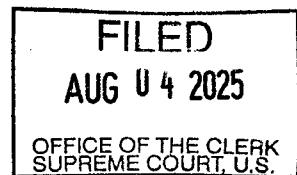


ORIGINAL

No. 25-6002



In the Supreme Court of the United States

**RAY LEONERDIRT DÍAZ SANTIAGO,**

Petitioner,

v.

**JOSÉ R. CARRIÓN, Chapter 13 Trustee, and**

**PLANET HOME LENDING, LLC, as Servicer**

**for Luna Residential III, LLC,**  
Respondents.

On Petition for a Writ of Certiorari to the

United States Court of Appeals for the First Circuit

(Case No. 24-9001)

**PETITION FOR A WRIT OF CERTIORARI**

Ray Leonerdirt Díaz Santiago

Pro Se Petitioner

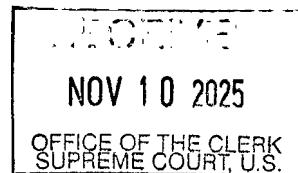
Calle Lago Guayo Ds-10, 5th Section

Levittown, Toa Baja, Puerto Rico 00949

Email: motivarteinc@gmail.com

Tel.: (787) 903-9981

November 4, 2025



## QUESTIONS PRESENTED

1. Whether a federal court of appeals violates Due Process and exceeds its jurisdiction under Article III by denying an emergency stay request without acknowledging that execution was carried out while the appeal was pending and while a Rule 41(d) motion to stay the mandate remained untransmitted by the Bankruptcy Appellate Panel.
2. Whether a Bankruptcy Court violates the Due Process Clause by failing to provide effective notice of critical proceedings via the Debtor Electronic Bankruptcy Noticing (DeBN) system, thereby enabling foreclosure and eviction without the debtor's actual knowledge or opportunity to be heard.
3. Whether, under *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56 (1982), a lower court loses jurisdiction to execute a writ of possession when an

appeal and motion to stay the mandate under FRAP  
41(d) are pending and unresolved.

## **CORPORATE DISCLOSURE STATEMENT**

Petitioner is an individual and has no parent corporation, and no publicly held corporation owns 10% or more of its stock.

## TABLE OF CONTENTS

Questions Presented ..... i

Corporate Disclosure Statement ..... iii

### **PETITION FOR A WRIT OF CERTIORARI**

1. Citations of Opinions Below and Orders .....	2
2. Statement of Jurisdiction .....	4
3. Statement of the Case .....	6
A. Bankruptcy Court Proceedings and Notice Failure	
.....	8
B. Bankruptcy Appellate Panel Transmission Failure	
.....	17
C. First Circuit Appeal and Continuing	
Constitutional Harm .....	25
4. Constitutional Violations .....	36

5. Subsequent Proceedings Before the U.S.	
Supreme Court .....	39
6. Reasons for Granting the Writ .....	43
I. Execution During Active Appeal Violated Article	
III .....	44
II. Denial of Due Process by Lack of Effective Notice	
.....	46
III. Conflict with Federal Rule of Appellate	
Procedure 41(d) ...	48
IV. Exceptional Importance of the Issues .....	
49	
V. This Case Is an Ideal Vehicle for Review .....	
50	
Conclusion .....	
54	
Certificate of Service; Certificate of Compliance..	
55-58	
<b>Index to Appendix; Appendix.....</b>	
i-iii; 1-71	

## TABLE OF AUTHORITIES

Cases.	Page
Bowles v. Russell, 551 U.S. 205 (2007) .....	23, 38
Bullard v. Blue Hills Bank .....	52, 54
Greene v. Lindsey, 456 U.S. 444 (1982) ...	14, 47
Griggs v. Provident Consumer Disc. Co., 459 U.S. 56 (1982) .....	22, 26, 44, 45
Harris v. University of Massachusetts Lowell, 43 F.4th 187 (1st Cir. 2022) .....	2, 30, 32

Hohn v. United States, 524 U.S. 236 (1998)	
.....	24, 38
Mathews v. Eldridge, 424 U.S. 319 (1976)	
.....	23, 27, 35, 37
Mullane v. Central Hanover Bank & Trust Co.,	
339 U.S. 306 (1950) .....	13, 22, 35, 37, 47
United States v. Armstrong, 517 U.S. 456 (1996)	
.....	14

## **FEDERAL RULES AND PROCEDURES**

1. Federal Rule of Appellate Procedure 8(a)(2)	
.....	3, 18, 19, 25, 28, 30, 35, 57
2. Federal Rule of Appellate Procedure 11(a)	
.....	19, 25, 28, 31, 35
3. Federal Rule of Appellate Procedure 40	
.....	35
4. Federal Rule of Appellate Procedure 41(d)	
.....	5, 6, 7, 17, 20, 24, 35, 43, 45, 46, 48, 49
5. Federal Rules of Bankruptcy Procedure Rule	
7004 .....	15
6. Federal Rule of Bankruptcy Procedure 8020(b)	
.....	27
7. First Circuit Bankruptcy Appellate Panel	
Local Rule 8006-1 .....	19, 28

8. First Circuit Bankruptcy Appellate Panel	
Local Rule 8020-1 .....	27

---

## **CONSTITUTION AND STATUTES**

1. 11 U.S.C. § 1322(b) .....	53
2. 11 U.S.C. § 1325(a) .....	53
3. Fifth Amendment – Due Process Clause	
.....	4, 6, 10, 13, 22, 37
4. Article III of the United States Constitution	
.....	5, 21, 25, 30, 32, 37
5. 28 U.S.C. § 1254(1) – Supreme Court	
Jurisdiction for Certiorari .....	4
6. 28 U.S.C. § 2101(f) – Stay Pending Disposition	
of Certiorari .....	21
7. Supreme Court Rule 10(a) and (c) – Grounds	
for Granting Certiorari ....	40

