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No. 25-1234

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. 24-2271)

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

The bankruptcy court entered a single order that both (1) remanded petitioner's removed state-court action on abstention grounds and (2) granted automatic-stay relief by modifying the automatic stay to permit the state-court litigation to proceed to final judgment. The district court's memorandum order—the order actually appealed—affirmed remand but did not address the bankruptcy court's grant of automatic-stay relief. The court of appeals then held that 28 U.S.C. § 1334(d) barred appellate review of the abstention ruling, while separately affirming the grant of automatic-stay relief in a brief paragraph stating only that it discerned no abuse of discretion.

The questions presented are:

1. Whether 28 U.S.C. § 1334(d) bars appellate review of constitutional and statutory challenges to the procedures and authority underlying a bankruptcy court's abstention and remand order.

2. Whether a bankruptcy court may grant relief from the automatic stay under 11 U.S.C. § 362(d) without making the findings required by that statute, and whether such rulings may be affirmed without addressing the absence of those findings.

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.

Malloy v. Napier, No. 3:2024-cv-00791, United States District Court for the Eastern District of Virginia. Cases consolidated December 18, 2024.

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

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

Malloy v. Broschious, 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.

Schelin et al. v. Malloy, No. 25-1973, United States Court of Appeals for the Fourth Circuit. Judgment entered December 1, 2025.

Schelin et al. v. Malloy, No. 25-2067, United States Court of Appeals for the Fourth Circuit. Judgment entered December 30, 2025.

TABLE OF CONTENTS

QUESTION PRESENTED.....i
PARTIES TO THE PROCEEDINGS.....ii
RULE 29.6 STATEMENT.....iii
RELATED PROCEEDINGS.....iv
INTRODUCTION.....1
OPINIONS BELOW.....3
JURISDICTION.....4
RELEVANT CONSTITUTIONAL AND STATUTORY
PROVISIONS.....4
STATEMENT OF THE CASE.....6
 A. Background.....6
 B. Procedural History.....7
REASONS FOR GRANTING THE WRIT.....10
 I. The decision below treats 28 U.S.C. § 1334(d)
 as an absolute bar to appellate review of
 constitutional and statutory challenges to the
 procedures and authority underlying an
 abstention order.....11
 II. The courts below allowed automatic-stay relief
 under 11 U.S.C. § 362(d) without statutory
 findings and without meaningful appellate
 review of that defect.....12
 III. The combined effect of remand, automatic-stay
 relief, expedited procedure, and denied stays
 pending appeal created an effectively

unreviewable loss of federal appellate review.....	14
IV. This case is an unusually clean vehicle.....	16
CONCLUSION.....	17
APPENDIX	
Appendix A —Court of Appeals Opinion Affirming in Part and Dismissing in Part (December 1, 2025).....	3a
Appendix B —Court of Appeals Judgment Affirming in Part and Dismissing in Part (December 1, 2025).....	6a
Appendix C —Court of Appeals Order Denying Petition for Rehearing and Rehearing En Banc (December 30, 2025).....	7a
Appendix D —District Court Memorandum Order Affirming the Bankruptcy Court’s Remand Order (November 19, 2024).....	8a
Appendix E —Bankruptcy Court Order Granting Motion for Expedited Hearing and Motion for Remand, and Granting Automatic-Stay Relief (December 20, 2023).....	21a
Appendix F —District Court Order Denying Emergency Motion for Stay Pending Appeal (May 13, 2024).....	36a
Appendix G —11 U.S.C. § 362.....	41a
Appendix H —28 U.S.C. § 1254.....	73a
Appendix I —28 U.S.C. § 1334.....	74a

Appendix J—28 U.S.C. § 2101(c).....76a
Appendix K—Transcript of Motion Hearing Before
Judge Kevin R. Huennekens
(December 13, 2023).....78a

TABLE OF AUTHORITIES

CASES:

