No. 25-____

In the Supreme Court of the United States

JAMES STUART FALLER, II,

Petitioner,

v.

UNITED STATES DEPARTMENT OF JUSTICE, ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

PETITION FOR A WRIT OF CERTIORARI

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November 6, 2025
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QUESTIONS PRESENTED

1. Whether persistent and categorical judicial bias and procedural disregard toward *pro se* litigants, resulting in dismissal despite detailed factual pleadings and sworn evidence, violates the guarantees of *due process* and *equal protection* under the *Fifth and Fourteenth Amendments*.

2. Whether absolute and qualified immunity doctrines should extend to state and federal officials whose actions—including false indictments, fabricated evidence, witness abduction, intentional *Brady* violations[1] and extrajudicial violence—constitute conduct outside any lawful scope and undertaken in personal or retaliatory capacities.

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[1] *Brady v. Maryland*, 373 U.S. 83 (1963).

PARTIES TO THE PROCEEDINGS

Petitioner

- James Stuart Faller, II

Respondents

- United States Department of Justice
- Unknown Federal Bureau of Investigation Agents
- Unknown Internal Revenue Service Agents
- Commonwealth of Kentucky, through Governor Andy Beshear

LIST OF PROCEEDINGS

U.S. Court of Appeals for the Sixth Circuit

No. 24-5955

James Stuart Faller II, *Plaintiff-Appellant,* v. Department of Justice, Et Al., *Defendants-Appellees.*

Final Order: June 25, 2025

Rehearing Denial: August 8, 2025

U.S. District Court for the Western District of Kentucky, Louisville Division

No. 3:23-cv-526-BJB

James Stuart Faller, II, *Plaintiff,* v. United States Department of Justice, Et Al., *Defendants.*

Final Judgment: October 1, 2024

Commonwealth of Kentucky, 40th Judicial Circuit, Russell Circuit Court

Indictment No. 06-CR-00102

Commonwealth of Kentucky, *Plaintiff,* v. James S. Faller II, *Defendant.*

Final Order: February 22, 2023

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PETITION FOR A WRIT OF CERTIORARI

Special Dedication: The undersigned became associated with United States Justice Richard Posner when Justice Posner began assisting *pro se's*. Justice Posner and the Petitioner ("Faller") were first in contact when Faller reached Justice Posner from prison as a falsely convicted victim. Justice Posner was cited as saying in multiple venues; "*pro se's are treated like trash, not worth the Court's time.*" As will become clear in this review, there is a substantial trend of horrific mistreatment of *pro se's* which has become deadly in the instant matter. Sadly, Justice Posner has fallen ill to Alzheimer's. The instant Petition is dedicated to his work and assistance to remedy what *pro se* litigants suffer in the Judicial system in our great nation. According to Justice Posner, "*there has never been a more profound example of why the laws need to be revised regarding pro se's and government and judicial misconduct,*" than the instant matter. Simply put and from direct experience, the current laws put forth by this Court regarding *pro se's* are rarely followed and do not provide a remedy when violated. But for the work and dedication of Justice Richard A. Posner, the undersigned and many like him would be helpless.

OPINIONS BELOW

On June 25, 2025, United States Court of Appeals for the Sixth Circuit, issued an Order, which is un published and is reproduced in the appendix at App.1a.

The Opinion & Order of the U.S. District Court for the Western District of Kentucky, Louisville Division, dated September 30, 2024, is reproduced in the appendix at App.8a. The district court entered judgment the next day on October 1, 2024. App.7a.

JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1254(1). The judgment of the United States Court of Appeals for the Sixth Circuit was entered on June 25th, 2025, and a petition for rehearing was timely filed on June 30th 2025, and was denied on August 8th, 2025. App.38a. This petition is timely filed within 90 days of the order denying rehearing.

CONSTITUTIONAL PROVISIONS INVOLVED

U.S. Const. amend. V

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due

process of law; nor shall private property be taken for public use, without just compensation.

U.S. Const. amend. XIV, § 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

PROCEDURAL HISTORY

Petitioner James Stuart Faller II timely filed his civil complaint in the U.S. District Court for the Western District of Kentucky (Case No. 3:23-cv-526-BJB), asserting violations under *Bivens*, 42 U.S.C. §§ 1983, 1985, and the *Federal Tort Claims Act*, alleging decades of government retaliation following protected whistleblower speech.

The district court dismissed for untimeliness and failure to state a claim. The Sixth Circuit affirmed (Case No. 24-5955) (App.1a), holding that the claims were barred by sovereign immunity, not cognizable under existing *Bivens* contexts, and outside the statute of limitations. The Courts below erroneously applied time calculations pled by the Defendants, despite absolute proof that the matter was timely promulgated by

the *Prose* Plaintiff. The lower courts disregarded the factual record presented by the *pro se* petitioner and adopted the erroneous pleadings of the state.