8. Supreme Court Rule 13(3) – Mandate and Out-of-Time Petitions .....	4, 36
9. Supreme Court Rule 22.4 – Renewed Emergency Applications .....	41, 42
10. Supreme Court Rule 23 – Stay Pending Disposition of Certiorari .....	40
11. Supreme Court Rule 33.1(d) and (g) – Formatting and Compliance .....	57

---

## **LOCAL RULES AND PROCEDURES**

1. Debtor Electronic Bankruptcy Noticing (DeBN) System .....	8, 9, 14, 15, 46, 50
2. District of Puerto Rico Bankruptcy Court's Electronic Notice Policies .....	15

**In the Supreme Court of the United States**

**RAY LEONERDIRT DIAZ SANTIAGO**

**Petitioner**

v.

**JOSE R. CARRION, Chapter 13 Trustee, and**

**PLANET HOME LENDING, LLC, as**

**Servicer**

for Luna Residential III, LLC,

Respondents.

On Petition for a Writ of Certiorari to the United

States Court of Appeals for the First Circuit

**PETITION FOR A WRIT OF CERTIORARI**

Petitioner Ray Leonerdirt Díaz Santiago respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the First Circuit, which affirmed proceedings arising from the United States Bankruptcy Court for the District of Puerto Rico and the Bankruptcy Appellate

Panel for the First Circuit. This case presents substantial constitutional questions involving due process violations, lack of electronic notice, and ultra vires actions impacting vested property rights.

### **1. Citations of Opinions Below and Orders**

The judgment of the United States Court of Appeals for the First Circuit was entered on April 10, 2025, in *In re Ray Leonerdirt Diaz Santiago*, No. 25-9001. The court issued a judgment dismissing the appeal as moot following foreclosure and eviction, citing *Harris v. Univ. of Mass. Lowell*, 43 F.4th 187 (1st Cir. 2022).

The judgment and order are unreported but reproduced in the (Appendix at 34-43).

The First Circuit subsequently denied Petitioner's timely Motion for Panel Rehearing and Rehearing En Banc and his Emergency Motion to Stay the Mandate on May 14, 2025. See Order of May 14, 2025

(Appendix 57-60). The mandate issued on May 16, 2025 (Appendix 60-63).

The decision of the United States Bankruptcy Appellate Panel for the First Circuit (BAP No. PR 24-019), entered on March 12, 2025, denied Petitioner's emergency motions for stay pending appeal and declined to transmit the emergency motion to the Court of Appeals under FRAP 8(a)(2). This order is unreported but reproduced in the appendix at 24-28.

The underlying order of the United States Bankruptcy Court for the District of Puerto Rico (Case No. 24-01333-EAG13), entered on May 22, 2024, granted Planet Home Lending's Motion for Entry of Order That No Stay Is in Effect (Docket No. 19), effectively terminating the automatic stay. That order is reproduced in the appendix at 11-13.

The bankruptcy court subsequently dismissed Petitioner's Chapter 13 case with a six-month bar to refiling on August 9, 2024 (Appendix 20-22).

## **2. STATEMENT OF JURISDICTION**

The judgment of the United States Court of Appeals for the First Circuit was entered on April 10, 2025. A timely petition for rehearing and rehearing en banc was denied on May 14, 2025, and the mandate issued on May 16, 2025. This petition is timely filed under Supreme Court Rule 13(1) and (3).

This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1), which authorizes review by writ of certiorari of final judgments of the United States courts of appeals.

This case presents substantial and recurring questions of federal law regarding:

- the constitutional guarantee of Due Process under the Fifth Amendment;

- Article III limitations on lower court jurisdiction during the pendency of an appeal; and
- the proper application of Federal Rule of Appellate Procedure 41(d) concerning stays of mandate.

The standard of review for the constitutional questions raised herein is *de novo*.

This petition respectfully seeks a writ of certiorari to review the judgment of the United States Court of Appeals for the First Circuit, which allowed the execution and loss of Petitioner's home during active appellate review without proper notice, violating fundamental constitutional rights to Due Process and depriving the court of jurisdiction over the property.

This case raises important questions about the integrity of federal appellate procedure, constitutional notice requirements in bankruptcy, and the power of lower courts to allow enforcement

actions while an appeal and stay request are pending under Federal Rule of Appellate Procedure 41(d).

The First Circuit's denial of relief—despite its own order acknowledging jurisdictional confusion and failure of the Bankruptcy Appellate Panel (BAP) to transmit an emergency motion—demonstrates a structural breakdown requiring this Court's intervention.

Petitioner lost possession of property valued at approximately \$580,000 as a direct result of this constitutional and procedural failure.

This case involves violations of the Due Process Clause under the Fifth Amendment to the U.S. Constitution, as the challenged actions were carried out by federal bankruptcy courts.

### **3. STATEMENT OF THE CASE**

Petitioner Ray Leonerdirt Diaz Santiago seeks review of the First Circuit's refusal to stay the mandate and restore possession of his home, despite clear evidence that the property was unlawfully executed upon during active appellate review and while a Rule 41(d) emergency stay motion was pending but never transmitted by the Bankruptcy Appellate Panel (BAP).