<i>Cohen v. Beneficial Indus. Loan Corp.</i> , 337 U.S. 541 (1949).....	15
<i>Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp.</i> , 460 U.S. 1 (1983).....	11
<i>Ritzen Group, Inc. v. Jackson Masonry, LLC</i> , 589 U.S. 35 (2020)	13
<i>Quackenbush v. Allstate Ins. Co.</i> , 517 U.S. 706 (1996).....	11
<i>Webster v. Doe</i> , 486 U.S. 592 (1988).....	1, 11

CONSTITUTION:

U.S. Const. amend. V.....	5
---------------------------	---

STATUTES:

11 U.S.C. § 362(d)...(i), 1, 2, 3, 6, 7, 8, 9, 12, 13, 14, 16	
28 U.S.C. § 1254(1)	4
28 U.S.C. § 1334 ..(i), 1, 2, 3, 5, 8, 9, 10, 11, 12, 16, 17	
28 U.S.C. § 2101(c)	4

RULES:

Sup. Ct. R. 13.3.....	4
-----------------------	---

INTRODUCTION

This case presents an important question about the availability of meaningful appellate review in bankruptcy proceedings. In a single order, the bankruptcy court both remanded petitioner's removed state-court action on abstention grounds and granted automatic-stay relief by modifying the automatic stay to permit the state-court litigation to proceed to final judgment. The court did so through expedited proceedings, after relying on "assurances" that the state court could timely adjudicate the case, and without making findings required by 11 U.S.C. § 362(d).

The lower courts did not provide meaningful review of those rulings. The district court's memorandum order—the order actually appealed—affirmed remand on mandatory-abstention grounds, expressed doubt whether the remand order was even final and appealable, and did not address the bankruptcy court's separate grant of automatic-stay relief at all. The Fourth Circuit then held that 28 U.S.C. § 1334(d) barred appellate review of the abstention ruling, while separately affirming the grant of automatic-stay relief in a brief paragraph stating only that it discerned no abuse of discretion. That ruling conflicts with this Court's insistence that limits on review be read carefully where constitutional and structural concerns are implicated. *Webster v. Doe*, 486 U.S. 592 (1988). Rehearing was denied without a poll.

Meanwhile, the state-court proceedings moved forward while federal appellate review remained

pending. Petitioner sought a stay pending appeal in order to preserve review before the state case advanced, but those requests were denied. As a result, orders affecting petitioner's forum rights and property interests took practical effect before any federal appellate court meaningfully addressed the governing statutory and constitutional questions.

This Court's review is warranted for two reasons. First, the decision below treats 28 U.S.C. § 1334(d) as an absolute bar to appellate review even where the appeal challenges the procedures and authority underlying the abstention order. Second, the decision below allows a bankruptcy court to grant automatic-stay relief without making findings required by 11 U.S.C. § 362(d), and allows a court of appeals to affirm that ruling without addressing the absence of such findings. If those rulings stand, federal appellate review in bankruptcy cases can be fragmented, delayed, and effectively lost before the governing legal issues are ever squarely decided.

This case is an unusually clean vehicle to resolve those questions. The bankruptcy court's order expressly remanded the case and modified the automatic stay. The district court's memorandum order affirming remand did not address automatic-stay relief. The court of appeals then dismissed review in part under § 1334(d) and affirmed automatic-stay relief in part. The issue is preserved, the relevant documents are clear, and only this Court can resolve the resulting gap in appellate review.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Fourth Circuit, entered December 1, 2025, is reproduced at App. 3a. The court of appeals affirmed the portion of the judgment concerning the bankruptcy court's grant of automatic-stay relief and dismissed the portion of the appeal challenging abstention and remand under 28 U.S.C. § 1334(d).

The judgment of the United States Court of Appeals for the Fourth Circuit, entered December 1, 2025, is reproduced at App. 6a. The judgment states that the district court's judgment was affirmed in part and the appeal dismissed in part.

The order of the United States Court of Appeals for the Fourth Circuit denying panel rehearing and rehearing en banc, entered December 30, 2025, is reproduced at App. 7a.