The panel did not grant argument and declined publication.

STATEMENT OF THE CASE

The Petitioner is a whistleblower and was attacked in a coordinated effort of both state and Federal actors, keeping the Petitioner under (7) seven separate false indictments for more than (27) twenty-seven years. The retaliation campaign included physical threats and intimidation causing grave personal losses, including the deaths of two children and Petitioner's spouse by continual attacks and threats of government actors, refusal to provide medical care of the Petitioner while in prison—intending on letting the Petitioner die.

The Petitioner alleged a continuous pattern of misconduct by federal and state officials spanning three decades, including (7) seven separate wrongful indictments, fabricated charges, illegal searches, imprisonment without probable cause, threats, and the resulting deaths and injuries to family members.

Despite detailed documentation and sworn affidavits from state and federal officials corroborating misconduct, the courts below dismissed the action, repeatedly invoking doctrines of sovereign and qualified immunity without considering whether the underlying acts served any legitimate public function. The district court dismissed and ignored a corroborating letter from a state senator submitted as part of the record

asking for Justice Kavanaugh to intervene with his supervisory role over the Sixth Circuit due to what became substantiated judicial misconduct. That letter was repeatedly blocked and apparently never reached the supervising Justice.

In the record, a letter from Kentucky State Senator Adrienne Southworth to Justice Brett M. Kavanaugh requested supervisory review of petitioner's cases due to documented evidence of official misconduct. (R. 1, Complaint, Ex. A; CA6 Docket No. 24-5955, T.R. 31, Ex. 2.) (App.68a)

A key factual admission within the record demonstrates that even agencies of the same federal government recognized the unlawful nature of these actions. Petitioner pleaded—and documentary record supports —that the Augusta, Georgia FBI and the U.S. Attorney's Office for the Southern District of Georgia intervened in 2020 to stop another "*false, hostile arrest*" and "*put an end to the carnage.*" (R. 1, Compl. 3–4, W.D. Ky. No. 3:23-cv-526-BJB; App.42a). The record further recounts that after internal investigation, the Augusta FBI declined participation in the Louisville office's directives, instead assuring Petitioner, "*we checked you out, you're a really good guy and you don't deserve any of this.*" (*Id.* at 4; App.43a).

- The record's acknowledgment that the Augusta, Georgia FBI intervened to stop unlawful arrests underscores governmental recognition that Petitioner's treatment violated basic *due process* protections. Yet the courts below refused to credit or analyze that evidence. (R. 1, Compl. 3–4; App.42a-43a)

Despite the intervention of the Augusta FBI and United States Attorney, stopping Petitioner's arrest on a seventh false indictment, the Court below ignored this Court's directive in *Pulliam v. Allen*, 466 U.S. 522 (1984) (limits on judicial immunity when declaratory or injunctive relief justified) and *Forrester v. White*, 484 U.S. 219 (1988) (distinguishing judicial acts from administrative misconduct).

This unique factual admission—embodied in the district court record—confirms both the inter-agency recognition of illegal acts and the refusal by one federal office to continue a pattern of misconduct initiated by another. Despite these critical evidentiary statements, the courts below neither acknowledged nor evaluated them, instead summarily dismissing the entire pleading under the doctrines of sovereign and qualified immunity.

By disregarding these sworn allegations—supported by official correspondence and testimony—the lower courts effectively transformed the judicial shield of immunity into an instrument of impunity. The decision leaves no forum available to review or remedy misconduct that even federal law enforcement deemed impermissible and unlawful.

The Sixth Circuit's decision effectively immunizes conduct that—if true—constitutes criminal acts under federal law, and forecloses review because the plaintiff appeared *pro se*, contrary to *Haines v. Kerner*, 404 U.S. 519 (1972). Extensive record evidence confirms that when Petitioner attempted to retain counsel, those attorneys were threatened—further evidencing obstruction of access to courts.

REASONS FOR GRANTING THE PETITION

This petition raises constitutional questions of national significance concerning (1) systemic bias and procedural exclusion of *pro se* litigants in lower federal courts, and (2) the continuing expansion of absolute and qualified immunity doctrines beyond their lawful and constitutional boundaries. Both issues demand this Court's review to restore access to justice and preserve the essential limits of government authority.

I. The Petition Raises a Recurrent and Unresolved Constitutional Issue: Whether Judicial and Institutional Bias Against *Pro Se* Litigants Violates *Due Process* and *Equal Protection*

The record demonstrates that petitioner's filings, exhibits, and sworn statements were disregarded solely because he appeared *pro se*. This practice, increasingly common across circuits, conflicts with this Court's precedent that *pro se* pleadings must be *"liberally construed"* and given meaningful factual consideration. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). Dismissal without analysis of evidence—especially evidence of official retaliation—reduces the constitutional promise of access to courts to a mere formality.