Petitioner owned a residence in Puerto Rico valued at approximately \$580,000, with substantial equity and continuous improvements. He filed for bankruptcy protection in the United States Bankruptcy Court for the District of Puerto Rico (Case No. 24-01333).

**Note on Emergency Motions Exhibits:**

Petitioner includes herein only the cover pages of filed emergency motions as proof of timely submission and to demonstrate procedural failures

by lower courts in processing such filings. Should this Honorable Court require the full text of any emergency motion for further review, Petitioner will promptly furnish certified copies upon request.

**A. Chronology of Key Events – Part 1:**

**Bankruptcy Court Proceedings and Notice**

**Failure Case Num. 24-01333**

This case was opened on April 1, 2024. On April 15, 2024, Petitioner formally filed a <sup>1</sup>Debtor Request to Update Account Information for Electronic Noticing (Entered: 04/15/2024) in the U.S. Bankruptcy Court for the District of Puerto Rico. This filing expressly designated DeBN (Debtor Electronic Bankruptcy Noticing) as the official method of service for all future notices. Petitioner relied in good faith on this

---

<sup>1</sup> Debtor Request to Update E-Noticing, Apr. 15, 2024 (App. 1-8)

federal electronic communications system to ensure constitutionally sufficient notice.

Two weeks later, on May 2, 2024, opposing counsel filed a <sup>2</sup>Motion requesting entry of order that no stay is in effect (Entered: 05/02/2024) on behalf of Planet Home Lending, LLC. This critical motion was not served on Petitioner via DeBN, nor through regular mail.

Later that same month, Judge Edward Godoy entered an <sup>3</sup>ORDER (Entered: 05/22/2024) granting Planet Home Lending's motion that no stay was in effect. Again, Petitioner received no notice of this motion or order, either electronically or by mail.

---

<sup>2</sup> Motion That No Stay Is in Effect, Planet Home Lending, LLC, May 2, 2024 (App. 9-11).

<sup>3</sup> Order Granting No Stay Motion, May 22, 2024 (App. 11-13).

Petitioner can demonstrate by personal <sup>4</sup>email records and court docket (screenshots attached) that electronic notices from the Bankruptcy Court stopped arriving between April 18, 2024 and May 21–22, 2024. This gap in service deprived Petitioner of any meaningful opportunity to respond or be heard in violation of the Due Process Clause of the Fifth Amendment.

This constitutional violation is especially stark given that Petitioner had an active proposed payment plan and mortgage payments were current at the time these motions were filed and granted without notice.

---

<sup>4</sup> Email records and court docket (screenshots attached) showing that electronic notices from the U.S. Bankruptcy Court for the District of Puerto Rico stopped arriving between Apr. 18, 2024, and May 21–22, 2024 (App. 13-15).

## **Transcript Evidence of Acknowledged Notice**

### **Error**

At the Section 341 meeting held near the end of these proceedings, Judge Godoy personally acknowledged a failure in the court's communications system. Yet the court refused to correct the resulting prejudice. The following excerpt from the 11 U.S. Code § 341 transcript (pp. 21–22) confirms this error:

<sup>5</sup>MR. DIAZ: No. No, no, no, but we put in the – I have putting in the docket 12 I need all my communication electronic. Do you know what is the proposed –

---

<sup>5</sup> 11 U.S. Code § 341 Meeting Transcript, pp. 21–22 (App. 15-20).

THE COURT: Marta, do you know what happened to docket 12?

THE CLERK: Judge, I have not seen those type of documents.

MR. DIAZ: The purpose of the technology in humanity is not to make wars.

THE COURT: Well, yes, exactly. Well, I mean, we will look into docket 12. But that's not going to get you back the automatic stay

MR. DIAZ: Communication, sir, check?

THE COURT: As I said, we will look into docket 12 if the case is not dismissed. But that's not going to get you back the automatic stay.

Despite this admitted failure in the record, the court explicitly declined to reverse or modify its decision, leaving Petitioner without any meaningful remedy for the lack of notice—culminating in the dismissal

<sup>6</sup>order of August 9, 2024 (Case No. 24-01333-EAG13), which barred refiling for six months.

---

## Constitutional Protections and Authorities Supporting This Claim

### 1. Fifth Amendment Due Process Clause

- The Due Process Clause requires that notice be “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” (*Mullane v.*

---

<sup>6</sup> Order of Aug. 9, 2024, Case No. 24-01333-EAG13, U.S.

Bankruptcy Court for the District of Puerto Rico, barring refiling for six months (App. 20-22).

*Central Hanover Bank & Trust Co., 339*

*U.S. 306, 314 (1950)).*

- When electronic notice is designated and required by the court's own system, failure to use it is constitutionally defective.

*2. Greene v. Lindsey, 456 U.S. 444 (1982)*

- The Supreme Court held that courts violate due process when they use a method of service they know to be unreliable. Petitioner repeatedly informed the court about notice failures in both DeBN and regular mail.

*3. United States v. Armstrong, 517 U.S. 456*

*(1996)*

- Reinforces that the government must apply its own procedural rules fairly and without discriminatory or arbitrary

application. Failure to send notice via DeBN after accepting the designation is arbitrary and capricious.

4. Rule 7004 of the Federal Rules of Bankruptcy Procedure

- o Requires service “in the manner provided by Rule 4” and consistent with due process standards.

5. Local Bankruptcy Court’s DeBN Procedures

- o The District of Puerto Rico’s own policies mandate electronic service when a debtor opts into DeBN. Failure to comply with this policy violates both local rules and constitutional minimums.

