No.

In the Supreme Court of the United States

WALTER A. BERNARD,
Petitioner
v.
PHILIP A. IGNELZI, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY, ET AL.,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

In Lo-Ji Sales, Inc. v. New York, 442 U.S. 319, 327 (1979), this Court held that a state judge who participated in the execution of a search "allowed himself to become a member, if not the leader, of the search party," and "was not acting as a judicial officer, but as an adjunct law enforcement officer." The Fourth, Fifth, Sixth, and Eighth Circuits apply that principle to deny absolute immunity to judges who personally direct or supervise officers in conducting arrests. The Third Circuit below parted company with its sister circuits in refusing to withhold judicial immunity for actions indistinguishable from a sheriff's in directing Petitioner's warrantless arrest in his home.

The question presented is:

Whether absolute judicial immunity bars a 42 U.S.C. § 1983 action against a state trial judge who personally directs and supervises police officers in conducting a warrantless arrest of a litigant inside the litigant's home.

PARTIES TO THE PROCEEDING

Petitioner is Walter A. Bernard. He was a plaintiff in the District Court and an appellant in the court of appeals.

Respondent is Philip A. Ignelzi, a Judge of the Court of Common Pleas of Allegheny County, Pennsylvania, sued in his individual and official capacities. He was the only remaining defendant-appellee in the court of appeals.

The remaining individuals and entities below were defendants in the District Court whose claims were dismissed and who are not the subject of this petition. Pursuant to this Court's Rule 12.6, they are listed here as nominal respondents: Allegheny County; Orlando Harper; Mary C. McGinley; Allegheny County Sheriff's Office; Allegheny County Jail; and John Does 1–20.

CORPORATE DISCLOSURE STATEMENT

Petitioner Walter A. Bernard is an individual. No corporate disclosure statement is required under this Court's Rule 29.6.

STATEMENT OF RELATED PROCEEDINGS

The following proceedings are directly related to this case (Sup. Ct. R. 14.1(b)(iii)):

Bernard v. Ignelzi, No. 25-1245, 2025 U.S. App. LEXIS 34072 (3d Cir. Dec. 31, 2025) (judgment), reh'g and reh'g en banc denied (Jan. 27, 2026).

Bernard v. Ignelzi, No. 2:23-cv-1463, 2024 WL 1704997 (W.D. Pa. Apr. 19, 2024) (memorandum

opinion granting Judicial Defendants' motion to dismiss).

9795 Perry Highway Mgmt., LLC v. Bernard, No. 754 WDA 2023, 2024 WL 2050263 (Pa. Super. Ct. May 8, 2024) (state-court contempt appeal, dismissed as moot).

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page

Cases

Constitutional Provisions and Statutes

Other Authorities

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No. _____

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Petitioner Walter A. Bernard respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Third Circuit. In the alternative, because the decision below disregards this Court's settled functional-immunity precedents and rests on facts that must be accepted as true at the Rule 12(b)(6) stage, Petitioner requests that the Court grant the petition and summarily reverse and remand.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Third Circuit (App. 1a–10a) is unreported and is available at *Bernard v. Ignelzi*, No. 25-1245, 2025

U.S. App. LEXIS 34072 (3d Cir. Dec. 31, 2025). The order of the Third Circuit denying rehearing and rehearing en banc (App. 25a–26a) is unreported. The memorandum opinion of the United States District Court for the Western District of Pennsylvania granting the Judicial Defendants' motion to dismiss (App. 11a–24a) is reported at *Bernard v. Ignelzi*, No. 2:23-cv-1463, 2024 WL 1704997 (W.D. Pa. Apr. 19, 2024).

JURISDICTION

The court of appeals entered judgment on December 31, 2025. App. 1a. A timely petition for rehearing and rehearing en banc was denied on January 27, 2026. App. 25a. On April 21, 2026, Justice Alito granted Petitioner's application (No. 25A1146) to extend the time to file a petition for a writ of certiorari to and including May 27, 2026. This petition is timely filed. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourth Amendment to the United States Constitution provides:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the

place to be searched, and the persons or things to be seized.

