No. 25 - 386

IN THE
SUPREME COURT OF THE UNITED STATES

VONN CAPEL &
BENJAMIN BLANCHARD

Petitioners,

v.

PASCO COUNTY, FLORIDA; PASCO COUNTY PROPERTY APPRAISER OFFICE; PASCO COUNTY TAX COLLECTOR OFFICE; MIKE WELLS, in his individual and official capacity as Property Appraiser; MIKE FASANO, in his individual and official capacity as Tax Collector,

Respondents,

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The Pasco County Appraiser ad valorem taxed Petitioners' property solely because Capel's name was on the deed, and the lower courts affirmed. The levy was issued without information gathering utilizing a return, or by creating an assessment for review. The Collector enforced the levy's distraint with collection, completing the tax cycle. However, Florida remedies are tied to a return per s. 194.034(1)(j), Fla. Stat., and *Higgs v. Good*, 813 So. 2d 178, 180 (Fla. 3d DCA 2002). This leaves 90% of Florida homeowners who are "natural persons" without a "plain, speedy, and efficient remedy" for disputing the tax. Federal courts avoid scrutiny to the cycle of ad valorem taxation, by invoking § 1341 and comity to bar review. They further block review of § 1983 claims under 28 U.S.C. § 1343(3) with *Fair Assessment in Real Estate Ass'n v. McNary*, 454 U.S. 100, (1981). Petitioners state remedies are time barred after 60 days, and statutorily foreclosed without a return, whereas the federal courts are to remain open for § 1983 challenges. *Knick v. Township of Scott*, 588 U.S. (2019). The question presented is:

Whether the Tax Injunction Act and comity foreclose federal review of the regulatory scheme, when no "plain, speedy, efficient remedy exists" to protect property rights under 28 U.S.C. § 1343(3) and 42 U.S.C. § 1983.

PARTIES TO THE PROCEEDING AND RULE 29.6 STATEMENT

1. Petitioners Benjamin Blanchard and Vonn Capel were plaintiffs-appellants below.

Respondents PASCO COUNTY, FLORIDA; PASCO COUNTY PROPERTY APPRAISER OFFICE; PASCO COUNTY TAX COLLECTOR OFFICE; MIKE WELLS, in his individual and official capacity as Property Appraiser; MIKE FASANO, in his individual and official capacity as Tax Collector, are defendants-appellees below.

RELATED PROCEEDINGS BELOW

- Capel v. Pasco County, et al., No. 8:24-cv-00352-WFJ-CPT (M.D. Fla.).
Order dismissing amended complaint with prejudice, August 2, 2024.

- Capel v. Pasco County, et al., No. 24-12793 (11th Cir.).
Opinion affirming dismissal but modifying to be without prejudice, May 15, 2025; order denying rehearing en banc, July 3, 2025.

- Capel v. Wells, Fasano, Pasco County, and Zingale, No. 2024-CA-002097 (6th Jud. Cir. Ct., Pasco Cnty., Fla.).
Amended complaint challenging a lack of 2024 ad valorem assessments, filed December 10, 2024.

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PETITION FOR WRIT OF CERTIORARI

The Court should grant certiorari, as the Eleventh Circuit and district court applied § 1341 to foreclose § 1343(3)'s jurisdiction without first determining the scope of the state regulatory scheme or whether any remedy was available—contrary to this Court's precedents in *Hibbs v. Winn,* 542 U.S. 88 (2004); *CSX Transportation, Inc. v. Georgia State Bd. of Equalization,* 552 U.S. 9 (2007); *Direct Marketing Ass'n v. Brohl,* 575 U.S. 1 (2015); *Lynch v. Household Finance Corp.*, 405 U.S. 538 (1972), *Knick v. Township of Scott,* 588 U.S. 180 (2019); and *Tyler v. Hennepin County,* 598 U.S. 631 (2023).