---

Grounds for Certiorari

This failure of notice is not a mere technical defect: it is a structural due process violation that enabled a series of ex parte orders culminating in the loss of Petitioner's home and studio without any meaningful opportunity to be heard. The matter concerning the failure of regular mail delivery will be addressed subsequently, with supporting evidence from the First Circuit's docket.

Because bankruptcy proceedings often involve vulnerable debtors, strict enforcement of notice standards is essential to prevent precisely this kind of unjust deprivation of property rights.

Supreme Court review is warranted to confirm that lower federal courts may not disregard designated electronic notice systems and then enforce critical orders without constitutionally adequate service.

This fundamental notice failure in the Bankruptcy Court set the stage for the second procedural error in this case: the Bankruptcy Appellate Panel's failure to transmit the Emergency Motion under FRAP 41(d), as described in the next section.

**B. Chronology of Key Events – Part 2:**

**Bankruptcy Appellate Panel Transmission Failure**

This case was opened on<sup>7</sup> "Notice of Appeal" 08/20/2024. Following the due process failures in the Bankruptcy Court, Petitioner appealed to the United States Bankruptcy Appellate Panel (BAP) for the First Circuit in Case No. PR 24-019.

---

<sup>7</sup> "Notice of Appeal," filed Aug. 20, 2024, to the U.S. Bankruptcy Appellate Panel for the First Circuit, Case No. PR 24-019 (App. 22-24).

After extensive litigation before the <sup>8</sup>BAP, Judge Katz dismissed Petitioner’s emergency stay motions on March 12, 2025, declaring them “moot.” Critically, this denial rested on a fundamental procedural misunderstanding. The BAP mischaracterized Petitioner’s <sup>9</sup>Emergency Motion for Stay Pending Appeal Pursuant to FRAP 8(a)(2) filings on March 12, 2025, which—under controlling federal rules—were not requests for reconsideration by the BAP itself but motions that must be transmitted to the U.S. Court of Appeals for the First Circuit for adjudication.

---

<sup>8</sup> BAP Order by Judge Katz, Mar. 12, 2025 (App. 24-28).

<sup>9</sup> First Emergency Motion for Stay Pending Appeal, filed Mar. 12, 2025 (App. 28-30).

Under Federal Rules of Appellate Procedure, the BAP had a ministerial, mandatory duty to transmit those motions:

- Fed. R. App. P. 8(a)(2): If the lower court denies or does not afford relief on a motion for stay pending appeal, “a motion for such relief may be made to the court of appeals.”
- Fed. R. App. P. 11(a): Requires the clerk of the lower court (here, the BAP) to transmit the record (including emergency motions) promptly to the Court of Appeals.
- BAP Local Rule 8006-1: Incorporates these transmission obligations, reinforcing the duty to forward filings intended for appellate review.

Petitioner explicitly filed a “<sup>10</sup>NOTICE REGARDING TRANSMISSION OF COMMUNICATIONS” on March 13, 2025, explaining these rules to the BAP:

“When a Notice of Appeal is filed, emergency motions may be submitted immediately thereafter... transmission of communications between courts follows specific procedural steps... and this did not occur, resulting in irreparable harm.”

Despite this notice, the BAP failed to perform its non-discretionary duty to transmit the emergency motion for stay of mandate under FRAP 41(d) to the Court of Appeals. Instead, it denied the motion as if it retained jurisdiction over the stay request—even

---

<sup>10</sup> Notice Regarding Transmission of Communications (App. 30-33).

though jurisdiction had already vested in the Court of Appeals upon filing of the notice of appeal.

This procedural failure caused irreparable harm. Petitioner lost the opportunity to seek timely emergency relief in the First Circuit before the foreclosure and eviction were carried out.

---

Relevant Constitutional Protections and Binding Precedents

This breakdown in transmission procedure implicates fundamental constitutional rights:

- Article III Limits on Jurisdiction: Once the appeal was docketed, the BAP was divested of jurisdiction over stay motions addressed to the Court of Appeals.

- *Griggs v. Provident Consumer Disc. Co.*,  
*459 U.S. 56 (1982)*: “The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.”
- By purporting to deny the stay on the merits rather than transmitting it, the BAP acted ultra vires.
- Fifth Amendment Due Process: The failure to transmit the motion denied Petitioner a meaningful opportunity to be heard by the correct tribunal at a critical stage.
  - *Mullane v. Central Hanover Bank*, *339 U.S. 306 (1950)*: Notice must be “reasonably calculated, under all the

circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.”

- *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976): Due process requires opportunity to be heard “at a meaningful time and in a meaningful manner.”
- By blocking transmission, the BAP foreclosed appellate review precisely when it was most needed.

- Structural Integrity of Appellate Procedure:
  - *Bowles v. Russell*, 551 U.S. 205 (2007): Federal appellate deadlines and procedural rules are jurisdictional and must be strictly followed.

- *Hohn v. United States, 524 U.S. 236, 241 (1998):* The right of appellate review is a fundamental element of due process in the federal system.

---

#### Consequences of This Violation

This error was not harmless. By failing to transmit the emergency stay motion:

- Petitioner was denied review of the FRAP 41(d) motion by the Court of Appeals.
- The foreclosure and eviction were executed while appellate jurisdiction was active.
- The error enabled permanent loss of possession of real property valued at approximately \$580,000, which also served as Petitioner's professional studio—causing both personal and economic devastation.

This is exactly the kind of structural, jurisdictional error that warrants certiorari review. It implicates constitutional due process protections, Article III jurisdictional boundaries, and the uniform application of Federal Rules of Appellate Procedure critical to ensuring fair appellate review.