Section 1 of the Civil Rights Act of 1871, 42 U.S.C. § 1983, provides in relevant part:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State … subjects, or causes to be subjected, any citizen of the United States … to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress ….

INTRODUCTION

Absolute judicial immunity exists to shield judges from "vexatious actions prosecuted by disgruntled litigants," *Forrester v. White*, 484 U.S. 219, 225 (1988), so that judges may decide cases "without apprehension of personal consequences," *Bradley v. Fisher*, 80 U.S. (13 Wall.) 335, 347 (1872). It does not exist to shield police work.

Absolute immunity should be tightly circumscribed. It wars with the philosophy of Anglo-American jurisprudence that no man is above the law. This Court elaborated in *United States v. Lee,* 106 U.S. 196, 220 (1882):

> "No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound

> to obey it. It is the only supreme power in our system of government, and every man who by accepting office participates in its functions is only the more strongly bound to submit to that supremacy and to observe the limitations which it imposes upon the exercise of the authority which it gives."

Absolute immunity is also in tension with Chief Justice John Marshall's observation in *Marbury v. Madison,* 5 U.S. 137, 163 (1803):

> "The Government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation if the laws furnish no remedy for the violation of a vested legal right. If this obloquy is to be cast on the jurisprudence of our country, it must arise from the peculiar character of the case."

The decision below bends over backward to extend absolute immunity to non-judicial actions that characterize supervisory police personnel. Taken as true on a Rule 12(b)(6) motion to dismiss for failure to state a claim, the operative complaint alleges that Pennsylvania state-court judge Philip A. Ignelzi "directed" the warrantless home arrest of Petitioner Walter Bernard during the pendency of an appeal, Second Am. Compl. ¶¶ 29, 86; that the only explanation Petitioner received for his arrest at his residence was that "the Judge just wanted to see" him, *id.* ¶ 25; that Petitioner was confronted with the threat of a "break-in order from Ignelzi" if he did not come out, *id.* ¶ 91; that he was taken to court in shackles, where Judge Ignelzi convened an

unscheduled hearing and issued an "ultimatum" to be "decided within 15 minutes" in order to be released, *id.* ¶ 99; and that Judge Ignelzi later orchestrated a second arrest that resulted in nineteen days of incarceration, again while the underlying contempt order was on appeal, *id.* ¶¶ 201, 215.

Predicated on those allegations, Petitioner contended below that Judge Ignelzi acted as a *de facto* sheriff and forfeited the protections of judicial immunity—a position drawn squarely from this Court's functional approach. Forty-five years ago, in *Lo-Ji Sales, Inc. v. New York*, 442 U.S. 319, 327 (1979), the Court held that a judge who steps into the role of a peace officer "was not acting as a judicial officer, but as an adjunct law enforcement officer." The functional rule announced in *Lo-Ji Sales* and reaffirmed in *Forrester* is straightforward: absolute immunity attaches to judicial functions, not to law-enforcement functions performed by people who happen to wear robes.

Four circuits apply that rule to deny immunity to judges who personally direct or conduct arrests. The Fourth Circuit, in *Gibson v. Goldston*, 85 F.4th 218, 226 (4th Cir. 2023), held that "[t]he search of someone's home and the seizure of its contents are executive acts, not judicial ones." The Eighth Circuit, in *Rockett ex rel. K.R. v. Eighmy*, 71 F.4th 665 (8th Cir. 2023), held that a judge who personally jailed minors lost absolute immunity because "judges do not do double duty as jailers." The Sixth Circuit reached the same conclusion in *King v. Love*, 766 F.2d 962, 968 (6th Cir. 1985); the Fifth Circuit did so in *Harper v. Merckle*, 638 F.2d 848 (5th Cir. 1981).