In *Tyler,* this Court reaffirmed that state law cannot be the sole source of property rights, because allowing a state to redefine property interests would enable it to "sidestep the Takings Clause by disavowing traditional property interests it assets it wishes to appropriate." *Id,* 598 U.S. 631, Petitioners' challenge arises in the pre-enforcement context: the lower and circuit court presumed taxable activity from the name on a warranty deed, and denied jurisdictional discovery to review the return and assessment created as implied by *Direct Marketing* and *CSX.*

Here, Petitioner Capel, a single mother, privately conveyed one-third ownership of the property to Blanchard, who then sought to protect their shared right to acquire and possess property from an excise tax imposed without lawful initiation. Each year Petitioners have paid increasing costs, $450–$600 under protest to avoid

losing each of their $200,000 homes outright—the same kind of disproportional forfeiture this Court condemned in *Tyler*. Under protest and duress to avoid sale, Petitioners paid the collection. Florida law forecloses challenges to ad valorem taxes after 60 days, s. 194.171(2), leaving no remedy to obtain relief for improperly initiated taxes from prior or current years, in either state or federal court—a forum *Knick* confirmed must remain open "the moment the government takes property without paying for it." *Id.* 588 U.S. 180, 185 (2019).

Lynch held that that property rights are synonymous with civil rights, and that the historic intent of of § 1343(3) and § 1983 was to provide a federal forum for these rights. This Court should grant the petition because access to remedy against tax officials was limited by the opinion in *Fair Assessment in Real Estate Ass'n v. McNary*, 454 U.S. 100, 107 (1981), where comity prohibited § 1983 claims against tax officials in federal courts, creating a conflict with *Lynch*. As *Knick* explained, "The Fifth Amendment right to full compensation arises at the time of the taking, regardless of post-taking remedies that may be available to the property owner. " 588 U.S. 180, 190. This Court should clarify whether *McNary* remains good law in light of *Lynch*, *Knick* and *Tyler*.

The Court should also grant the petition because there is a persistent lack of uniformity in how states impose and administer ad valorem taxes, that federal courts shield from review by invoking § 1341 and doctrine of comity. This Court has long recognized that indirect/excise taxes are imposed on use or privilege, not directly on

property because of ownership. *Brushaber v. Union Pac. R.R. Co.*, 240 U.S. 1, (1916). Here, by contrast, Petitioners were taxed solely by virtue of the name on the warranty deed, and the county converted their private property to public 'use' by subjecting it to a regulatory scheme. *Knick,* 588 U.S. 180, 193.

This case asks the Court to reject the use of jurisdictional thresholds to bar review of "what actors and actions" state regulatory schemes control, *Moody v. NetChoice, LLC,* 603 U.S. 707, 724 (2024) and to ensure property rights remain open to scrutiny under § 1343(3) and takings are remedied under § 1983. "Nowhere does the history announce a sweeping congressional direction to prevent federal-court interference with all aspects of state tax administration." *Hibbs*, 542 U.S. at 105.

Finally, this Court should confirm that Florida's ad valorem taxation, when based on ownership alone, violates both the Fifth Amendment's Takings Clause and the Fourteenth Amendment's guarantee of the right to acquire, possess, and protect property. *Lynch,* 405 U.S. at 552.

OPINIONS BELOW

The opinion of the United States District Court for the Middle District of Florida (Aug. 2, 2024) is reproduced at App. 1a-8a. The opinion of the United States Court of Appeals for the Eleventh Circuit (May 15, 2025) is reproduced at App. 9a-16a. The order of the court of appeals denying rehearing en banc (July 3, 2025) is reproduced at App. 17a-18a.

JURISDICTION

The judgment of the United States Court of Appeals for the Eleventh Circuit was entered on May 15, 2025. The court denied rehearing en banc on July 3, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1). This petition is timely filed within 90 days of that denial.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The relevant provisions are—U.S. Const. amend. V; U.S. Const. amend. XIV, Fla. Const. Art. I, Sec. 2, § 1; 28 U.S.C. §§ 1341, 1343(3); and 42 U.S.C. § 1983—together with Fla. Stat. ss. 192.001(9), 193.011, 193.052, 194.034(1)(j), 194.301(1), 194.3015, s. 195.073. Reproduced in (App. 19a- 28a.)