**C. Chronology of Key Events – Part 3: First Circuit Appeal and Constitutional Harm from Inter-Court Procedural Failures**

This case was opened “<sup>11</sup>Notice of Appeal” on March 10, 2025. After the Bankruptcy Appellate Panel (BAP) failed to transmit the emergency motion for stay pending appeal as mandated under FRAP 8(a)(2) and FRAP 11(a), Petitioner, Ray Leonerdirt Diaz Santiago, was compelled to file a renewed 2<sup>nd</sup>

---

<sup>11</sup> Notice of Appeal, Mar. 10, 2025 (App. 33-34).

<sup>12</sup>Emergency Motion for Stay directly with the U.S. Court of Appeals for the First Circuit on March 25,2025, within Case No. 25-9001.

The procedural failures began earlier that month. On, March 25,2025 Judge Enrique Katz of the BAP denied Petitioner's emergency motions and wrongly asserted jurisdiction, despite the fact that a Notice of Appeal had already divested the BAP of such jurisdiction under *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56 (1982). Even after Petitioner filed a NOTICE REGARDING TRANSMISSION OF COMMUNICATIONS on March13,2025, clarifying that the emergency motion was for the Court of

---

<sup>12</sup> Second Emergency Motion for Stay, filed Mar. 25, 2025, First Circuit, Case No. 25-9001 (App. 34-36).

Appeals, the BAP declined to transmit the motion in violation of its ministerial duties.

Worse still, Judge Katz included language in his denial suggesting that Petitioner's filings were "vexatious" and warned of sanctions under Fed. R. Bankr. P. 8020(b) and 1st Cir. BAP L.R. 8020-1(c)—despite the fact that Petitioner was attempting to access the only available remedy due to the BAP's own procedural failure. This threat of sanction for pursuing valid procedural rights adds an unconstitutional chill on appellate access and violates the *Mathews v. Eldridge* standard of "meaningful opportunity to be heard."

**Failure to Follow Transmission Rules Between Courts**

The BAP's refusal to transmit the emergency motion as mandated under:

- Fed. R. App. P. 8(a)(2) – allowing emergency relief requests to be made to the appellate court once the lower court fails to act;
- Fed. R. App. P. 11(a) – requiring prompt transmission of records, including pending motions, once appeal is docketed;
- 1st Cir. BAP L.R. 8006-1 – incorporating these obligations,

constituted a structural breakdown in the chain of appellate review. Petitioner was forced to duplicate efforts and create new filings due to this failure.

#### First Circuit Proceedings and Constitutional Injury

On March 26, 2025, the First Circuit responded to

Petitioner's direct <sup>13</sup>Emergency Motion by ordering

---

<sup>13</sup> Emergency Motion to compel Appellees to respond within five days on jurisdictional dismissal (App. 36-38).

Appellees to respond within five days and to state their position on whether the appeal should be dismissed for lack of jurisdiction. This shows that had the BAP properly transmitted the earlier motion, emergency review might have been granted before foreclosure or eviction was completed.

The court later issued its final ruling <sup>14</sup>Order in Case No. 25-9001 via judgment dated April 10, 2025, dismissing the appeal as moot based on the fact that:

- The foreclosure and judicial sale occurred on July 1, 2024;
- The eviction had already taken place in March 26, 2025;

---

<sup>14</sup> Order, Case No. 25-9001, Apr. 10, 2025 (App. 38-43).

- The automatic stay was deemed lifted as of May 22, 2024, per the bankruptcy court's order.

The judgment cited *Harris v. Univ. of Mass. Lowell*, *43 F.4th 187 (1st Cir. 2022)*, reaffirming that courts lack jurisdiction over moot controversies and cannot issue advisory opinions under Article III of the U.S. Constitution.

### **Opinion Analysis and Its Connection to Constitutional Injury**

The April 10, 2025 opinion in Case No. 25-9001 (Document: 00118271098) illustrates how the court's judgment was inherently shaped by the procedural deficiencies that preceded it. The opinion confirms that Petitioner's emergency motion under FRAP 8(a)(2) was not transmitted timely by the Bankruptcy Appellate Panel, forcing him to refile

directly with the Court of Appeals without full contextual briefing or accurate procedural background. The court noted that Petitioner failed to specify whether foreclosure or eviction proceedings were ongoing or to identify relevant dates—facts that had already occurred and should have been part of a complete and timely transmitted appellate record, had the BAP complied with its obligations under FRAP 11(a).

The First Circuit ultimately dismissed the appeal as moot, citing events that had already transpired before the court was able to engage in meaningful review. These included:

- The <sup>15</sup>foreclosure and judicial sale on July 1, 2024;

---

<sup>15</sup> Foreclosure and judicial sale, July 1, 2024 (App. 44-49).

- Petitioner's <sup>16</sup>eviction by March 26, 2025;
- The bankruptcy court's May 22, 2024 confirmation that the automatic stay had expired under § 362(c)(3)(A);
- And the expiration of the six-month injunction against refiling.

In its reasoning, the court explicitly cited *Harris v. Univ. of Mass. Lowell*, 43 F.4th 187 (1st Cir. 2022), affirming that Article III jurisdiction is limited to live controversies and forbids advisory opinions. Yet this mootness determination was not organic—it was procedurally manufactured by the lower court's failure to act, thereby obstructing timely appellate relief.

---

<sup>16</sup> Eviction, Mar. 26, 2025 (App. 49-54).

The court also dismissed all pending motions—including the emergency stay and the motion to consolidate with Appeal No. 24-1256—as moot, again as a consequence of irreversible steps taken in the interim due to the failure of ministerial procedural compliance.