The Third Circuit went the other way. The panel—without acknowledging *Lo-Ji Sales*, *Gibson*, or *Rockett*—held in a single footnote that the executive-function argument had been "forfeited," App. 8a n.8, and held on the merits that judicial immunity attached because Judge Ignelzi had "the power to manage" the underlying state-court matter, App. 9a. The court of appeals thus ratified, by procedural default and merits ruling alike, a regime in which a judge can orchestrate a warrantless raid on a litigant's home without exposure to suit—so long as some related case is on the judge's docket.

That holding cannot be reconciled with this Court's precedents. It cannot be reconciled with the decisions of four sister circuits. And it leaves Section 1983 plaintiffs in three States—Delaware, New Jersey, and Pennsylvania—without a remedy that *Lo-Ji Sales* guaranteed and that plaintiffs in twenty other States enjoy. The Court should grant certiorari and reverse and remand—or, in the alternative, grant the petition and summarily reverse.

A denial of absolute judicial immunity here would not place judges in a free fire zone for any disgruntled litigant. Qualified immunity and ordinary pleading rules would still shield non-judicial acts unless the complaint and later record show a violation of clearly established law. See, e.g., *Zorn v. Linton*, 607 U.S. (2026). Further, district-court denials of qualified-immunity defenses are subject to immediate appellate review. *Mitchell v. Forsyth*, 472 U.S. 511 (1985).

STATEMENT OF THE CASE

A. Factual Background

This case arises out of a state-court landlord-tenant matter in the Court of Common Pleas of Allegheny County, Pennsylvania. *9795 Perry Highway Mgmt., LLC v. Bernard*, No. GD-20-007843. Petitioner Walter Bernard—an attorney admitted in Pennsylvania—and his brother Wynton A. Bernard were the defendants in that action. The case was assigned to Respondent Philip A. Ignelzi, a state trial judge.

On April 27, 2023, Judge Ignelzi entered an order requiring the Bernards to comply with discovery in aid of execution of a non-final judgment. The propriety of related discovery proceedings was already on appeal before the Pennsylvania Superior Court. Pennsylvania Rule of Appellate Procedure 1701(a) provides that, "after an appeal is taken … the trial court … may no longer proceed further in the matter."

On May 3, 2023, sheriff's deputies appeared at Petitioner's residence without a warrant. According to the Second Amended Complaint, which controls on review of a Rule 12(b)(6) dismissal, the deputies told Petitioner that "[t]he Judge just wanted to see" him, Second Am. Compl. ¶ 25, and threatened a "break-in order from Ignelzi" if he did not come out, *id.* ¶ 91. Petitioner was taken to the courthouse "in shackles" and brought before Judge Ignelzi, who, while Petitioner remained restrained, gave him "an ultimatum consisting of two options to be decided within 15 minutes in order to be free from incarceration." *Id.* ¶¶ 96, 99. The complaint alleges

that Judge Ignelzi himself "directed" the arrest. *Id.* ¶¶ 29, 86.

On May 4, 2023—the day after the warrantless home arrest—Judge Ignelzi entered a further discovery order on the same matter that was pending before the Superior Court. On May 16, 2023, he held Petitioner in contempt for noncompliance. Petitioner appealed the contempt finding on June 15, 2023.

During the pendency of that contempt appeal, on August 9, 2023, Judge Ignelzi caused Petitioner to be arrested a second time and incarcerated for nineteen days. *Id.* ¶¶ 201, 215. The contempt was eventually purged when Petitioner settled the underlying landlord-tenant dispute. The Superior Court appeal was dismissed as moot. *9795 Perry Highway Mgmt., LLC v. Bernard*, 2024 WL 2050263, at *1 (Pa. Super. Ct. May 8, 2024).

