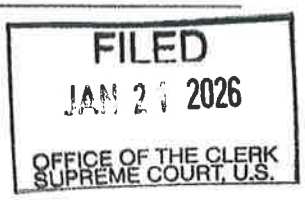
IN THE SUPREME COURT OF THE UNITED STATES

No. 25-6128



IN RE JOSEPH CAMMARATA,

Petitioner.

PETITION FOR REHEARING

(Supreme Court Rule 44.2)

JOSEPH CAMMARATA

Reg. No. 02555-506

Federal Prison Camp Montgomery

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Petitioner, Pro Se

INTRODUCTION

The original petition for writ of mandamus presented a single threshold question: whether a court of appeals may refuse to adjudicate a properly raised, non-waivable subject-matter jurisdiction challenge—not by ruling, but by silence. This Court denied mandamus without addressing that question. The denial left intact a documented pattern of institutional non-adjudication that has now produced irreversible consequences, and left unresolved structural conflicts that explain why no court in this proceeding has been willing to engage.

This Petition for Rehearing does not re-argue the mandamus. It presents three categories of grounds warranting rehearing under Rule 44.2: (1) the question presented was not adjudicated; (2) intervening circumstances of controlling effect have occurred since the denial; and (3) substantial grounds not previously presented—specifically, Judge Kenney's undisclosed financial interest in the subject matter of the prosecution—have now been confirmed through public records and his own on-the-record admissions.

I. THE QUESTION PRESENTED REMAINS UNANSWERED

The mandamus petition asked this Court to compel the Third Circuit to perform its antecedent, non-discretionary duty to adjudicate subject-matter jurisdiction once properly raised. The denial of mandamus issued without addressing whether the Court of Appeals' refusal to decide jurisdiction is itself constitutionally permissible. That question—whether any court may permanently avoid a non-waivable jurisdictional challenge through non-adjudication—remains entirely unresolved. Every day it goes unanswered, it is available to every federal court of appeals as a method of disposing of cases it would prefer not to decide.

The record across four proceedings documents what that practice looks like in operation:

Case No. 23-2110 (Criminal Appeal).

This Court's controlling precedent in Sprint Communications Co. v. APCC Services, Inc., 554 U.S. 269 (2008), establishes that the conduct underlying the prosecution is lawful. Sprint was suppressed in violation of Brady and withheld through the failure to issue the mandatory Rule 5(f) order. The Third Circuit has never addressed Sprint, never addressed jurisdiction, and never addressed the suppression. The conviction stands on a legal theory this Court's own precedent forecloses.

Case No. 24-1381 (Civil SEC Appeal).

This appeal has been pending for nearly two years. The SEC has never filed a response brief. The docket has been frozen at ECF No. 91 since September 12, 2025—complete institutional silence. The government's failure to respond is not an oversight. To file a brief, the SEC's attorneys would be required to argue in writing, under Rule 11, that collateral estoppel applies when the predicate issue was never litigated, controlling authority was suppressed, and the sentencing judge confirmed the issue was not decided. No attorney has been willing to write those words. The silence is an admission. The Third Circuit has extended the SEC's deadline repeatedly while the civil judgment—entered without jurisdiction, by a conflicted judge, on collateral estoppel that fails every required element—remains in force. The reason no court will engage is not procedural. The lead SEC prosecutor is John V. Donnelly III. His spouse, Jeanne M. Donnelly, is employed in the Executive Office of the United States Court of Appeals for the Third Circuit—the court before which all four of Petitioner's appeals are pending. This was never disclosed. When Petitioner filed a judicial misconduct complaint documenting bias and prosecutorial misconduct, it was routed through that same Executive Office for review. The result was a summary denial without findings. The office responsible for reviewing the misconduct was staffed by the spouse of the subject of the complaint.

Case No. 24-1983 (Tax Appeal).

The tax prosecution was returned September 22, 2022—three weeks before the fraud trial began—predicated entirely on the unproven fraud allegations as established fact. The grand jury

was told the payments were stolen money. Without the fraud conviction, there is no stolen money and no tax evasion. This appeal was fully briefed on Rule 5(f) violations, Brady violations, prosecutorial misconduct, and Sixth Amendment failures. The case was calendared for December 2, 2025. Appellant's counsel filed no argument acknowledgment and made no appearance. The case was submitted on the papers before a panel that includes Chief Judge Chagares—the same judge who authored the one-sentence order, without reasons, denying disqualification of the entire Third Circuit. As of this filing, more than four months after submission, no decision has issued.