Lower courts' hostility toward *pro se* parties has become a structural barrier to justice that undermines equal protection under the law. Where orders are routinely issued *"without oral argument,"* as here (CA6 No. 24-5955; App.1a), the system itself denies *pro se* citizens procedural *due process* as required by *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (*"The*

fundamental requirement of due process is the opportunity to be heard . . . at a meaningful time and in a meaningful manner.").

This Court's review is warranted to reaffirm that the Constitution does not permit judicial bias based on representation status and that every litigant—regardless of wealth or counsel—retains the right to fair adjudication.

II. The Lower Courts' Use of Immunity Doctrines Conflicts with Precedent Limiting Their Scope

The courts below relied on sovereign and qualified immunity to dismiss petitioner's claims, even where the alleged actions fell entirely outside lawful authority. The Sixth Circuit's decision conflicts with this Court's own clarifications in *Forrester v. White*, 484 U.S. 219 (1988), that judicial immunity does not extend to administrative, investigative, or retaliatory acts, and in *Pulliam v. Allen*, 466 U.S. 522 (1984), that immunity cannot be used to bar prospective relief where constitutional violations persist. *See also: Stump v. Sparkman*, 435 U.S. 349 (1978) clarifying the contrast between protected and *ultra vires acts*.

The Petitioner presented unrebutted factual assertions that multiple officials fabricated evidence, initiated retaliatory indictments, kidnapped a key witness and attempted unlawful arrests. The record recounts that even federal agencies recognized these violations: the Augusta, Georgia FBI and U.S. Attorney's Office intervened in 2020 to stop a "*false, hostile arrest,*" acknowledging petitioner "*did not deserve any of this.*" (R. 1, Compl. 3–4, W.D. Ky. No. 3:23-cv-526-BJB; App. 43a).

Such conduct cannot be considered discretionary or protected by immunity—it is precisely the type of extra-constitutional abuse these doctrines were never intended to shield. *See Dennis v. Sparks*, 449 U.S. 24 (1980).

By extending immunity to officials acting with personal or retaliatory motives, the Sixth Circuit's decision transforms legal protections into impunity, contrary to separation-of-powers principles and this Court's stated limits in *Harlow v. Fitzgerald*, 457 U.S. 800 (1982).

III. The Case Offers Clear Record Evidence and a Federal Question of Exceptional Importance

This case presents a rare, documented instance of one federal office (Augusta FBI) acknowledging and halting illegal acts by another, and of a state senator—Kentucky Senator Adrienne Southworth—formally appealing to Justice Brett M. Kavanaugh for oversight due to confirmed corruption in petitioner's proceedings. (R. 1, Ex. A; CA6 T.R. 31, Ex. 2; App.68a). The courts below ignored both documents despite their relevance to petitioner's constitutional claims of government retaliation and denial of access to an impartial forum.

These failures reveal a constitutional vulnerability that this Court alone can resolve: when immunity and institutional bias converge to foreclose review, citizens lose every form of lawful remedy—contrary to the principle articulated in *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803), that "*where there is a legal right, there must be a legal remedy.*" Absent this Court's intervention, a rule of law emerges wherein

citizens wronged by federal officers have rights without remedies, contradicting the constitutional maxim that the United States is a government of laws, not of men.

IV. National Uniformity Requires Supreme Court Resolution

This Court should grant review to resolve inconsistent applications of *Bivens*[2] and immunity doctrines among the circuits following *Egbert v. Boule*, 596 U.S. 482 (2022); "*Bivens remains a viable remedy where federal officials commit constitutional violations outside the scope of authorized duties, as recognized in Carlson v. Green*, 446 U.S. 14 (1980)." The Sixth Circuit's categorical expansion of immunity conflicts with the Ninth and Tenth Circuits, which maintain that immunity does not protect acts clearly outside the scope of governmental duties. The Court's intervention is indispensable to restore uniformity and to reaffirm that government actors cannot evade accountability for constitutional violations under the guise of immunity or institutional deference.

For these reasons, the *petition for a writ of certiorari* should be granted.

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[2] *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971).

RELIEF SOUGHT

Petitioner respectfully seeks the issuance of a writ of certiorari to review whether systemic disregard of pro se litigants and the expansion of immunity violate due process and the equal protection guarantees of the Constitution of the United States of America. The Petitioner also requests that he be allowed to argue the instant matter. As Justice Posner so stated, "*No one has ever seen this kind of thing and you have somehow overcome the attacks.*"

Respectfully submitted,

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November 6, 2025