is a structural problem in appellate review, not a case-specific disagreement over docket management or trial strategy.

II. The Decision Below Cannot Be Reconciled With This Court's Recognition In *Ritzen* That Stay-Relief Determinations Are Discrete, Final, Immediately Appealable Bankruptcy Proceedings.

This Court held in *Ritzen Group, Inc. v. Jackson Masonry, LLC*, 140 S. Ct. 582 (2020), that adjudication of relief from the automatic stay is a discrete, final, immediately appealable bankruptcy proceeding. *Ritzen* rests on the distinctive structure of bankruptcy litigation, where certain determinations must be immediately reviewable because waiting until the end of the entire bankruptcy case would often defeat the value of review.

That is exactly the problem here. The bankruptcy court's underlying order did not merely remand the removed litigation to state court. It also modified the automatic stay "to permit the Plaintiffs to continue the State Court Litigation to a final judgment." App., *infra*, 10a. That stay-relief component was independently consequential, and the later order denying a stay pending appeal gave it immediate practical effect by allowing the state-court proceedings to continue unless a higher court intervened. App., *infra*, 25a.

Petitioner repeatedly argued below that the automatic-stay component of the bankruptcy court's rulings was independently significant and independently appealable. He did so in the district court, in the court of appeals, and in his rehearing petition. The court of appeals did not address that point. Instead, it treated the case as though it rose or fell entirely with the remand order. App., *infra*, 3a.

The conflict with *Ritzen* is practical as well as doctrinal. If an order modifying the automatic stay is final and immediately appealable, the courts cannot be permitted to avoid reviewing it by denying a stay, allowing proceedings to continue, and then invoking mootness once those proceedings have advanced. That makes the finality recognized in *Ritzen* illusory in the very class of cases where interim protection is essential to preserve review.

The problem is especially acute in bankruptcy, where appellate timing matters. This Court explained

in *Ritzen* that bankruptcy adjudication often involves distinct proceedings whose immediate review is necessary precisely because later developments may make review ineffective. The decision below moves in the opposite direction. It treats the continued operation of the challenged order as a reason not to review it. This Court should grant review to make clear that finality in bankruptcy means meaningful review in practice, not merely theoretical appealability on paper.

III. The Lower Courts Misapplied Mootness By Collapsing Review Of The Stay-Denial Order Into Review Of The Separate Remand Order.

The lower courts' mootness analysis rests on an unexamined premise: that once the separate appeal from the remand order had failed, the appeal from the denial of a stay pending appeal necessarily failed with it. That premise is incorrect.

The district court did not affirm the bankruptcy court's denial of a stay on the merits. It dismissed the appeal as moot because it had already dismissed Petitioner's separate appeal from the remand order. App., *infra*, 7a. The court of appeals then affirmed that mootness dismissal because the remand order was not further reviewable under 28 U.S.C. § 1334(d). App., *infra*, 3a.

But even if § 1334(d) bars direct review of the remand order, it does not follow that the appeal from the denial of a stay pending appeal becomes moot. The order under review in the stay appeal was not the

remand order itself. It was the bankruptcy court's January 12, 2024 corrected memorandum opinion and order denying a stay pending appeal. App., *infra*, 25a.

That distinction matters because effectual relief remained available with respect to the stay-denial order and its consequences. Mootness exists only when it is impossible for a court to grant "any effectual relief whatever." *Church of Scientology of Cal. v. United States*, 506 U.S. 9, 12 (1992). At a minimum, the appellate courts could have addressed whether the denial of a stay improperly allowed the state-court proceedings to continue while appellate review remained pending. They could have addressed the significance of the automatic-stay component of the underlying order. They could have clarified whether the loss of review caused by denial of interim relief may itself be used as the basis for mootness. Instead, the lower courts treated the remand issue and the stay issue as if they were identical.

That collapse of distinct issues into a single mootness category is what makes this case certworthy. The courts below did not simply hold that Petitioner could not obtain relief on the merits of the remand order. They held that no live controversy remained over the denial of a stay pending appeal because the challenged state-court proceedings had already been allowed to move forward. That is the very question this Court should resolve.

IV. This Case Is An Ideal Vehicle For Resolving The Question Presented.

This case is a clean vehicle. The relevant sequence is fully documented in written orders and in a hearing transcript. The bankruptcy court's orders plainly show both the modification of the automatic stay and the denial of a stay pending appeal, and the stay-denial order expressly states that Respondents may proceed in state court to final judgment unless a higher court enters a stay. App., *infra*, 10a, 25a. The transcript confirms that Petitioner warned the bankruptcy court that denial of a stay could render the appeal moot and that the bankruptcy court nonetheless permitted proceedings to continue absent higher-court intervention. App., *infra*, 73a.

The issue was fully preserved. Petitioner raised the danger of forced mootness in the bankruptcy court, in the district court, in the court of appeals, and again in his petition for rehearing and rehearing en banc. Respondents joined issue, arguing that an appeal being rendered moot does not itself constitute irreparable injury. The question presented is therefore not waived, hypothetical, or underdeveloped.

The lower courts' reasoning is also explicit. The district court said directly that because the remand appeal had already been dismissed, the stay appeal "is moot and must be dismissed." App., *infra*, 7a. The court of appeals affirmed for the same reason. App., *infra*, 3a. There is no ambiguity about the basis of

decision and no need for this Court to reconstruct an opaque record.

Nor does this case require the Court to decide the merits of the underlying state-law dispute. The petition does not ask the Court to decide whether the Powhatan County litigation should ultimately proceed, whether specific performance is warranted, or whether the bankruptcy court correctly applied abstention principles. The question is narrower and more important: whether lower courts may deny a stay, permit the challenged proceedings to advance, and then dismiss the appeal as moot because those proceedings advanced.

V. The Court Should Grant Review To Preserve Meaningful Appellate Review Of Final Bankruptcy Orders.

This Court has repeatedly emphasized that appellate review must be meaningful, not merely nominal. In bankruptcy, that principle has special force because the timing of review often determines whether review will matter at all. *Ritzen* reflects that reality. So does the ordinary law of stays pending appeal, which exists because later relief can be useless if intervening events reshape the controversy before appellate review occurs.

The decisions below undermine those principles. They allow a lower court to deny the only protection capable of preserving the controversy, permit the challenged proceedings to continue, and then rely on the consequences of that denial as a

reason not to review the denial itself. That is not just a mistaken application of mootness doctrine. It is a framework that threatens the practical value of appellate review in a recurring class of cases.

This Court should grant certiorari to make clear that the right to appellate review of final bankruptcy orders cannot be extinguished in that manner.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.



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