Case No. 25-1188 (Mandamus).

The emergency mandamus petition filed January 6, 2025 documented lack of subject-matter jurisdiction, prosecutorial misconduct, due process violations, and conflicts of interest. The government entered appearances and filed no substantive response. The petition sat unopposed for over a year. Denial came without a word of analysis, without addressing any jurisdictional argument, and without explaining why an unopposed petition alleging non-waivable constitutional defects did not warrant adjudication.

II. INTERVENING CIRCUMSTANCES: THE MARCH 6, 2026 FORFEITURE ORDERS

On March 6, 2026, the district court entered two forfeiture orders in Case No. 21-cr-427: ECF No. 478 (Amended Order of Forfeiture, targeting Petitioner's residence) and ECF No. 479 (Preliminary Order of Forfeiture for Substitute Assets, targeting a financial account). These orders are the culmination—not the beginning—of the deprivation. Since November 2021, assets exceeding $100 million have been frozen and seized under orders entered without jurisdiction, without valid process, and without a single merits ruling at any level. The forfeiture orders now seek to make that deprivation permanent and irreversible.

Every constitutional defect presented in the original mandamus petition runs directly through the judgment these orders enforce: the void TRO, the suppressed Sprint precedent, the collateral

estoppel that fails all four required elements, the derivative tax prosecution built on the unproven fraud as established fact. Enforcement of the forfeiture orders would cement every violation into a permanent result. This constitutes intervening circumstances of substantial and controlling effect under Rule 44.2.

III. SUBSTANTIAL GROUNDS NOT PREVIOUSLY PRESENTED: JUDGE KENNEY WAS A CLASS MEMBER IN THE SETTLEMENTS HE PRESIDED OVER—AND ADMITTED IT ON THE RECORD

The original mandamus petition identified Judge Kenney's spousal conflict. What could not then be presented—because the analysis had not been completed—is what publicly filed financial disclosure reports now confirm: Judge Kenney personally held stock in companies whose securities class action settlements were the specific subject matter of this prosecution. He was not a judge with a tangential financial interest. He was an eligible class member in the same settlement funds into which Petitioner filed claims.

The mechanics of the prosecution make this disqualifying under 28 U.S.C. § 455(b)(4). Alpha Plus filed claims in securities class action settlements on behalf of investors who held stock in publicly traded companies during court-approved settlement class periods. The government's own grand jury witnesses confirmed: to qualify for a settlement, a claimant must have held the specific security during the specific class period and suffered a loss. Petitioner also filed claims in all of the settlements at issue—the filing of those exact claims is the charged basis of the entire prosecution. Judge Kenney held stock in those same companies during those same periods. He was an eligible class member in those same settlements. He had a direct financial interest in whether settlement funds were diminished by the very conduct he was adjudicating. Disqualification under § 455(b)(4) was mandatory. It never occurred.

These grounds were not presented in the original petition because judicial financial disclosure reports are filed with a multi-year delay and are not searchable by case or subject matter. The cross-referencing of Judge Kenney's holdings against the specific settlements at issue was

completed only after the mandamus denial. They satisfy Rule 44.2 as substantial grounds not previously presented.

The Three-Year Record of Holdings.

Judge Kenney's publicly filed disclosures for 2018, 2019, and 2020 document individual equity positions in companies subject to the settlements at issue, including:

