

25-5693

No.

ORIGINAL

Supreme Court, U.S.
FILED

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In The
Supreme Court of the United States

◆
**YASMANI GURRI RUBIO,
Petitioner,**

v.
**CITY OF ALEXANDRIA, et al.,
Respondents.**

◆
On Petition For A Writ Of Certiorari

To The United States Court Of Appeals

For the Fourth Circuit

◆
PETITION FOR A WRIT OF CERTIORARI
◆

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QUESTIONS PRESENTED

QUESTION 1

Whether the Due Process Clause of the Fifth Amendment is violated when a federal district court dismisses an action *with prejudice* for improper venue under Rule 12(b)(3), without first establishing proper divisional venue as required by 28 U.S.C. § 1391(b), as modified by E.D. Va. Loc. Civ. R. 7(J), and after acknowledging that all operative facts occurred in a different division of the Eastern District of Virginia.

QUESTION 2

Whether a federal judge acts *ultra vires*—and therefore outside the scope of judicial immunity—by simultaneously disclaiming jurisdiction over a case while issuing a final merits ruling, in contravention of the jurisdiction-first principle mandated by *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83 (1998), and despite the statutory command under 28 U.S.C. § 1406(a) to either transfer or dismiss *without prejudice* when venue is improper.

QUESTION 3

Whether a district court may dismiss a case *with prejudice* under Rule 12(b)(3) for improper venue, notwithstanding 28 U.S.C. § 1406(a)'s requirement that cases filed in the wrong district or division “shall” be either dismissed *without prejudice* or transferred “in the interest of justice” to a division or district in which the action could have been brought, as applied in *Multiscuff Ltd. v. APTIM Fed. Servs., LLC*, 2023 WL 6541846 (E.D. Va. 2023), and *Wood v. Barnett, Inc.*, 648 F. Supp. 936 (E.D. Va. 1986).

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

1. *Rubio v. City of Alexandria, et al.*, No. **3:24-cv-00193-DJN**,

United States District Court for the Eastern District of Virginia.

Judgment entered: June 17, 2024.

2. *Rubio v. City of Alexandria, et al.*, No. **24-1621**,

United States Court of Appeals for the Fourth Circuit.

Judgment entered: April 14, 2025.

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Opinion of the United States Court of Appeals for the Fourth Circuit, April 14, 2025	App. 1
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TABLE OF AUTHORITIES

CASES

Fourth Circuit / District Courts

- Multiscaff Limited v. APTIM Federal Services, LLC, 2023 WL 6541846 (E.D. Va. 2023)
- Wood v. Barnett, Inc., 648 F. Supp. 936 (E.D. Va. 1986)
- Symbology Innovations, LLC v. Lego Sys., Inc., 282 F. Supp. 3d 916 (E.D. Va. 2017)
- W. Va. Chamber of Commerce v. Browner, 166 F.3d 336, 1998 WL 827315 (4th Cir. 1998)
- Conte v. Virginia, No. 3:19CV575, 2020 WL 3883251 (E.D. Va. July 9, 2020)
- Adhikari v. KBR, Inc., No. 1:15cv1248, 2016 WL 4162012 (E.D. Va. Aug. 4, 2016)
- Mitrano v. Hawes, 377 F.3d 402 (4th Cir. 2004)
- Aggarao v. MOL Ship Mgmt. Co., 675 F.3d 355 (4th Cir. 2012)