The memorandum order of the United States District Court for the Eastern District of Virginia, entered November 19, 2024, is reproduced at App. 8a. The district court affirmed the bankruptcy court's remand order based on mandatory abstention and rejected petitioner's challenge to the bankruptcy court's expedited-hearing procedure.

The Order Granting Motion for Expedited Hearing and Motion to Remand of the United States Bankruptcy Court for the Eastern District of Virginia, entered December 20, 2023, is reproduced at App. 21a. The bankruptcy court granted the motion for

expedited hearing, granted the motion to remand, and granted automatic-stay relief by modifying the automatic stay to permit the state-court litigation to proceed to final judgment, subject to further relief before execution on any state-court judgment.

JURISDICTION

The judgment of the United States Court of Appeals for the Fourth Circuit was entered on December 1, 2025. Petitioner timely filed a petition for panel rehearing and rehearing en banc, which the court of appeals denied on December 30, 2025. Under 28 U.S.C. § 2101(c), a petition for a writ of certiorari in a civil case must be filed within ninety days after entry of judgment, and under Rule 13.3 of the Rules of this Court, the time runs from the date of the denial of rehearing when rehearing is timely sought. This Court has jurisdiction under 28 U.S.C. § 1254(1).

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

The Fifth Amendment to the United States Constitution provides, in relevant part: “[n]o person shall ... be deprived of life, liberty, or property, without due process of law.”

11 U.S.C. § 362(d) provides, in relevant part:

On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest;

(2) with respect to a stay of an act against property under subsection (a) of this section, if—

(A) the debtor does not have an equity in such property; and

(B) such property is not necessary to an effective reorganization.

28 U.S.C. § 1334(c)(2) provides, in relevant part:

Upon timely motion of a party in a proceeding based upon a State law claim or State law cause of action, related to a case under title 11 but not arising under title 11 or arising in a case under title 11, with respect to which an action could not have been commenced in a court of the United States absent jurisdiction under this section, the district court shall abstain from hearing such proceeding if an action is commenced, and can be timely adjudicated, in a State forum of appropriate jurisdiction.

28 U.S.C. § 1334(d) provides, in relevant part: “[a]ny decision to abstain or not to abstain made under subsection (c) ... is not reviewable by appeal or otherwise by the court of appeals under section 158(d), 1291, or 1292 of this title....”

These provisions are reproduced in the appendix.

STATEMENT OF THE CASE

A. Background

This case arises from a dispute over a contract for the sale of petitioner's primary residence in Powhatan County, Virginia. Before petitioner filed bankruptcy, respondents sued him in Powhatan County Circuit Court for specific performance, damages, declaratory relief, and injunctive relief in connection with that contract.

On October 5, 2023, petitioner filed a voluntary petition under Chapter 13 of the Bankruptcy Code. By operation of 11 U.S.C. § 362(a), the state-court litigation was automatically stayed. On November 20, 2023, petitioner removed the state-court action to the bankruptcy court.

At a hearing on November 29, 2023, the bankruptcy court raised remand sua sponte and directed respondents to file a motion to remand so that the issue could be considered at a continued hearing on December 13, 2023. Respondents then filed a motion for remand and a motion for expedited hearing on December 8, 2023. Petitioner objected and advised the court that he needed additional time to file a full opposition addressing jurisdiction, abstention, remand, and related issues.

At the December 13 hearing, the bankruptcy court overruled petitioner's objection to expedition and granted the motion for expedited hearing.

Respondents' counsel represented that the state court stood ready to hear the case and that the state judge's calendar was available to reschedule the matter upon remand. The bankruptcy court then stated that it had received "assurances" that the matter could be timely adjudicated and announced that it would remand the case on abstention grounds.

On December 20, 2023, the bankruptcy court entered its written order. That order granted the motion for expedited hearing, granted the motion to remand, and granted automatic-stay relief by modifying the automatic stay to permit the state-court litigation to proceed to final judgment, subject to further relief before execution on any state-court judgment.