#### Additional Evidence of Systemic Notice Failures

First, this very Court was already on notice—prior to the eviction—that postal mail was not reaching Petitioner’s address, as evidenced by a returned notice filed in the docket on June 25, 2025, in Case No. 25-9001 (<sup>17</sup>Document: 00118307999, Entry ID: 6733003). This return occurred well before the contested removal from the property, confirming that

---

<sup>17</sup> Petitioner’s address, returned notice, June 25, 2025, Case No. 25-9001 (App. 54-55).

even regular mail communications were not being delivered. When neither electronic notices nor postal mail reach a party, the expectation that they can participate meaningfully in time-sensitive judicial proceedings becomes not only unreasonable, but a direct violation of constitutional due process. These compounding failures created an environment where Petitioner was structurally barred from accessing judicial remedies at a meaningful time and in a meaningful manner.

### **Post-Judgment Motions and Final Denial of Appellate Relief**

Following the judgment issued on April 10, 2025, Petitioner timely filed a <sup>18</sup>Motion for Panel

---

<sup>18</sup> Motion for Rehearing and Rehearing En Banc, Apr. 22, 2025 (App. 55-57).

Rehearing and Rehearing En Banc on April 22, 2025, pursuant to Fed. R. App. P. 40. That same day, he filed an Emergency Motion to Stay the Mandate and for Immediate Restitution, pursuant to Rule 41(d), based on the structural due process violations that had impaired appellate review.

Despite raising clear violations of FRAP 8(a)(2), FRAP 11(a), and the Due Process Clause under *Mathews and Mullane*, the First Circuit denied both motions in a consolidated order issued on <sup>19</sup>Order May 14, 2025, and instructed that the mandate would issue forthwith. This denial was issued per curiam, with no individualized judicial explanation, despite the constitutional magnitude of the issues

---

<sup>19</sup> First Circuit Order denying both motions, May 14, 2025 (App. 57-60).

presented. In its May 16, 2025 formal <sup>20</sup>Mandate, the Court further admonished Petitioner to refrain from any additional filings, emphasizing its intent to close the case entirely. The mandate's language, along with its reference to Supreme Court Rule 13(3), effectively directed Petitioner to seek relief before the United States Supreme Court.

This procedural closure—despite pending constitutional concerns—solidified the jurisdictional barrier constructed by the earlier failures of ministerial transmission. It also forced Petitioner to escalate the matter to the nation's highest court in order to seek provisional restitution and review.

#### **4. CONSTITUTIONAL VIOLATIONS**

---

<sup>20</sup> Mandate with admonition to Petitioner to refrain from further filings (App. 60-63).

This sequence of procedural derailments created compounding constitutional injuries:

- Violation of Article III: The mootness determination was the result of delays that flowed directly from the BAP's failure to transmit the motion, thus creating a jurisdictional barrier that could have been avoided with timely action.
- Violation of the Fifth Amendment Due Process Clause:
  - *Mathews v. Eldridge*, 424 U.S. 319 (1976): The denial of a hearing “at a meaningful time and in a meaningful manner” due to the BAP’s inaction.
  - *Mullane v. Central Hanover Bank & Trust*, 339 U.S. 306 (1950): The failure to notify and transmit emergency communications to the proper appellate

forum constitutes denial of meaningful notice and opportunity to respond.

- Violation of Structural Rights to Appellate

Review:

- *Hohn v. United States*, 524 U.S. 236 (1998): Appellate review is a component of due process.
- *Bowles v. Russell*, 551 U.S. 205 (2007): Federal courts must strictly comply with jurisdictional deadlines and procedures. Here, the failure to comply with FRAP 8 and 11 caused irreversible loss.

#### Legal Consequences and Irreparable Harm

This confluence of violations led to the final and irrevocable deprivation of a constitutionally protected property interest—Petitioner's home and professional studio—valued at approximately

\$580,000. Petitioner was denied the opportunity to challenge these proceedings in a timely fashion, not through fault or delay of his own, but due to systemic failures between federal court units.

This breakdown presents an urgent and cert-worthy question of federal procedural integrity and constitutional due process, warranting review by the U.S. Supreme Court.

This breakdown presents an urgent and cert-worthy question of federal procedural integrity and constitutional due process, warranting review by the U.S. Supreme Court.

**5. SUBSEQUENT PROCEEDINGS BEFORE  
THE U.S. SUPREME COURT:  
EMERGENCY APPLICATIONS ARISING  
FROM DENIAL OF APPELLATE RELIEF**

In the wake of the First Circuit's mandate and final denial of all post-judgment motions—including the emergency request for stay and restitution—Petitioner was left with no alternative but to seek emergency relief before the Supreme Court of the United States. The following procedural chronology outlines Petitioner's efforts to secure constitutional review and provisional protection through properly filed emergency applications:

- May 27, 2025

Petitioner filed an Emergency Application for Stay of Mandate Pending Disposition of Petition for Writ of Certiorari, pursuant to Supreme Court Rule 23 and 28 U.S.C. § 2101(f), arising from the judgment entered in First Circuit Case No. 25-9001. The application was docketed as No. 24A1166 and

assigned to Justice Ketanji Brown Jackson for review.

- June 2, 2025

Justice Jackson denied the application (No. 24A1166) without opinion, leaving the mandate undisturbed and allowing irreparable harm to proceed unabated.

- June 27, 2025

Petitioner submitted a Renewed Emergency Application for Stay and Restoration of Possession, in accordance with Supreme Court Rule 22.4, and formally designated Justice Samuel A. Alito, Jr. to consider the renewed request. This renewed filing referenced the same constitutional violations and requested urgent intervention to prevent further injury.