Supreme Court of the United States

- Steel Co. v. Citizens for a Better Environment, 523 U.S. 83 (1998)
- Arizonans for Official English v. Arizona, 520 U.S. 43 (1997)
- Bell v. Hood, 327 U.S. 678 (1946)
- Bender v. Williamsport Area Sch. Dist., 475 U.S. 534 (1986)
- Capron v. Van Noorden, 6 U.S. (2 Cranch) 126 (1804)
- Chandler v. Judicial Council of Tenth Circuit, 398 U.S. 74 (1970)
- Ex parte McCardle, 74 U.S. (7 Wall.) 506 (1869)
- Great Southern Fire Proof Hotel Co. v. Jones, 177 U.S. 449 (1900)
- Mt. Healthy City Bd. of Educ. v. Doyle, 429 U.S. 274 (1977)
- National R.R. Passenger Corp. v. Nat'l Ass'n of R.R. Passengers, 414 U.S. 453 (1974)
- Norton v. Mathews, 427 U.S. 524 (1976)
- Philbrook v. Glodgett, 421 U.S. 707 (1975)
- Secretary of the Navy v. Avrech, 418 U.S. 676 (1974) (per curiam)
- United States v. Augenblick, 393 U.S. 348 (1969)
- United States v. Corrick, 298 U.S. 435 (1936)

STATUTES AND RULES

- 28 U.S.C. § 1391(b) – proper venue
- 28 U.S.C. § 1406(a) – improper venue; dismissal or transfer in the interest of justice
- Fed. R. Civ. P. 12(b)(3) – improper venue
- E.D. Va. Local Civ. R. 7(J) – divisional venue requirement

OTHER AUTHORITIES

- Marc Fisher, *A Tale of Two Campaign Headquarters: Clinton's and Trump's Offices Are Miles and Worlds Apart*, **Washington Post** (Oct. 24, 2016)
- Patrick J. Borchers, *The Timing of Minimum Contacts After Goodyear and McIntyre*, **80 Geo. Wash. L. Rev.** 202 (Nov. 2011)
- Patrick J. Borchers, *The Timing of Minimum Contacts*, **79 Geo. Wash. L. Rev.** 101 (Nov. 2010)

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

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OPINIONS BELOW

The opinion of the United States Court of Appeals for the Fourth Circuit in *Rubio v. City of Alexandria, et al.*, No. 24-1621, was entered on April 14, 2025. It is unpublished and is reproduced at **Appendix A**.

The order of the United States District Court for the Eastern District of Virginia in *Rubio v. City of Alexandria, et al.*, No. 3:24-cv-00193-DJN, was entered on June 17, 2024. It is also unpublished and is reproduced at **Appendix B**.

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JURISDICTION

The judgment of the United States Court of Appeals for the Fourth Circuit was entered on April 14, 2025.

No extension of time to file this petition has been requested or granted. This petition is filed within the 90-day period prescribed by Rule 13.1 of the Rules of this Court. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).



STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED

1. U.S. Const. amend. V – Due Process Clause

“No person shall ... be deprived of life, liberty, or property, without due process of law.”

Ensures that federal courts cannot adjudicate or dismiss cases in a manner that deprives a party of rights without proper procedural safeguards, including establishing venue and jurisdiction.

2. U.S. Const. amend. VIII – Cruel and Unusual Punishment / Excessive Sanctions

Although primarily applied to criminal cases, the principles of fairness and justice support that denial of meaningful access to the courts for victims or litigants may constitute a form of cruel or arbitrary treatment.

3. U.S. Const. amend. XIV – Equal Protection Clause

“No state shall ... deny to any person within its jurisdiction the equal protection of the laws.”

Guarantees that all parties, including victims of crimes and pro se litigants, receive equal treatment under the law; arbitrary dismissals or venue denials may violate this clause.

4. Right of Access to Courts

Derived from the Fifth and Fourteenth Amendments, the right of access ensures that litigants are not prevented from seeking redress in federal courts.

Obstruction of this right—such as dismissing a case with prejudice for improper venue without considering transfer—violates constitutional principles.

5. 28 U.S.C. § 1391(b) – Venue Generally

A civil action may be brought in:

- (1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;
- (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred; or
- (3) if no district otherwise applies, any judicial district in which any defendant is subject to the court's personal jurisdiction.

Governs divisional venue and requires plaintiffs to establish proper venue before filing.

6. 28 U.S.C. § 1406(a) – Cure or Waiver of Venue Defects

“The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or, if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.”

Establishes that dismissal with prejudice for improper venue is generally impermissible.

7. Fed. R. Civ. P. 12(b)(3) – Improper Venue

A party may assert by motion: improper venue. Plaintiff bears the burden to prove proper venue.