STATEMENT OF THE CASE

A. Florida's ad valorem and remedy framework

"A plain, speedy, and efficient remedy" for ad valorem taxes, all turns around the return provided to appraisers. Florida law keeps these 'ad valorem returns' confidential, ss. 192.0105(4)(a) & 193.074, requires them per ss. 193.053, & 193.063, penalizes failure to provide it, s. 193.072, and the collector is required to notice the appraiser if there is an erroneous or incomplete return, s. 197.131, or failed to disclose all of his or her property subject to taxation, s. 197.123. Without

this return, no taxpayer may contest the ad valorem tax administratively, s. 194.034(1)(j), or judicially, see *Higgs v. Good,* 813 So. 2d 178, 180 *(Fla. 3d DCA 2002),* "or the appraiser would be hamstrung."

In *CSX Transportation, Inc. v. Georgia State Bd. of Equalization,* 552 U.S. 9 (2007), this Court required a scrutiny of the methodology used in an assessment. The 2009 Florida legislature responded by redefining the standards of review in s. 194.301(1) and ensuring the "taxpayer shall never have the burden of proof, in any administrative or judicial challenge," in s. 194.3015.

Direct Marketing Ass'n v. Brohl, 575 U.S. 1 (2015), recognized four stages of a tax scheme—information gathering, assessment, levy, and collection—each subject to review. Florida law, however, structures those stages to trap ordinary homeowners. By April 1 each year, a return must be filed with the appraiser, s. 193.052. Without that return, no assessment can be created under .s 193.023 applying the eight statutory factors of s. 193.011, nor can use, s. 195.073, be determined. Yet the county still distrains by levy, issuing the TRIM notice under s. 200.065, and the collector enforces it by tax notice and certificate, s. 197.012(f) & (g).

Once sixty days pass, s. 194.171(2), remedies are time barred—leaving taxpayers unable to challenge a levy that was never lawfully initiated. The only theoretical alternative, s. 197.122, requires an owner to stop paying, risk seizure and sale, while proving after the fact that the property was never taxable. In practice, this framework shuts the courthouse door on natural persons and forces them either to forfeit their property or to submit to a levy

immune from state and federal review.

B. Family homes are seized and distrained

Vonn Capel owns a property in Zephyrhills, Florida, consisting of two homes, free from mortgages or other liens since 2020, and is the sole surviving parent raising her two children. In October of 2022, she gifted Benjamin Blanchard ownership of the home he has lived in since 2021 as well as 1/3 of the property and its value. (App. 33a-34a.) After this conveyance, Petitioners began pressing the appraiser to produce the statutory documents required to initiate ad valorem taxation: a return showing income and an assessment applying the eight factors of s. 193.011. For two years, Petitioners consistently requested these records. The appraiser admitted none existed. (App. 35a-38a.)

Despite the absence of a return or assessment, the county proceeded to levy and collect ad valorem taxes on the property. When Petitioners raised the issue to the collector, the response was the office, "mails the bill and collects the tax," (App 39a-40a,) and bore no responsibility for verifying initiation. To avoid foreclosure, Petitioners have paid all taxes under protest and duress from 2023 onward.

C. The lower Courts affirmed the TIA and comity are a jurisdictional bar to the merits and to remedy for §§ 1343(3) & 1983 claims

On February 6, 2024, Petitioners' 28 U.S.C. § 1343(3) & 42 U.S.C. § 1983, 92 pg. *pro se*

lawsuit inartfully alleged, that no return was obtained and no assessment created. The district court dismissed the complaint without prejudice, declared it frivolous and granted leave to amend as long as it did not contest taxation of homesteaded property. The shorter 41 pg. amended complaint more narrowly contested the lack of a return and assessment, and provided a statutory review of the tax scheme. The district court stayed Rule 26 discovery, and denied a motion for jurisdictional discovery to determine whether information gathering by return occurred by April 1st, and if an assessment was created by July 1st. The AC was denied with prejudice, holding that the TIA and comity barred federal review, renewing the frivolous determination. The court noted "Count VI asserts a fifth amendment takings claim and Count VII asserts a residual claim for the people's rights under the ninth amendment. Count IIX [sic] asserts a fourteenth amendment due process claim." (App. 3a.)