> 2018 (all purchased December 24, 2018): Apple (AAPL), Alphabet/Google (GOOGL), Amgen (AMGN), Becton Dickinson (BDX), Berkshire Hathaway (BRKB), Best Buy (BBY), Boeing (BA), Broadridge (BR), Cisco (CSCO), Cummins (CMI), Danaher (DHR), Discover Financial (DFS), Dollar Tree (DLTR), Ecolab (ECL), EOG Resources (EOG), Exxon Mobil (XOM), Fortive (FTV), NextEra Energy (NEE), Northern Trust (NTRS), Nutrien (NTR), S&P Global (SPGI), Schlumberger (SLB), Ulta Beauty (ULTA), Walmart (WMT); plus Fidelity 500 Index Premium (FUSVX).
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> 2019: Apple, Exxon Mobil, Cisco, Walmart, FedEx (FDX), Danaher, Discover Financial, Ecolab, S&P Global, Broadridge, Booking Holdings (BKNG), Cummins, Dollar Tree, EOG Resources, Schlumberger, Simon Property Group (SPG), Ulta Beauty, Amgen, Alphabet, Becton Dickinson, Boeing, Best Buy, Fortive, NextEra Energy, Northern Trust, Nutrien, SS&C Technologies (SSNC), Total SA (TOT); plus Fidelity 500 Index Premium.
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> 2020 (the year the civil enforcement action was filed; the criminal indictment followed in October 2021): Apple, Boeing, Cisco, Danaher, Ecolab, EOG Resources, FedEx, Starbucks (SBUX), Walmart, Amgen, Adobe (ADBE), Becton Dickinson, Best Buy, NextEra Energy, Northern Trust, S&P Global, Broadridge, Dollar Tree, Fortive, Nutrien, SS&C Technologies, Total SA, Ulta Beauty; plus Fidelity 500 Index Premium (FUSVX) valued between $50,001 and $100,000.

Judge Kenney's Own Words.

On November 9, 2021—the first and only SEC hearing ever held—Judge Kenney held a proceeding in Petitioner's complete absence. Petitioner had received no notice and was simultaneously required to appear at his bail hearing at FDC Miami, detained 1,200 miles away. No continuance was granted. No accommodation was made. It was at this hearing, before a single piece of evidence had been presented, that Judge Kenney declared: "I consider this a crime against the courts." That statement was subsequently removed from the official transcript and replaced with "[inaudible]." (ECF No. 41, amended at ECF No. 46, 21-cv-4845.) The reaction of a judge holding equity in the settlement companies—before hearing any evidence—is not difficult to understand. He was reacting as a class member who believed he had been victimized.

The asset freeze, entered without jurisdiction in November 2021, stripped Petitioner of the funds to retain adequate counsel for post-trial proceedings and sentencing. On January 5, 2023, Judge Kenney denied a motion for release of funds for criminal defense (ECF No. 190, 21-cv-4845)—one day after it was filed, without a hearing. On March 6, 2023, the only funds released (ECF No. 223, 21-cv-4845) were restricted exclusively to appellate counsel fees. Nothing was released for post-trial motions or sentencing defense, despite no fewer than a dozen motions and requests—including a formal fee petition submitted by Ballard Spahr LLP that Judge Kenney never docketed and deliberately suppressed from the official record.

At the February 6, 2023 motions hearing (ECF No. 314, 21-cr-427), Judge Kenney designed the sentencing arrangement from the bench. When defense counsel proposed that Petitioner argue loss and forfeiture issues in hybrid fashion, Kenney accepted and drew the line himself: "I'll allow you to make your argument on forfeiture and the amount involved … and the sum and the loss involved. I'll let you make that argument." ECF No. 314, Tr. p. 17. Counsel then confirmed they would be "omitting … loss discussions, guidelines discussions" to let Petitioner "fill that space." Id. p. 18. When Petitioner asked whether he would have the assistance of counsel on those arguments, Kenney confirmed he would not: "right, but a supplemental, self-contained, discrete argument, you're not getting help on that one from counsel." Id. p. 36.

Kenney then conducted a truncated inquiry. When he asked whether Petitioner was familiar with the rules of evidence, the answer was "No." Id. p. 33. Kenney proceeded anyway—without a full Faretta inquiry, without warning of all dangers of self-representation, and without obtaining a knowing and voluntary waiver. Petitioner's counsel leaned over and told him that a structural error had just been committed.

Four months later, at sentencing, Judge Kenney referred to Petitioner on the record as "Mr. Hybrid (ph.), Mr. Hybrid"—mocking a defendant he had directed to argue loss, restitution, and forfeiture without counsel, in a proceeding he had engineered that outcome. ECF No. 310, Sentencing Tr. p. 66.

It was during this same hearing, while Petitioner argued pro se about the assignment of trades and the legitimacy of the claims process, that Judge Kenney interrupted and stated on the record, in the first person:

"I — I — I have invested, I've made a claim and they say, this is how much you're getting back based on all the claims that were made."