B. Proceedings Below

Three days after the second arrest, Petitioner and his brother filed this action under 42 U.S.C. § 1983 in the United States District Court for the Western District of Pennsylvania. The Second Amended Complaint sought damages against Judge Ignelzi in his individual capacity and pleaded the operative facts described above. Among the allegations: that "Defendants' concerted actions in the clear absence of a warrant, continued to coerce and threaten Bernard for the purposes of unlawfully removing Bernard from his residence," Second Am. Compl. ¶ 222; and that the County, acting in concert with its officers, "aggressively threaten[ed] to break into Plaintiffs' residence for the purposes of intim[id]ation when they both knew or should have known that there was no

authority to do so," *id.* ¶ 223.

On April 19, 2024, the District Court dismissed the complaint as to Judge Ignelzi under Rule 12(b)(6). *Bernard v. Ignelzi*, 2024 WL 1704997 (W.D. Pa. Apr. 19, 2024). It held that Judge Ignelzi was protected by absolute judicial immunity, reasoning that "Civil contempt orders in Pennsylvania are judicial acts" and that "[a]bsolute immunity attaches to those who perform functions integral to the judicial process." App. 17a (quoting *Williams v. Consovoy*, 453 F.3d 173, 178 (3d Cir. 2006)). The District Court further observed: "Plaintiffs do not dispute that all acts taken by the Judicial Defendants were done in their judicial capacity. Instead, they contend that the Judicial Defendants lacked jurisdiction." App. 19a. Petitioner addresses that observation in Part IV below.

After subsequent dismissals of the remaining defendants, a final judgment was entered on January 27, 2025, and Petitioner timely appealed to the Third Circuit.

The Third Circuit affirmed in a non-precedential opinion issued December 31, 2025. App. 1a. The panel's footnote 8 contained two distinct rulings. First, it noted that the Bernards "do not appeal the District Court's rejection of their argument that the First Appeal deprived Judge Ignelzi of jurisdiction." App. 8a n.8. That ruling is not the subject of this petition. Second, the same footnote held that the Bernards' alternative theory—that "Judge Ignelzi acted as a law enforcement officer, rather than as a judge, in directing and supervising the Sheriff's Office in the First Arrest"—"was not raised in the District Court and has therefore been forfeited." *Id.* (citing *United States v. Dowdell*, 70 F.4th 134, 140 (3d Cir. 2023)). It is that second ruling, and the merits holding

the panel offered in the alternative, that this petition challenges.

On the merits, the panel held that judicial immunity attached even if Judge Ignelzi exceeded his authority, because he generally had "the power to manage the underlying landlord-tenant matter" and "the contempt proceedings that followed." App. 9a. The panel did not cite *Lo-Ji Sales*, *Gibson*, or *Rockett*.

Petitioner timely sought rehearing and rehearing en banc. On January 27, 2026, the Third Circuit denied the petition. App. 25a. On April 21, 2026, Justice Alito granted Petitioner's application (No. 25A1146) to extend the time to file this petition to and including May 27, 2026. This petition follows.

REASONS FOR GRANTING THE PETITION

This Court should grant certiorari or, in the alternative, grant the petition and summarily reverse. The decision below entrenches a four-to-one conflict among the courts of appeals over a recurring and important question of federal law: whether absolute judicial immunity protects a state judge who personally directs and supervises law-enforcement officers in conducting an arrest. Four circuits answer no, faithfully applying this Court's decisions in *Lo-Ji Sales* and *Forrester v. White*. The Third Circuit answers yes, in a manner that cannot be reconciled with either case. The question is exceptionally important; this case presents it cleanly; and the decision below is wrong.

I. THE COURTS OF APPEALS ARE DEEPLY DIVIDED OVER WHETHER JUDICIAL IMMUNITY PROTECTS JUDGES WHO PERSONALLY DIRECT POLICE IN CONDUCTING ARRESTS.

A. This Court's precedents protect judicial functions, not law-enforcement functions performed by judges.

Absolute judicial immunity is "of a particularly strong form," *Forrester*, 484 U.S. at 224, but it is not unbounded. Two settled limitations are relevant here.