To challenge 2024's ad valorem taxes, Petitioners filed a Petition for Writ of Mandamus in the Sixth Circuit Court of Florida on July 31, 2024, seeking to compel the appraiser to provide a copy of the assessment. The state court dismissed the writ's petition on December 6, 2024, but granted leave to amend as a tax challenge under s. 194.181. On December 10th, 2024, the amended complaint, (App. 29a,) was filed and all defendants' affirmative defenses stated "Blanchard lacks standing to contest the tax as he is not the owner of the property." The case continues to proceed to this day.

Petitioners timely appealed the

District Courts ruling on August 28, 2024. On May 15, 2025, The Eleventh Circuit affirmed the lower court's ruling but modified the dismissal to be without prejudice. (App. 9a-16a.) In its opinion, the court noted Petitioners' non-taxpayer contention, but concluded that "the application of the TIA does not turn on an individual's status as a 'taxpayer.'" (App. 11a.) It further affirmed "Capel is plainly a taxpayer under Florida law because her name is on the recorded warranty deed and the property was assessed in her name. Fla. Stat. s. 192.001(13) (providing a "taxpayer" is "the person or other legal entity in whose name property is assessed")." (App. 13a.)

As to Blanchard's right to own property, the Eleventh foreclosed federal remedy, stating: "While it is less clear whether Blanchard is a "taxpayer," he could still pursue the state remedies with Capel's written permission or if he were responsible for the tax payment. Fla. Stat., ss. 194.011(3), 194.181." (App. 13a). It further affirmed denial of Petitioners' request for jurisdictional discovery, and required them to meet the burden of proof or demonstrate no state remedy is available. Petitioners sought panel rehearing and rehearing en banc, which the court denied on July 3, 2025. (App. A-17a).

The courts never examined whether a return or assessment existed, yet held the TIA and comity bar review of the merits, and required exhausting state remedies first.

REASONS FOR GRANTING THE PETITION

I) This Case Presents Intra-circuit Inconsistency and Conflict with this Court

Three recent Eleventh Circuit decisions reveal doctrinal inconsistency that leaves outcomes to panel draw, and in doing so, each conflicts with this Court's precedents at four distinct thresholds: a) failure to scrutinize initiation through information gathering and the assessment, b) levy as the completed constitutional injury, c) equating bare ownership with a taxable event, and d) foreclosing any forum to remedy a color of law injury under § 1983.

In *Turner v. Jordan*, 117 F.4th 1289 (11th Cir. 2024) (published), the Eleventh Circuit applied the comity doctrine to dismiss a § 1983 takings claim arising from a Florida tax deed sale. The panel reasoned that allowing the case to proceed in federal court would "risk disrupting" Florida's ad valorem tax system and emphasized that Florida's remedies were "plain, adequate, and complete." *Turner* thus required abstention and directed property owners into state court, even where constitutional rights were asserted—the very type of claim now under review by this Court in *Koetter v. Manistee County Treasurer* (No. 25-1095, cert. granted 2025)

On May 15, 2025, in *Capel v. Pasco County,* No. 24-12793 (11th Cir. 2025) (unpublished), another panel went further. Without reaching the merits at all, the court dismissed Petitioners' § 1983 claims for lack of jurisdiction under the TIA,

presuming lawful initiation of the tax despite allegations of no return or assessment. It also denied jurisdictional discovery and deemed state remedies adequate. *Capel* thus foreclosed even the minimal scrutiny *Turner* received, holding instead that the TIA and comity categorically barred federal review and that Petitioners bore the burden to disprove the adequacy of state remedies.

The very next day, in *Maron v. Chief Financial Officer of Florida*, No. 23-13178 (11th Cir. May 16, 2025) (published), a different panel reached the opposite conclusion. Citing *Knick v. Township of Scott*, the court held that takings claims are ripe the moment property is appropriated, without requiring exhaustion of state remedies. The panel rejected sovereign immunity under *Ex parte Young* and allowed the *Marons'* takings claim to proceed in federal court, emphasizing that federal courts must evaluate the statute as written, not hypothesize about state alternatives.

Taken together, these decisions apply diametrically opposed jurisdictional gates. *Turner* allowed some discussion of merits but dismissed on comity grounds. *Capel* foreclosed all federal review without reaching the merits or allowing discovery. *Maron* required federal courts to hear takings claims under *Knick* and to examine the statutory scheme itself. This deep and immediate intra-circuit conflict with this Court's opinions leaves property owners' access to a federal forum dependent entirely on panel draw. That direct inconsistency warrants this Court's review under Rule 10(c).