The bankruptcy court's written order contains no finding of "cause" under 11 U.S.C. § 362(d)(1), no finding of lack of adequate protection, no finding that petitioner lacked equity in the property, and no finding that the property was unnecessary to an effective reorganization under 11 U.S.C. § 362(d)(2). Instead, the order modifies the automatic stay in a single operative paragraph while discussing abstention, remand, comity, and the status of the state-court proceedings.

B. Procedural History

On January 2, 2024, petitioner timely appealed the bankruptcy court's Order Granting Motion for Expedited Hearing and Motion to Remand to the United States District Court for the Eastern District

of Virginia. In his district court briefing, petitioner argued that the bankruptcy court erred in granting the expedited hearing, erred in remanding the action, erred in finding abstention appropriate, and erred in granting automatic-stay relief without articulating the statutory basis required by 11 U.S.C. § 362(d).

While that appeal was pending, petitioner sought a stay pending appeal in order to preserve meaningful federal review before the state-court proceedings resumed. He explained that the state court had set trial for May 20, 2024 and that allowing the case to proceed during the pendency of federal appellate review would cause irreparable harm. Respondents opposed that request, emphasizing that the state-court trial was imminent and arguing primarily that any urgency was attributable to petitioner's timing. The district court denied a stay pending appeal, adopting the bankruptcy court's reasoning and concluding that petitioner had not shown likely success, irreparable harm, favorable equities, or public interest.

On November 19, 2024, the district court entered its memorandum order affirming the bankruptcy court. The district court expressed doubt whether the remand order was even final and appealable, but proceeded to affirm on the basis of mandatory abstention under 28 U.S.C. § 1334(c)(2). The court also rejected petitioner's challenge to the expedited-hearing procedure. The district court's memorandum order did not address the bankruptcy court's separate grant of automatic-stay relief.

Petitioner then appealed to the United States Court of Appeals for the Fourth Circuit. In his opening brief, he again argued that the bankruptcy court erred in remanding the case, in employing expedited procedures, and in granting automatic-stay relief without articulating the statutory basis required by 11 U.S.C. § 362(d).

On December 1, 2025, the Fourth Circuit issued an unpublished per curiam opinion. The court held that an order modifying the automatic stay is final and appealable, and then affirmed the bankruptcy court's grant of automatic-stay relief in a brief paragraph, stating only that it had reviewed the record and discerned no abuse of discretion. The court did not address petitioner's argument that the bankruptcy court had made no findings required by 11 U.S.C. § 362(d).

The Fourth Circuit separately held that 28 U.S.C. § 1334(d) barred appellate review of the abstention ruling and dismissed that portion of the appeal for lack of jurisdiction. It did not address petitioner's arguments that § 1334(d) cannot bar review of constitutional and statutory defects in the procedures and authority underlying the abstention order. Judgment was entered the same day, affirming in part and dismissing in part.

Petitioner timely sought panel rehearing and rehearing en banc, again arguing that the court had overlooked the absence of findings required for automatic-stay relief, the procedural defects in the expedited proceedings, and the limited scope of 28

U.S.C. § 1334(d). On December 30, 2025, the Fourth Circuit denied rehearing and rehearing en banc without a poll.

REASONS FOR GRANTING THE WRIT

This case presents an important question concerning the availability of meaningful appellate review in bankruptcy proceedings. In a single order, the bankruptcy court both remanded petitioner's removed state-court action and granted automatic-stay relief by modifying the automatic stay to permit the state-court litigation to proceed to final judgment. The district court's memorandum order—the order actually appealed—affirmed remand but did not address the separate grant of automatic-stay relief. The court of appeals then held that 28 U.S.C. § 1334(d) barred review of the abstention ruling, while separately affirming the grant of automatic-stay relief in a brief paragraph stating only that it discerned no abuse of discretion. Meanwhile, the state-court proceedings moved forward while federal review remained pending, and requests for a stay pending appeal were denied.

This Court should grant review because the decision below permits federal appellate review to be fragmented, narrowed, and effectively lost before the governing legal questions are meaningfully addressed.