First, this Court has applied a "functional" approach in determining what falls within the protection of judicial immunity. *Forrester*, 484 U.S. at 224. Immunity is "justified and defined by the functions it protects and serves, not by the person to whom it attaches." *Id.* at 227. Acts that are "not truly judicial" in nature do not receive absolute protection, even when performed by judges. *Id.* at 229–30. Thus, in *Forrester* itself, the Court denied immunity to a state judge who fired a probation officer, on the ground that the act was "administrative" rather than adjudicative—notwithstanding the judge's general authority over court personnel. *Id.* at 229.

Second, in *Lo-Ji Sales, Inc. v. New York*, 442 U.S. 319 (1979), this Court applied that functional approach in the law-enforcement context. The Court considered whether a town justice retained judicial status when he traveled with police to an adult bookstore and personally examined items as the officers seized them. The Court held he did not. The justice had "allowed himself to become a member, if

not the leader, of the search party, which was essentially a police operation." *Id.* at 327. "He was not acting as a judicial officer, but as an adjunct law enforcement officer." *Id.* The rule is straightforward: when a judge "leaves the bench" to take part in police operations, he forfeits the cloak of immunity that judicial functions would otherwise provide.

That rule echoes *Stump v. Sparkman*, 435 U.S. 349 (1978), which identified two categories of judicial conduct outside immunity's shield: (1) acts taken in the "clear absence of all jurisdiction," *id.* at 357; and (2) acts that are "nonjudicial" in nature, *id.* at 360. The line between judicial and nonjudicial acts turns on whether the function in question is "a function normally performed by a judge" and whether the parties "dealt with the judge in his judicial capacity." *Id.* at 362. Conducting raids and managing arresting officers in the field do not satisfy either prong.

B. Four circuits apply Lo-Ji Sales to deny immunity to judges who personally direct or conduct arrests.

1. The Fourth Circuit.

In *Gibson v. Goldston*, 85 F.4th 218 (4th Cir. 2023), a state-court family-court judge accompanied her bailiff to a litigant's home during a divorce proceeding, directed the bailiff to enter and search, and personally supervised the seizure of property. The Fourth Circuit held that absolute immunity did not apply. "Judge Goldston stepped outside of her judicial role when she personally participated in the search of Gibson's home. The search of someone's home and the seizure of its contents are executive acts, not judicial ones."

Id. at 226. Citing *Lo-Ji Sales*, the court explained that the judge had "mark[ed] her out as part of the law enforcement team." *Id.* Although Judge Goldston "might have had the authority to order a search, the proper authority to conduct the operation was the local sheriff's department." *Id.* at 230. "Just as 'judges do not do double duty as jailers,' so too they do not do double duty as sheriffs." *Id.* The judge's general authority over the divorce case did not transform her field conduct into a judicial act.

2. The Eighth Circuit.

The Eighth Circuit reached the same conclusion in *Rockett ex rel. K.R. v. Eighmy*, 71 F.4th 665 (8th Cir. 2023). After a custody dispute, a state-court judge—with two minors waiting in a courthouse hallway—personally walked them to a jail, watched as they removed their clothing and belongings, placed them in separate cells, and returned an hour later to release them. *Id.* at 668. The Eighth Circuit held the judge was not entitled to absolute immunity. *Id.* at 671–72. "Judges have the authority to order an officer or a bailiff to escort an unruly litigant to jail." *Id.* at 671. But "judges do not do double duty as jailers," the court held; "even assuming Judge Eighmy could have ordered someone else to take the kids to jail, he could not put them there himself." *Id.* at 672 (citing *Forrester*, 484 U.S. at 227).

3. The Sixth Circuit.

In *King v. Love*, 766 F.2d 962, 968 (6th Cir. 1985), a city-court judge—after a personal dispute with a litigant—deliberately misled a police officer who was to execute an arrest warrant about the identity of the

person sought, causing the litigant to be arrested in error. The Sixth Circuit held that, although the formal acts of "setting bond on an arrest warrant" were judicial, the judge's conduct in directing the officer to arrest the wrong person was a non-judicial act outside the protection of absolute immunity. The case sits squarely in the *Lo-Ji Sales* line.