A) Failure to Scrutinize Information Gathering and Assessment

In *Hibbs,* 542 U.S. 88, at 104–05, the Court stated *"Arkansas v. Farm Credit Servs. of Central Ark.*, 520 U. S. 821; ....and *Rosewell v. LaSalle Nat. Bank,* 450 U. S. 503, do not hold that state tax administration matters must be kept entirely free from lower federal-court interference." However, the lower courts invoked these opinions to bar review of jurisdictional thresholds.

The reporting phase is outside of the scope of the TIA, which is "keyed to the acts of assessment, levy, and collection themselves" *Direct Marketing Ass'n v. Brohl,* 575 U.S. 1 (2015). The Court further recognized 'that the filing of a return would start the running of the clock for a timely assessment... [and] was understood as a step in the taxation process that occurred after, and was distinct from, the step of reporting information pertaining to tax liability."

The assessment phase of the TIA is reviewable under *CSX Transportation, Inc. v. Georgia State Bd. of Equalization,* 552 U.S. 9, 18 (2007), where the Court made clear "We do not see how a court can go about determining true market value if it may not look behind the State's choice of valuation methods."

The Eleventh Circuit held that Capel was 'plainly a taxpayer' because her name was on the warranty deed, thereby equating deed status with taxable ownership. *Dubin v. United States,* 599 U.S. 110, (2023), emphasized that statutory interpretation must be grounded in the actual

elements and statutory structure, which Congress defined in the TIA. Here, the courts erred by reading 'ownership' into the TIA's restrictive definitions, expanding 'assessment' beyond what *Direct Marketing* permits.

The Eleventh further relied on *Amos v. Glynn Cnty. Bd. of Tax Assessors,* 347 F.3d 1249 (11th Cir. 2003), to improperly shift the burden to Petitioners to plead around § 1341. (App. 11a.) That approach directly conflicts with *Hibbs, CSX,* and *Direct Marketing,* each of which constrains federal abstention and places the burden on courts—not plaintiffs—to review the merits. This Court should grant certiorari to confirm that § 1341 cannot be invoked until lawful initiation is established, and that comity should not bar federal review where no 'plain, speedy, and efficient' remedy exists without a return.

B) The Levy Starts the Constitutional Injury

The *Direct Marketing* Court verified: "'Levy,' at least as it is defined in the Federal Tax Code, refers to a specific mode of collection under which the Secretary of the Treasury *distrains and seizes* a recalcitrant taxpayer's property." 575 U.S. at 9. (emphasis added). It further affirmed that "under any of these definitions, 'levy' would be limited to an official governmental action imposing, determining the amount of, or securing payment on a tax." *Id.* at 10. In short, this Court has recognized that levy is the official governmental act that triggers seizure and enforces collection. The definition is consistent with Florida law, which

defines levy as the 'imposition of a tax.' See Fla. Stat. § 192.011(9). (App. 20a)

When an appraiser uses the "toehold of [a] tax debt," *Tyler*, 598 U.S. at 639, of an unsupported levy to seize property, "the owners may bring Fifth Amendment claims for compensation as soon as their property has been taken, regardless of any other post-taking remedies that may be available to the property owner," *Knick*, 588 U.S. 180. When collector fulfills the levy's prophecy, by retaining more than what is owed, "the taxpayer is entitled to the surplus" and refusal to return it "constitutes a classic taking in violation of the Fifth Amendment." *Tyler*. at 644–45. The Court made clear that "property rights cannot be so easily manipulated" because "[t]he Takings Clause does not permit the State to extinguish a property interest it wishes to appropriate." *Tyler* at 648.

The Eleventh Circuit erred by not reviewing if the 'toehold' of the levy itself is a completed constitutional injury. Instead of treating levy as the distraint and seizure that *Direct Marketing, Tyler,* and *Knick* identify as the trigger for Takings Clause protection, the court relegated Petitioners to state remedies. This Court should grant certiorari to confirm that an unsupported levy constitutes a taking. Review of the information-gathering and assessment phases is vital to prevent such unconstitutional seizures.