- July 8, 2025

The Office of the Clerk of the Supreme

Court, through a signed letter from Deputy Clerk Robert Meek, confirmed that Petitioner's June 27 letter had been accepted for filing, and that the renewed emergency application was properly submitted to Justice Alito. The letter also noted that additional briefing or supplemental authority was not permitted under Rule 22.4, and thus no further written submissions would be accepted absent leave of Court.

These events reflect the extraordinary lengths Petitioner has been forced to undertake simply to preserve his right to be heard on the merits. As of the date of this filing, Petitioner has not received confirmation of a decision on the renewed emergency application, which remains pending before the Court. This prolonged lack of response prolongs the harm already incurred and underscores the systemic

breakdown in appellate access and constitutional protections that gave rise to this matter.

---

For these reasons, this Court should grant the petition for writ of certiorari.

## **6. REASONS FOR GRANTING THE WRIT**

This case presents exceptionally important questions of federal law about the constitutional limits on courts executing property judgments during pending appeals, the minimum standards of notice required under the Due Process Clause in bankruptcy proceedings, and the integrity of appellate procedure under Rule 41(d).

Certiorari is warranted under Supreme Court Rule 10(a) and (c) because the decision below conflicts with binding precedent of this Court and because it involves recurring, important questions about federal

appellate jurisdiction and due process in bankruptcy cases.

Moreover, the property was not merely a residence but also Petitioner's working studio, making its loss particularly devastating. This dual use underscores the severity of the due process violation, as the deprivation eliminated both housing security and the ability to generate income or continue professional creative work. Such harm is classically irreparable and strongly justifies the need for extraordinary relief.

## **I. The First Circuit Allowed Execution During Active Appellate Review**

In Violation of *Griggs v. Provident Under Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56 (1982), an appeal divests the district court of jurisdiction over matters involved in the appeal. Here, Petitioner timely filed an Emergency Motion to Stay the

Mandate and for Restoration of Possession under FRAP 41(d). This motion automatically invoked the appellate court's jurisdiction to preserve the status quo.

Yet the Bankruptcy Appellate Panel (BAP) failed to transmit that motion to the First Circuit, preventing it from acting on the stay request. During this jurisdictional vacuum, the foreclosure and eviction were carried out—even though the First Circuit later acknowledged, in its March 26, 2025 Order, that it had been unaware of the pending stay motion.

Permitting a foreclosure and eviction while the appellate court's jurisdiction was live and unresolved is irreconcilable with Griggs and strikes at the core of the federal appellate system's integrity.

Review is warranted to confirm that lower courts may not enforce property judgments during the

pendency of an appeal and a stay motion under Rule 41(d).

## **II. Petitioner Was Denied Fundamental Due Process by Lack of Effective Notice**

The Bankruptcy Court and Trustee failed to provide notice of critical proceedings via the Debtor Electronic Bankruptcy Noticing (DeBN) system, which Petitioner had designated for electronic service. As a result, Petitioner had no actual or effective notice of:

- Motion to lift the automatic stay
- Foreclosure judgment
- Issuance of writ of possession

These ex parte proceedings violated fundamental due process rights. This Court has held that due process requires notice “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an

opportunity to present their objections.” *Mullane v. Central Hanover Bank*, 339 U.S. 306 (1950).

In addition to the failure of electronic notice, Petitioner repeatedly made formal complaints that regular mail service was unreliable and that essential documents were not reaching his mailbox.

This systemic problem further deprived him of any meaningful opportunity to respond to court filings.

For example, the First Circuit’s Notice of Appeal in Case No. 25-9001 (Doc. 00118307999, filed June 25, 2025) highlights these notification failures by documenting when and how open case notices were eventually delivered despite prior gaps in delivery.

*In Greene v. Lindsey*, 456 U.S. 444 (1982), the Court confirmed that known defects in service methods violate due process. Here, the Bankruptcy Court and other parties were on notice of these service failures

but did not take any corrective measures to ensure Petitioner received constitutionally sufficient notice. Review is warranted to enforce these constitutional limits on notice in bankruptcy proceedings, which protect debtors from precisely this sort of irreparable deprivation of property rights.

III. The Decision Below Conflicts with Federal Rule of Appellate Procedure 41(d) Federal Rule of Appellate Procedure 41(d) expressly empowers the appellate court to stay the mandate and restore possession during review. Petitioner timely invoked this rule.

But the BAP's failure to transmit the stay motion to the First Circuit prevented meaningful review, enabling execution to proceed unlawfully. The First Circuit's eventual denial of relief, without accounting for the pending FRAP 41(d) motion, leaves future

litigants vulnerable to the same procedural breakdown.

This conflict with the text and purpose of FRAP 41(d) warrants this Court's intervention to preserve uniformity of federal appellate procedure.

#### IV. The Issues Presented Are of Exceptional Importance

This case involves the loss of a primary residence valued at approximately \$580,000, with substantial equity. Such irreparable harm demands the highest level of procedural protection.

If left uncorrected, the decision below will permit lenders and trustees to exploit notice defects in bankruptcy, enable enforcement during pending appeals without effective judicial review, and undermine federal appellate jurisdiction.

Moreover, these constitutional violations disproportionately impact vulnerable debtors who

rely on bankruptcy's procedural protections to avoid unjust foreclosure and eviction.

This Court's review is essential to vindicate fundamental principles of due process, protect the appellate process, and ensure equal treatment in the administration of justice.