I. The decision below treats 28 U.S.C. § 1334(d) as an absolute bar to appellate review of constitutional and statutory challenges to the procedures and authority underlying an abstention order.

The court of appeals held that 28 U.S.C. § 1334(d) deprived it of jurisdiction to review the abstention ruling. In doing so, it treated § 1334(d) as an absolute bar even though petitioner's appeal challenged not only abstention as such, but also the procedures by which the bankruptcy court reached that result and the legal authority for doing so.

This Court has recognized that orders effectively depriving a litigant of a federal forum may warrant immediate appellate review. *Quackenbush v. Allstate Ins. Co.*, 517 U.S. 706 (1996); *Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1 (1983). And this Court has likewise made clear that statutes restricting review should not lightly be read to foreclose constitutional claims. *Webster v. Doe*, 486 U.S. 592 (1988). The decision below disregards both principles by treating 28 U.S.C. § 1334(d) as an absolute bar to review of the procedures and authority underlying the abstention ruling.

Petitioner consistently argued that the remand decision was made through expedited proceedings that denied him a meaningful opportunity to respond; that the hearing was not meaningfully evidentiary; that the bankruptcy court relied on unverified "assurances" that the state court could timely adjudicate the matter; and that the combined remand

and automatic-stay ruling deprived him of meaningful federal appellate review before the state proceedings resumed. Those arguments challenged the procedures and authority underlying the abstention order. They were not simply a request to second-guess abstention as a discretionary choice.

The court of appeals nevertheless dismissed without addressing petitioner's arguments that § 1334(d) cannot bar review of constitutional and statutory defects in the procedures underlying the order. That reading of § 1334(d) is exceptionally broad. A statute barring review of a "decision to abstain" should not be understood to eliminate appellate review of whether that decision was reached through constitutionally deficient procedures or without lawful authority.

That question is important and recurring. Bankruptcy courts routinely confront removed state-law proceedings and frequently decide remand and abstention issues on compressed timetables. If § 1334(d) is read as the Fourth Circuit read it here, serious procedural and legal defects can be insulated from review simply by embedding them in an abstention order.

II. The courts below allowed automatic-stay relief under 11 U.S.C. § 362(d) without statutory findings and without meaningful appellate review of that defect.

This case also presents a separate and clean question concerning automatic-stay relief under 11

U.S.C. § 362(d). The bankruptcy court's order modified the automatic stay to permit the state-court litigation to proceed to final judgment. But the order nowhere identifies "cause," discusses adequate protection, determines whether petitioner had equity in the property, or considers whether the property was necessary to an effective reorganization.

Petitioner repeatedly raised that defect. In the district court, he argued that the bankruptcy court "did not articulate the statutory basis for modifying the automatic stay." He raised the same issue in the court of appeals and again in rehearing.

This Court has recognized that relief from the automatic stay is a distinct procedural unit in bankruptcy litigation. *Ritzen Grp., Inc. v. Jackson Masonry, LLC*, 589 U.S. 35 (2020). The district court's memorandum order did not address the bankruptcy court's grant of automatic-stay relief at all. The court of appeals then separately addressed automatic-stay relief in a brief paragraph, stating only that it discerned no abuse of discretion, and affirmed without addressing petitioner's argument that the bankruptcy court had made no findings required by § 362(d). If a discrete stay-relief proceeding may be resolved without findings required by 11 U.S.C. § 362(d), and affirmed without analysis of that omission, then the statutory limits Congress imposed on relief from the automatic stay cease to provide meaningful constraint. *Ritzen*, 589 U.S. at 40-42.

The court of appeals' ruling warrants review. Relief from the automatic stay is governed by statute, not by unguided discretion. Yet the bankruptcy court's order contains no findings required by § 362(d), and the courts of review nevertheless allowed the ruling to stand. Respondents themselves did not identify actual findings under § 362(d), instead defending the ruling principally on the ground that the court had discretion and that modification of the automatic stay was "inherently necessary" to effect remand.