C) Ownership Equated with Taxable Activity

Recently in *NY State Rifle & Pistol Assn. v. Bruen,* 597 U. S. 1, 8 (2022), the Court

stated: "the government must demonstrate that the regulation is consistent with this Nation's historical tradition." This is reinforced by *Macallen Co. v. Massachusetts*, 279 U.S. 620, 630 (1929), warning against "a scheme to lay a tax upon a nontaxable subject by a deceptive use of words."

Property rights were defined in *Vanhorne's Lessee v. Dorrance*, 2 U.S. 304, 311 (1795) "the right of acquiring, possessing, and protecting property is natural, inherent, and unalienable. It is a right not ex gratia from the legislature, but ex debito from the constitution." *Flint v. Stone Tracy Co.*, 220 U.S. 107,151 (1911), emphasized the distinction within taxation: "Indirect taxation includes a tax on business done in a corporate capacity; the difference between it and direct taxation imposed on property because of its ownership is substantial, and not merely nominal." The Court clarified "the requirement to pay such taxes involves the exercise of the privilege, and "if business is not done in the manner described, no tax is payable." *Brushaber v. Union Pac. R.R. Co.*, 240 U.S. 1,14 (1916), affirmed *Flint* and declared: "on the one hand, that the tax was not in the class of direct taxes requiring apportionment, *because it was not levied directly on property because of its ownership, but rather on its use, and was therefore an excise, duty, or impost,* and on the other, that, in any event, the class of *direct taxes included only taxes directly levied on real estate because of its ownership.*"(emphasis added)

The Eleventh Circuit erred when it held Capel was "plainly a taxpayer" solely because her name was on the warranty deed. (App. 13a.) The Eleventh further 'sidestepped' Blanchards property

rights, despite acknowledging that he may or may not be a taxpayer, effectively denying a federal forum when the threshold for injury was unclear and subjecting him to the "*San Remo* preclusion trap" this Court warned against in *Knick,* 588 U. S. 180.

This Court should grant certiorari to review if ownership or use is the historical intent. By conflating ownership as the taxable subject, the lower courts prevent review of the threshold for injury to property rights and create a lack of remedy.

D) Threshold Review of Injury and Remedy

i) Threshold Status Unreviewed: Conflict with Moody, Lujan, Spokeo, and TransUnion.

This Court's standing jurisprudence underscores why jurisdiction was proper. *Lujan v. Defenders of Wildlife,* 504 U.S. 555, 560–61 (1992), requires an injury-in-fact that is concrete, particularized, and redressable. *Spokeo, Inc. v. Robins,* 578 U.S. 330, 340–41 (2016), reaffirmed that intangible harms are concrete when they bear a "close relationship to harms traditionally recognized" in common law. Most recently, *TransUnion LLC v. Ramirez,* 594 U.S. 413, (2021), confirmed "no concrete harm, no standing," and that historical analogues control the inquiry: tangible harms like economic loss and deprivation of property are "indisputably" concrete." "The Due Process Clause further "guarantee[s] fair procedure in connection with any deprivation of ... property by a State." *Collins v. City of Harker Heights,* 503 U.S.

115, 125 (1992).

To review the thresholds, the "first step" in constitutional or statutory analysis is to define the scope of the law — "what activities, by what actors, the law prohibits or otherwise regulates." *Moody v. NetChoice, LLC*, 603 U.S. 707,724 (2024). Here, the Eleventh Circuit sidestepped that threshold inquiry under § 1341. It further insulated the regulatory scheme from review by categorically deeming state remedies "adequate," relying on *Turner's* opinion, and without examining whether any plain, speedy, and efficient remedy actually existed for the improper initiation of a tax without information gathering.