4. The Fifth Circuit.

The Fifth Circuit applied the same rule in *Harper v. Merckle*, 638 F.2d 848 (5th Cir. 1981). There a judge encountered a litigant in a courthouse hallway in connection with no pending matter, then ordered the litigant arrested and held him in contempt at an unscheduled, on-the-spot hearing. The court held immunity unavailable. The arrest and improvised proceeding were not judicial acts: they did not arise from any matter properly before the judge, and the parties had not "dealt with the judge in his judicial capacity." *Id.* at 858 (quoting *Stump*, 435 U.S. at 362).

C. The Third Circuit has repudiated Lo-Ji Sales.

The decision below cannot be reconciled with the four circuits described above. The panel held that, as long as a judge has "the power to manage the case," his decisions about how that case is enforced—including whether to leave the bench to direct a warrantless raid—are judicial acts protected by absolute immunity. App. 9a. That holding ratifies precisely the reasoning the Fourth Circuit rejected in *Gibson* and the Eighth Circuit rejected in *Rockett*: that a judge's general docketing authority sweeps up

everything she does in connection with the case, no matter how field-level or law-enforcement-coded the act.

The panel's alternative ground—that the executive-function argument was "forfeited"—only deepens the conflict. The complaint expressly alleged that Judge Ignelzi "directed" the arrest, Second Am. Compl. ¶¶ 29, 86, that the deputies told Petitioner "the Judge just wanted to see" him, *id.* ¶ 25, and that Petitioner was threatened with a "break-in order from Ignelzi," *id.* ¶ 91. Refusing to engage with *Lo-Ji Sales* because counsel did not invoke that case by name below permits a circuit-court ruling that flatly contradicts this Court's precedent to evade ordinary appellate review. *Cf. Singleton v. Wulff*, 428 U.S. 106, 121 (1976) (federal appellate courts may resolve issues "not passed on below" where "injustice might otherwise result").

The split is mature, recently deepened, and intolerable. The Fourth and Eighth Circuits decided *Gibson* and *Rockett* within the past two years, and each reaffirms decades-old precedent in the Fifth and Sixth Circuits. The Third Circuit's repudiation of that body of law—without acknowledgment, much less analysis—requires this Court's intervention.

II. THE QUESTION IS EXCEPTIONALLY IMPORTANT.

The Fourth Amendment's prohibition on warrantless home arrests is "the very core" of the constitutional guarantee against unreasonable searches and seizures. *Payton v. New York*, 445 U.S. 573, 589–90 (1980). William Pitt the Elder captured

the spirit in an electrifying 1763 address to the British Parliament:

> "The poorest man may in his cottage bid defiance to all the forces of the Crown. It may be frail—its roof may shake—the wind may blow through it—the storm may enter—the rain may enter—but the King of England cannot enter!"

When a state actor leads police across the threshold of a private home without a warrant, Section 1983 provides the principal federal remedy. The judicial-immunity question presented here decides whether that remedy survives or fails when the state actor happens to be a judge.

The stakes are substantial. State judges enjoy broad authority to enforce their orders, including by arrest. The vast majority of those enforcement actions are channeled through neutral processes: a written warrant, executed by independent officers, tested by ordinary Fourth Amendment standards. The decision below blesses a different model, in which a judge personally manages the arrest in the field—directing officers, specifying the manner of entry, and overseeing the seizure of the litigant's person—while retaining the immunity that the office affords. In that model, the most consequential exercises of state coercion at issue in this Court's Fourth Amendment cases drop into a constitutional remedy gap.