8. Fed. R. Civ. P. 12(b)(6) – Failure to State a Claim

A party may assert by motion: failure to state a claim upon which relief can be granted. Courts may not dismiss on the merits without ensuring venue and jurisdiction are proper.

INTRODUCTION

9. This petition arises from a profound judicial breakdown that strikes at the core of federal constitutional limits. The district court—presided over by Judge David J. Novak—acknowledged that venue was improper and that the case was filed in the wrong division within the Eastern District of Virginia, in violation of E.D. Va. Local Civ. R. 7(J) and 28 U.S.C. § 1391(b). Yet rather than transferring the case to the proper division or dismissing it without prejudice as required by 28 U.S.C. §§ 1406(a), the court issued a final ruling on the merits, dismissing the case with prejudice. This is not merely a procedural error; it is hypothetical jurisdiction—the precise doctrine this Court rejected in *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 93–102 (1998).
10. In *Steel Co.*, this Court held that “without jurisdiction, the court cannot proceed at all in any cause.” By ignoring both the divisional venue requirement and the threshold jurisdictional rules, Judge Novak acted beyond his constitutional authority. The Fourth Circuit affirmed without addressing these defects, effectively endorsing an unconstitutional exercise of judicial power.
11. This case demonstrates a broader issue: lower courts assuming jurisdiction they do not possess, issuing final rulings despite admitted divisional venue defects. The failure to evaluate proper divisional venue before deciding the merits violates the threshold jurisdiction principle, denies pro se litigants and crime victims meaningful access to courts, and contravenes Fifth and Fourteenth Amendment protections.

12. Dismissing with prejudice without considering the correct division deprives litigants of due process, equal protection, and access to justice. This is not mere technical error—it is a structural violation of constitutional rights.
 13. This Court must intervene to reaffirm that venue and divisional assignment are mandatory prerequisites. Judicial authority rests on constitutional and statutory foundations, and no federal judge may bypass them. Proper divisional venue is not optional; it is a constitutional and statutory prerequisite that preserves litigants' rights and the integrity of the judicial system.
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STATEMENT OF THE CASE

14. Petitioner Yasmani Gurri Rubio filed a federal civil rights complaint in the United States District Court for the Eastern District of Virginia, alleging numerous constitutional violations committed by officials of the City of Alexandria and others. Acting in good faith, Petitioner filed the case in the Richmond Division, believing it to be the proper forum. All events giving rise to the claims occurred in Alexandria, and all defendants reside there.
15. As explained by the defendants in their motion to dismiss, under 28 U.S.C. § 1331, venue is proper in a judicial district where: (1) any defendant resides; (2) a substantial part of the events giving rise to the claim occurred; or (3) if no other district applies, any district where a defendant is subject to the court's personal jurisdiction. In the Eastern District of Virginia, however, venue must also be proper within the division in which the case is filed under E.D. Va. Local Civ. R. 7(J). To establish proper venue in the Richmond Division, a plaintiff would need to show that a defendant resides there, that a substantial part of the

relevant events occurred there, or that the defendants are subject to the court's personal jurisdiction there. Petitioner could not establish any of these criteria, as all events occurred in Alexandria, all defendants work there, and no action or omission subjects any defendant to the jurisdiction of the Richmond Division.

16. Despite acknowledging that venue was improper under 28 U.S.C. § 1391(b), as modified by Local Civ. R. 7(J), and that the court lacked jurisdiction over several defendants, the district court did not transfer the case to the Alexandria Division or dismiss it without prejudice as required under 28 U.S.C. § 1406(a). Instead, the court dismissed the complaint with prejudice, ruling on the merits while openly recognizing its own lack of jurisdiction and improper venue. This constituted a fundamental legal error and an ultra vires act, violating constitutional structural safeguards and the procedural rights of a pro se litigant.