ECF No. 310, Sentencing Tr. p. 69, Case No. 21-cr-427 (June 6, 2023).

The transcript records three stutters before "have invested." Judge Kenney was not describing a hypothetical. He was speaking from personal experience—as someone who had held stock, suffered a loss, and filed a class action claim. He was, in that moment, describing himself. He said it while interrupting a pro se defendant he had mocked minutes earlier as "Mr. Hybrid," in a proceeding he presided over while holding the financial interest that required his recusal. Section 455(b)(4) requires no more.

This structural conflict—a district judge who was a class member in the settlements he was adjudicating, whose misconduct complaints were routed through an appellate executive office

staffed by the lead prosecutor's spouse, whose disqualification was denied by a unanimous circuit court without reasons—explains why the Third Circuit has not adjudicated jurisdiction in any of the four proceedings before it. A court cannot adjudicate its own structural conflict. The Third Circuit has now demonstrated that it will not try. Offutt v. United States, 348 U.S. 11, 14 (1954).

IV. THE RULE 15.8 SUPPLEMENTAL FILING WAS NOT ADDRESSED

On December 4, 2025, Petitioner filed a Rule 15.8 Supplemental Filing introducing Sprint Communications Co. v. APCC Services, Inc., 554 U.S. 269 (2008)—this Court's controlling precedent establishing that the underlying conduct is lawful—along with Comey v. United States, the Driver's Privacy Protection Act, and grand jury transcripts in which government witnesses described the claims process in terms directly contradicting the prosecution's theory of criminal liability. The denial of mandamus issued without addressing Sprint or any of the supplemental authorities. Rehearing is warranted to ensure this Court's own precedent receives consideration when placed directly before it.

CONCLUSION AND RELIEF REQUESTED

The question presented in the original petition remains unanswered. The structural conflicts that prevent the Third Circuit from answering it are now documented in public records and confirmed by the presiding judge's own words. Forfeiture orders entered March 6, 2026 are about to make permanent a deprivation built on a foundation no court has lawfully examined.

Petitioner respectfully requests rehearing to adjudicate:

(1) Whether a court of appeals may permanently refuse to decide a non-waivable jurisdictional challenge through institutional non-adjudication, leaving every litigant who raises such a challenge without a remedy;

(2) Whether the intervening forfeiture orders (ECF Nos. 478 and 479, Case No. 21-cr-427, entered March 6, 2026) may be enforced where the underlying conviction has never been subjected to lawful jurisdictional review;

(3) Whether the proceedings before Judge Kenney are void under 28 U.S.C. § 455(b)(4) where his publicly filed financial disclosures confirm personal equity positions in the companies whose class action settlements were the subject matter of the prosecution—the same settlements in which Petitioner filed claims—and where Judge Kenney admitted on the record that he personally invested and filed claims in such settlements; and

(4) Whether the supplemental authorities filed pursuant to Rule 15.8, including Sprint Communications Co. v. APCC Services, Inc., 554 U.S. 269 (2008), were considered in connection with the denial.

Respectfully submitted,

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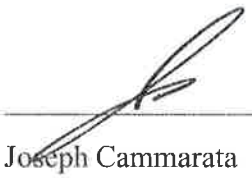
CERTIFICATE REQUIRED BY RULE 44.2

I, Joseph Cammarata, hereby certify that the grounds set forth in this Petition for Rehearing of the Order Denying the Petition for a Writ of Mandamus are restricted to intervening circumstances of a substantial or controlling effect, and to other substantial grounds not previously presented, as required by Rule 44.2; and that this Petition is presented in good faith and not for delay.



Joseph Cammarata

Petitioner, Pro Se

Dated: April 4, 2026

CERTIFICATE OF SERVICE

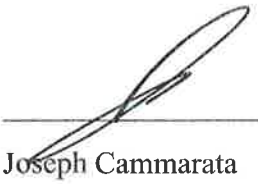
I hereby certify that on April 5, 2026, a copy of this Petition for Rehearing was served by first-class mail, postage prepaid, upon:

Solicitor General of the United States

Room 5616, Department of Justice

950 Pennsylvania Avenue, N.W.

Washington, DC 20530-0001



Joseph Cammarata

Additional material from this filing is available in the Clerk's Office.