Courts should examine if alleged injuries are complete and historically grounded before invoking § 1341 to directly contravene *Bruen's* review of historical tradition, *Moody*, *Lujan*, *Spokeo*, *TransUnion*, and *Collins's* thresholds. That error improperly denied Petitioners the federal forum that Congress expressly guaranteed under § 1343(3). This Court should grant certiorari to determine if there is a threshold injury that is historically concrete and ensure there is a remedy.

ii) Remedy is foreclosed by TIA, comity and relief requested

The Court in *Lynch v. Household Finance Corp.*, 405 U.S. 538 (1972), grounded property rights, stating "Property does not have rights. People have rights. The right to enjoy property without unlawful deprivation, no less than the right to speak or the right to travel, is, in truth, a

"personal" right, whether the "property" in question be a welfare check, *a home*, or a savings account. In fact, a fundamental interdependence exists between the personal right to liberty and the personal right in property. Neither could have meaning without the other. That rights in property are basic civil rights has long been recognized.[1]... *Congress recognized these rights in 1871 when it enacted the predecessor of §§ 1983 and 1343(3).*"(emphasis added)

When the Eleventh Circuit relied on *A Bonding Co. v. Sunnuck*, 629 F.2d 1127 (5th Cir. 1980), to conclude that the TIA bars jurisdiction and *Fair Assessment in Real Estate Ass'n v. McNary*, 454 U.S. 100, 107 (1981), to restrict federal damages claims under comity, it forecloses the forum promised by § 1343(3) & §1983. Invoking these jurisdictional thresholds in the absence of information gathering, a reviewable assessment, any utilizable state remedy, and supporting a levy by ownership, imposes an improper barrier to Article III review, opposite to *Lynch's* remedies, and *Knick* and *Tyler's* newly defined takings thresholds. "Again, what matters is the substance of the suit, not where it is brought, who brings it, or how it is labeled." *SEC v. Jarkesy*, 602 U.S. 109, 113 (2024).

However, any potential § 1983 remedies to protect private property rights under *Knick* and *Tyler* are currently perceived as disrupting the flow of state revenue contrary to the

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[1] J. Locke, Of Civil Government 82-85 (1924); J. Adams, A Defence of the Constitutions of Government of the United States of America, in F. Coker, Democracy, Liberty, and Property 121-132 (1942); 1 W. Blackstone, Commentaries *138-140.

TIA's restrictions.

This Court should grant certiorari to clarify whether *Fair Assessment* and its progeny may continue to bar § 1983 and § 1343(3) claims under the TIA and principles of comity, or whether, in light of *Lynch*, *Knick*, and *Tyler*, those civil-rights remedies must remain available notwithstanding such jurisdictional thresholds.

II) The Circuits Are Deeply Divided on Whether § 1341 Bars Review of all Tax Cases

Although the appellate courts have produced a flood of decisions on the TIA in the wake of *Knick* and *Tyler*, every one of them skips over the initiation and assessment threshold that *CSX* and *Direct Marketing* make dispositive. The Second, Sixth, Seventh, and Ninth Circuits have permitted federal § 1983 takings claims to proceed where state remedies were nonexistent or illusory. *Freed v. Thomas,* 976 F.3d 729 (6th Cir. 2020); *A.F. Moore & Assocs. v. Pappas,* 948 F.3d 889 (7th Cir. 2020); *Dorce v. City of New York,* 2 F.4th 82 (2d Cir. 2021). And the Ninth Circuit has long recognized that the TIA does not bar suits by 'non-taxpayer' plaintiffs who lack access to state remedies. *Capitol Indem. Corp. v. Bennett,* 681 F.2d 1107, (9th Cir. 1982).

By contrast, the Fifth and Eleventh Circuits bar access categorically, presuming state remedies are always "plain, speedy and efficient" even when state law itself forecloses review. *Hammonds v. Dallas Cnty.*, 816 F. App'x 914 (5th Cir. 2020); *Amos v. Glynn Cnty.,* 347 F.3d 1249 (11th Cir. 2003). The result is a patchwork: some plaintiffs

may argue taxpayer *v.* non-taxpayer or vindicate claims in federal court, others are shut out entirely, depending on geography.