#### **V. The Case Is an Ideal Vehicle for Clarifying These Important Questions**

The record squarely presents the constitutional and procedural defects:

- The First Circuit's March 26, 2025 Order acknowledging lack of notice about the stay motion.
- The BAP's failure to transmit the emergency motion.
- Verified evidence of lack of DeBN notice.
- The unlawful execution of possession during appellate review.

- Substantial property value and irreparable harm.

These issues are preserved and presented cleanly, making this an ideal vehicle for this Court's review. For these reasons, this Court should grant the petition for a writ of certiorari.

**Petitioner respectfully invokes the attention of the Honorable Chief Justice of the United States, John Glover Roberts Jr., to a core issue of constitutional and systemic significance:**

The loss of Petitioner's home occurred despite clear evidence that the real property held a market value significantly above both the appraised value used in bankruptcy and the final subasta (foreclosure auction) price. This raises a profound question of due process and economic equity in the implementation of Chapter 13 and foreclosure proceedings in the context of procedural breakdowns and notice failures.

In his review of *Bullard v. Blue Hills Bank*, Puerto Rican legal scholar Joel Pizá Batiz observed that:

“A secured claim based on the current value of the property amounting to \$245,000; and (2) an unsecured claim for the remaining value [...] amounting to \$101,000. The property was ‘underwater’ (the value of the property is substantially less than the debt owed to the bank).”

This framework illustrates the Plimsoll Line analogy, which Petitioner invokes here: when a vessel is submerged past the Plimsoll line, it is overloaded and vulnerable. In this case, the procedural ship sank—not because of financial overburden—but because of systemic error: the denial of review, transmission failures between tribunals, and unconstitutional notice defects.

Petitioner asserts that, contrary to the “underwater” context in Bullard, the subject property had positive

equity exceeding \$580,000 in professional comparable by <sup>21</sup>Luis Abreu & Asoc and that value was ignored due to procedural defaults, not substantive insolvency. The foreclosure process moved forward in absence of proper appellate review and despite ongoing motions before the First Circuit and Supreme Court—compromising the constitutional integrity of the process.

Thus, this is not a case of using appeals as delay tactics, but rather a case in which the judicial system failed to recognize and preserve clear equity that should have protected the Petitioner's home from unlawful execution. Accordingly, because the subject property carried substantial positive equity well above the secured and unsecured debt, Petitioner

---

<sup>21</sup> Professional valuation by Luis Abreu & Asoc, ignored due to procedural defaults (App. 64-68).

was legally eligible to propose and confirm a feasible Chapter 13 repayment plan under 11 U.S.C. §§ 1322(b) and 1325(a), thereby preserving the property and ensuring full creditor satisfaction. As recognized in *Bullard v. Blue Hills Bank*, 575 U.S. 496 (2015), the denial or confirmation of a Chapter 13 plan represents a critical procedural juncture with direct consequences on the debtor's rights. Here, unlike Bullard's "underwater" scenario, Petitioner's positive equity rendered the property a viable asset to sustain a confirmable plan, and the foreclosure extinguished that statutory right in violation of due process protections.

Petitioner respectfully requests immediate intervention and restoration of possession pending certiorari review.

## **7. CONCLUSION**

This case represents more than a technical failure—it is a constitutional collapse that resulted in the loss of a home, a studio, and access to justice. When lower courts disregard due process, ignore required notice procedures, and obstruct appellate review through ministerial failures, the consequences are not merely procedural—they are personal, permanent, and unconstitutional. Certiorari is warranted to restore faith in federal judicial procedure and to ensure that these errors do not repeat for others similarly situated.

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

#### **CERTIFICATE OF SERVICE**

I hereby certify that on November 4, 2025, a true and correct copy of the foregoing

Petition for Writ of Certiorari was served via email

and U.S. Mail on the following parties:

- Jose R. Carrion, Esq.

Chapter 13 Trustee

PO BOX 9023884

Old San Juan Station

San Juan, PR 00902

- Planet Home Lending, LLC

Equity Mortgage

1651 PR 25, Suite 102

San Juan, PR 00909

- Sara Law LLC

Sergio A. Ramírez de Arellano, Esq.

Banco Popular Center, Suite 1822

209 Muñoz Rivera Ave.

San Juan, PR 00918-1009

## **CERTIFICATE OF COMPLIANCE**

I further certify that the \$300 docketing fee required for a petition for writ of certiorari was paid by the undersigned, pursuant to Supreme Court Rule 38(a).

Pursuant to Supreme Court Rule 33.1(h), I certify that this document complies with the word-limit of Rule 33.1(g). Using Microsoft Word, the word-processing system's count (which includes footnotes) shows 5,732 words, excluding the parts exempted by Rule 33.1(d). The document was prepared in 12-point Century Schoolbook. Pursuant to Supreme Court Rule 14.1(i), the materials required to accompany the petition —including the opinions, orders, and relevant parts of the record below— are incorporated as an Appendix at the end of this Petition for a Writ of Certiorari, rather than in a separate volume, consistent with the Rule's requirement that such materials accompany the petition in proper sequence.

I declare under penalty of perjury that the foregoing  
is true and correct under 28 U.S.C. § 1746.

RESPECTFULLY SUBMITTED,



Ray Leonerdirt Diaz Santiago

Condominium Atlantis #404

Constitution Ave. Suite 1706

San Juan P.R. 00901

Email: motivarteinc@gmail.com

Phone:(787)903-9981

Temporary Postal Address:

Calle Lago Guayo Ds-10 5th

section Levittown

Toa Baja Puerto Rico 00949