17. Petitioner timely appealed to the United States Court of Appeals for the Fourth Circuit, whose decision normally constitutes the immediate and appropriate legal remedy when a district court exceeds its jurisdiction and issues a merits ruling despite improper venue. As Chief Justice Robert of the Supreme Court has repeatedly emphasized, an appeal is the constitutional and legal mechanism that protects litigants from lower courts acting beyond their authority. Yet the Court of Appeals summarily affirmed the dismissal without addressing the critical jurisdictional and venue defects, failing in its constitutional duty to ensure that lower courts respect legal and structural limits. This inaction is not a minor error; it demonstrates an institutional policy allowing federal courts to systematically violate the rights of pro se litigants, leaving their claims ignored and their constitutional protections undermined.

18. In addition to the lack of jurisdiction and improper venue, this case involves further constitutional violations: due process under the Fifth Amendment, access to the courts, equal protection under the Fourteenth Amendment, and protection from cruel and unusual punishment under the Eighth Amendment, along with the judge's ultra vires action in issuing a merits ruling without legal authority.

These actions reflect a structural transgression of constitutional safeguards and cannot be considered mere technical errors.

19. Petitioner respectfully seeks a writ of certiorari to determine whether a federal court may issue a final merits ruling after acknowledging it lacks jurisdiction and proper venue, and whether such conduct—especially when affirmed in favor of non-appearing appellees—violates the structural protections of Article III, the Due Process Clause of the Fifth Amendment, and other fundamental constitutional rights, as well as the legal and structural limits that every federal court is obligated to respect.

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APPEAL TO THE FOURTH CIRCUIT

20. Respondents did not participate in the appellate proceedings, filing no brief, motion, or opposition. Despite their absence, the Fourth Circuit sua sponte summarily affirmed the district court's dismissal in a one-paragraph, unpublished opinion. By doing so, the appellate court rendered judgment in favor of appellees without adversarial input, oral argument, or substantive analysis.

21. Most notably, the court deliberately declined to address the jurisdictional and venue defects expressly acknowledged by the district court. The lower court's

order made clear that it lacked proper jurisdiction and venue over multiple defendants, yet the Fourth Circuit's ruling focused solely on the merits and entirely omitted any reference to these fundamental errors. This omission was intentional, not accidental: the appellate court chose to leave uncorrected a clear violation of Article III limits, federal procedural rules, and the petitioner's constitutional rights.

22. By affirming a judgment rendered by a court that openly exceeded its authority, the Fourth Circuit's decision undermines the integrity of the judicial process, subverts established principles of due process, and denies pro se litigants a meaningful opportunity to have their constitutional and procedural objections fairly considered. The court's deliberate inaction signals an institutional tolerance for decisions that ignore threshold jurisdictional requirements, thereby eroding both the legitimacy of appellate review and the structural safeguards of federal judicial authority.

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REASONS FOR GRANTING THE WRIT

This case presents fundamental questions concerning the constitutional and procedural limits of federal judicial power. It asks whether a district court may issue a final judgment on the merits while simultaneously acknowledging both a lack of jurisdiction and improper venue. The actions of the district court were ultra vires, exceeding any authority granted under Article III and federal law, and violated the procedural and substantive rights of the petitioner, a pro se litigant who is an innocent victim of judicial overreach.

I. Jurisdictional Principles and the Ultra Vires Nature of the District Court's Actions

As explained in *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83 (1998), federal courts must confirm jurisdiction before reaching the merits of a case. The Supreme Court has emphasized that jurisdiction is a threshold requirement; without it, a court cannot act. Jurisdiction is not a mere procedural formality but a core principle of Article III separation of powers.

The Supreme Court has also clarified that the existence of a cause of action does not in itself constitute a jurisdictional question. As noted in *Gwaltney of Smithfield, Ltd. v. Chesapeake Bay Foundation, Inc.*, 484 U.S. 49, and related cases, jurisdictional issues are distinct from merits issues. In no case has the Court treated the existence of a cause of action as a jurisdictional matter that must be resolved before determining whether a case presents a justiciable Article III controversy. To do so would convert every legal dispute into a jurisdictional question that the Court would have to address *sua sponte*, even if not raised in lower courts.