But in none of these cases do the circuits pause to ask the threshold questions this Court implied: Was the levy's 'toehold' ever lawfully initiated by the information gathering phase (return) or the review of an assessment? Instead, courts assume initiation and jump immediately to adequacy or comity. That omission is persistent and underscores the need for clarification. The Tenth, D.C., and Sixth Circuits went so far as to treat *Direct Marketing* as a narrow anomaly, refusing to apply its step-by-step parsing of "assessment, levy, and collection" and returning to broad rules that bar any challenge "leading up to" tax collection. The *Green Solution Retail, Inc. v. United States,* 855 F.3d 1111 (10th Cir. 2017); *Florida Bankers Ass'n v. U.S. Dep't of Treasury,* 799 F.3d 1065 (D.C. Cir. 2015); *CIC Servs., LLC v. IRS,* 925 F.3d 247 (6th Cir. 2019), rev'd, 141 S. Ct. 1582 (2021). Even where courts allowed takings claims, they did so on completed remedy or equitable grounds, not by applying the initiation/assessment sequence this Court has already described.

The upshot is disarray post-*Tyler* & *Knick*. Some circuits allow access, others bar it, but none are applying *CSX* and *Direct Marketing* as threshold inquiries. The judiciary has reverted to categorical presumptions: if the claim "touches" taxation, it is usually treated as falling within § 1341, unless a court carves out an ad hoc exception. That is precisely the disorganized state of affairs the TIA was meant to avoid and that this Court's

precedents were meant to clarify. Only this Court can clear the air and determine if comity or the TIA bar federal jurisdiction to reviewing if state taxation was ever lawfully initiated.

III) The Question Presented Is Exceptionally Important

This case is exceptionally important because it highlights a direct clash between this Court's modern jurisprudence regarding threshold review and its older tax-comity precedents, creating uncertainty about when federal jurisdiction exists and leaving property owners without any forum for constitutional review to §§ 1343(3) & 1983 injuries. The Eleventh Circuit's inconsistent opinions in *Capel, Turner* and *Maron,* in conjunction with this court's doctrinal barrier in *Fair Assessment* and *Levin v. Commerce Energy, Inc.*, 560 U.S. 413 (2010), rested on a premise, there is access to a "plain, speedy, efficient remedy" and presuming comity is essential because each State's tax system is unique and federal courts must defer. But *Knick* and *Tyler* rejected that approach, holding that a Takings Clause injury is complete the moment property is taken without compensation and *Lynch* entitled property owners to a federal forum under § 1983, with § 1343(3) ensuring jurisdiction for constitutional claims involving property rights.

In Pasco County alone, approximately 201,000 single-family homes and 11,000 condominium units are on the tax rolls.

Recent data shows that roughly 92% of those homes[2] —about 185,000—are owned by Fla. Constitution Article I Section 2's natural persons[3], not corporate entities who are taxpayers under Art. I Sec. 25, Fla. Const, and s. 220.02, a distinction this Court emphasized in *Flint*. The Eleventh Circuit's decision affects millions of natural persons' "right to acquire possess and protect property," who, like Petitioners, could be denied federal review when a levy proceeds without lawful initiation by an assessment or any "plain, speedy, and efficient" remedy without a filed return.

The consequences are national and recurring, when comparing similar numbers in counties across the country. Under the rule below, states and counties can impose levies without lawful initiation, invoke the TIA, and thereby insulate threshold requirements or assessments from all judicial review. Petitioners' dilemma illustrates the paradox: barred from federal court because state remedies are deemed "adequate," yet barred from state remedies because no return was filed, while ownership is considered a legitimate reason to ad valorem tax. This creates divergent rules among circuits (even within the Eleventh Circuit, as *Turner*, *Capel* and *Maron* show), and leaves property owners' constitutional rights hostage to geography or panel

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[2] https://www.wusf.org/economy-business/2024-04-04/tampa-bay-homebuyers-forced-compete-investors

[3] "The term "natural" was interposed to clarify that this provision does not apply to corporations, but only to private persons." Talbot D'Alemberte, The Florida State Constitution: A Reference Guide (1991); see Transcript, CRC Debates, March 17, 1998, p. 76–77

courts to review taxable subjects.

Finally, it cannot be reconciled with the Eleventh Circuit's decision the very next day in *Maron*, which examined the statutory scheme, recognized standing and ripeness, and allowed a § 1983 takings claim to proceed. This case allows the Court to decide whether comity or § 1341 may foreclose § 1343(3) jurisdiction where the State never lawfully initiated its tax (no return, no assessment) and where no "plain, speedy, and efficient" remedy exists.

CONCLUSION

For these reasons, Certiorari should be granted.

Respectfully Submitted on September 25, 2025

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