If a bankruptcy court may grant automatic-stay relief without statutory findings, and a court of appeals may affirm that ruling without addressing the absence of such findings, then § 362(d) loses its practical force. That question is cleanly presented here because the defect appears on the face of the bankruptcy court's order. The decision below permits relief from the automatic stay without the statutory findings Congress required, effectively converting § 362(d) from a rule of law into a matter of unguided discretion.

III. The combined effect of remand, automatic-stay relief, expedited procedure, and denied stays pending appeal created an effectively unreviewable loss of federal appellate review.

This case also presents a structural problem that warrants this Court's intervention. The bankruptcy court entered a single order that both remanded the removed proceeding and

granted automatic-stay relief. Once remand was ordered and the automatic stay was modified, the state-court case resumed while federal appellate review remained pending. That is the kind of effectively unreviewable consequence that has long justified immediate appellate concern. *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541 (1949).

Petitioner sought a stay pending appeal in order to preserve meaningful federal review before the state case advanced. He explained that allowing the state litigation to proceed while the remand order remained on appeal would cause irreparable harm. Respondents did not dispute that the state case was moving forward during appellate review; instead, they argued principally that any urgency was attributable to petitioner's timing. The district court denied a stay pending appeal, holding that petitioner had not shown likely success, irreparable harm, favorable equities, or public interest, and expressly adopted the bankruptcy court's reasoning.

The consequences were real, not hypothetical. The Powhatan County Circuit Court set trial for May 20, 2024 while federal review remained pending. As a result, petitioner was forced into the very position that makes appellate review ineffective: proceed in state court while arguing in federal court that the state proceedings should not be going forward, or refuse to proceed and risk adverse consequences.

The district court's stay-denial order makes the problem plain. It acknowledged that the trial was going forward during the pendency of appeal, yet

concluded that petitioner had not shown irreparable harm. That means that, in practice, orders remanding a case and granting automatic-stay relief can take effect before the governing federal questions are meaningfully reviewed, while courts simultaneously conclude that no irreparable harm exists.

This case therefore illustrates a breakdown in appellate review. The bankruptcy court granted automatic-stay relief without making findings under § 362(d); the district court did not address that ruling in its merits decision; the court of appeals affirmed automatic-stay relief without addressing the absence of findings; and the same court of appeals held that § 1334(d) barred review of abstention. At the same time, requests for a stay pending appeal were denied, allowing the state proceedings to move forward while federal review remained incomplete.

IV. This case is an unusually clean vehicle.

This case is an excellent vehicle for resolving the questions presented. The operative documents are clear. The bankruptcy court's order expressly remanded the case and granted automatic-stay relief. The hearing transcript shows that expedition was granted, that petitioner asked for more time, and that the bankruptcy court relied on "assurances" concerning the state court's readiness. The district court's memorandum order affirmed remand, expressed doubt about finality, and did not address the separate grant of automatic-stay relief. The court of appeals then dismissed review in part under §

1334(d) and affirmed automatic-stay relief in part. Rehearing was denied.

Petitioner timely appealed the bankruptcy court's order and consistently preserved his objections at every stage, including in the district court, the court of appeals, and in a petition for rehearing.


Most importantly, the decisions below collectively demonstrate the very gap in appellate review that this Court should address. The bankruptcy court entered a single order that both remanded the case and granted automatic-stay relief. The district court affirmed remand without addressing automatic-stay relief. The court of appeals then treated § 1334(d) as a bar to review of abstention while affirming automatic-stay relief without addressing petitioner's statutory objection. Meanwhile, the state-court proceedings advanced and requests for a stay pending appeal were denied. This case thus presents a clean and important opportunity to clarify the availability of meaningful appellate review in bankruptcy proceedings.

CONCLUSION

The petition for a writ of certiorari should be granted.

18

Respectfully submitted.

A handwritten signature in black ink, appearing to be 'K L Malloy', with a long horizontal stroke extending to the right.

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