The Court has explicitly rejected the “hypothetical jurisdiction” doctrine, under which some Courts of Appeals have proceeded directly to the merits despite jurisdictional objections, usually for convenience or because the outcome on the merits would be the same as if jurisdiction were denied. This doctrine exceeds the limits of authorized judicial power and violates fundamental separation-of-powers principles. In a long line of cases, including *Capron v. Van Noorden*, 2 Cranch 126; *Arizonans for Official English v. Arizona*, 520 U.S. 43, 73; *Bell v. Hood*, 327 U.S. 678; *National Railroad Passenger Corp. v. National Assn. of Railroad Passengers*, 414 U.S. 453, 465 n.13; *Norton v. Mathews*, 427 U.S. 524, 531; *Secretary of the Navy v. Avrech*, 418 U.S.

676, 678 (per curiam); *United States v. Augenblick*, 393 U.S. 348; *Philbrook v. Glodgett*, 421 U.S. 707, 721; and *Chandler v. Judicial Council of Tenth Circuit*, 398 U.S. 74, 86–88, the Supreme Court has held that without proper jurisdiction, a court cannot proceed at all and may only acknowledge the jurisdictional defect and dismiss the complaint.

Thus, when a court rules on the meaning or constitutionality of a law without jurisdiction, it acts ultra vires. That is exactly what occurred here: the district court acknowledged its lack of jurisdiction and improper venue, yet still dismissed the case with prejudice, effectively issuing a merits ruling.

II. Pro Se Litigants as Innocent Victims

As emphasized in *Newport v. Fact*, taxpayers are innocent victims who should not bear burdens due to the conduct of officials. Similarly, pro se litigants are innocent parties who should not be subjected to ultra vires judicial power. When constitutional authority emanates from the people, no judge may abuse powers not granted by Article III, Congress, or the Constitution itself to act against those very individuals. This principle safeguards judicial legitimacy and ensures power is exercised in accordance with the Constitution and the people, not against them.

III. Venue Errors and Failure to Transfer under 28 U.S.C. § 1406(a)

The district court also acknowledged improper venue but refused to transfer the case to the Alexandria Division as required by 28 U.S.C. § 1406(a). Failure to transfer, especially for a pro se litigant raising constitutional claims, constitutes legal error. Cases such as *Multiscaff Limited v. APTIM Federal Services, LLC*, 2023 WL 6541846 (E.D. Va. 2023), emphasize that transfer is the preferred remedy when venue is incorrect.

IV. The Fourth Circuit Failed to Address These Fundamental Errors

The Fourth Circuit affirmed the district court's dismissal without addressing these foundational errors, ignoring the petitioner's arguments under *Steel Co.* and § 1406(a), and permitting a merits ruling to stand where jurisdiction and venue were lacking. This omission undermines due process and leaves ultra vires actions uncorrected, warranting review by this Court.

V. Alignment with Recent Supreme Court Decisions on Judicial Limits

Recent Supreme Court decisions, including *Trump v. Casa*, emphasize the importance of limiting federal courts that exceed their authority. This case presents a parallel issue: the district court issued a merits ruling while acknowledging lack of jurisdiction, and the appellate court affirmed without review. Granting certiorari will reinforce constitutional limits on judicial power and protect pro se litigants and other innocent parties from unauthorized judicial action.

CONCLUSION

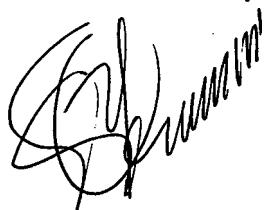
For all the above reasons, this Court should grant the writ of certiorari to clarify that:

1. Jurisdiction must always be established before reaching the merits (*Steel Co.*).
2. Venue defects require dismissal or transfer, not merits rulings with prejudice (§ 1406(a); *Multiscraft*).
3. Pro se litigants and other innocent parties must be protected from ultra vires actions.
4. Courts of appeals cannot ignore reversible jurisdictional errors.

This case presents a clean vehicle to reaffirm the constitutional and procedural limits on federal judicial power and protect litigants from the unauthorized exercise of judicial authority.

Respectfully submitted,

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