The geographic stakes are also significant. The Third Circuit covers Delaware, New Jersey, and Pennsylvania—three States in which Section 1983 plaintiffs now lack the protection that *Lo-Ji Sales* affords to plaintiffs in States covered by the Fourth, Fifth, Sixth, and Eighth Circuits. The geographic

accident of where a warrantless judge-led raid occurs should not determine whether federal civil-rights law reaches it.

The recurrence of the question reinforces its practical importance. *Gibson* and *Rockett* both arose in the past two years; *Lo-Ji Sales* itself is a 1979 decision; the issue has generated decisions in at least five circuits over four decades. The Third Circuit's decision—non-precedential, but resolving the question for Petitioner and signaling the rule for that Circuit's litigants—deepens the conflict and confirms the need for this Court's clarification.

III. THIS CASE IS AN IDEAL VEHICLE.

This case presents the question cleanly. There are no factual disputes to resolve: the case comes up on a Rule 12(b)(6) dismissal, and the allegations of the Second Amended Complaint must be accepted as true. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Those allegations specifically and repeatedly describe conduct of the kind the Fourth, Fifth, Sixth, and Eighth Circuits hold non-judicial: officers acting at Judge Ignelzi's "direction," Second Am. Compl. ¶¶ 29, 86; the threat of a "break-in order from Ignelzi," *id.* ¶ 91; an unscheduled hearing while Petitioner remained "shackled in the courtroom," *id.* ¶ 99.

Other potential alternative grounds for affirmance have fallen away. The Third Circuit expressly declined to reach *Younger* abstention. App. 10a n.10. The state-court proceedings were dismissed as moot in May 2024. *9795 Perry Highway Mgmt., LLC v. Bernard*, 2024 WL 2050263. The state-law jurisdictional question under Pa. R.A.P. 1701(a) is not

presented here, and Petitioner's First-Appeal divestiture argument was not appealed to the Third Circuit, *see* App. 8a n.8 (first sentence). What remains is the discrete federal question: whether absolute judicial immunity protects a judge who steps off the bench to lead a warrantless arrest. The Court can decide that question without entering any thicket.

IV. THE DECISION BELOW IS WRONG.

On the merits, the Third Circuit's holding cannot stand. Four points suffice.

A. The decision is irreconcilable with Lo-Ji Sales.

The town justice in *Lo-Ji Sales* had "the power to manage" the obscenity proceedings he was overseeing—that was the very predicate for issuing the search warrant. 442 U.S. at 322–23. This Court nonetheless held that, when he traveled with the officers to participate in the search, he "was not acting as a judicial officer." *Id.* at 327. The decision below, by contrast, treats general docketing authority as functionally dispositive of the immunity question. That cannot be right; if it were, *Lo-Ji Sales* would have come out the other way.

B. The decision is irreconcilable with Forrester.

The judge in *Forrester* had unquestioned authority over court personnel decisions, but this Court denied immunity for the firing of a probation officer because the act was "administrative," not adjudicative. 484 U.S. at 229–30. Directing a warrantless raid is, if

anything, even further from the core judicial function of "resolving disputes between parties." *Id.* at 227.

C. Reliance on Mireles would be misplaced.

Any reliance on *Mireles v. Waco*, 502 U.S. 9 (1991) (per curiam), would be misplaced. *Mireles* held that absolute immunity protected a judge who ordered the police to bring an attorney from another courtroom into *his* courtroom to address a pending matter. The conduct there was "the function of a judge in his courtroom"—managing parties before him in connection with a hearing. *Id.* at 12. The conduct here—a judge organizing a warrantless raid on a litigant's home, off the courthouse premises, outside any scheduled proceeding—is on the opposite side of the line. *Mireles* itself reaffirmed the "two sets of circumstances" in which immunity yields, including "nonjudicial actions, i.e., actions not taken in the judge's judicial capacity." *Id.* at 11.

D. The District Court's observation that Petitioner did not "dispute" the judicial-capacity point describes the briefing below; it does not change what the complaint alleged.

The District Court observed that "Plaintiffs do not dispute that all acts taken by the Judicial Defendants were done in their judicial capacity. Instead, they contend that the Judicial Defendants lacked jurisdiction." App. 19a. The Third Circuit relied on that observation—together with its own forfeiture footnote—to avoid analyzing the executive-function argument on the merits. App. 8a n.8. The observation, however, describes how the immunity defense was

framed in the briefing below; it does not describe what the operative pleading actually alleged.

That distinction matters. The Second Amended Complaint pleaded the relevant facts in detail. It alleged that Judge Ignelzi "directed" the arrest, Second Am. Compl. ¶¶ 29, 86; that the deputies' explanation was that "the Judge just wanted to see" him, *id.* ¶ 25; that Petitioner was threatened with a "break-in order from Ignelzi," *id.* ¶ 91; and that the County, acting in concert with its officers, "aggressively threaten[ed] to break into Plaintiffs' residence … when they both knew or should have known that there was no authority to do so," *id.* ¶ 223. Those allegations—which the District Court was bound to take as true at the Rule 12(b)(6) stage—describe the very conduct the Fourth, Fifth, Sixth, and Eighth Circuits hold non-judicial.

Under the Third Circuit's own decisions, "arguments are preserved when they rely on the same legal standard and the same facts presented to the district court." *United States v. Joseph*, 730 F.3d 336, 339 (3d Cir. 2013). The same legal standard—absolute judicial immunity under *Stump*, *Mireles*, and *Forrester*—governed at every stage of this case. The same facts were pleaded in the operative complaint. The *Joseph* rubric is therefore satisfied even on the panel's own terms.

In all events, this Court's decision in *Singleton v. Wulff*, 428 U.S. 106, 121 (1976), authorizes appellate courts to consider questions "not passed on below" where "injustice might otherwise result." A circuit-court ruling that lets a state judge lead a warrantless raid on a litigant's home with categorical immunity,

while four sister circuits hold the opposite, is the prototypical case for *Singleton*'s injustice exception. Whether the executive-function holding is reached on the merits or via the forfeiture posture, the substantive immunity rule the panel ratified is the same—and is wrong.

V. IN THE ALTERNATIVE, THE COURT SHOULD SUMMARILY REVERSE AND REMAND

Alternatively, the Court should grant the petition and summarily reverse as the judicial immunity. This Court has used summary reversal where a court of appeals recites settled governing principles yet reaches a result "at odds with governing law." *Major League Baseball Players Ass'n v. Garvey*, 532 U.S. 504, 509-10 (2001) (per curiam); see also *Zorn v. Linton*, 607 U.S. __ (2026) (per curiam) (granting certiorari and reversing in a § 1983 immunity case). This is not a request to resolve an undeveloped factual dispute; it is a request to apply a settled functional-immunity rule to allegations that must be accepted as true. In *Lo-Ji Sales*, this Court held that a judge who becomes part of a police operation acts not as a judicial officer but as an adjunct law-enforcement officer. In *Forrester*, the Court held that immunity follows function, not title. The Third Circuit's contrary rule—that general case-management power suffices even when the alleged function is directing a warrantless home arrest—cannot coexist with either decision.

Summary disposition is especially appropriate because a remand for ordinary appellate reconsideration would serve no purpose. The panel

already identified and rejected the operative theory by declaring it forfeited and then holding, in the alternative, that absolute immunity applied on the merits. App. 8a n.8, 9a. On the face of the complaint and under the Rule 12(b)(6) standard, Judge Ignelzi's alleged direction and supervision of law-enforcement officers in conducting a warrantless home arrest is nonjudicial conduct. If the Court concludes that plenary review is unnecessary, it should grant the petition, summarily reverse the judgment below, and remand for further proceedings under ordinary defenses available in § 1983 litigation.

CONCLUSION

The petition for a writ of certiorari should be granted. In the alternative, the Court should grant the petition, summarily reverse the judgment below, and remand for further proceedings.

Respectfully submitted,

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