

ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

25-6296

Emmanuel Folly, Petitioner,

v.

FILED

SEP 05 2025

**OFFICE OF THE CLERK
SUPREME COURT, U.S.**

City of Philadelphia, et al., Respondents.

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

Petition for a Writ of Certiorari

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QUESTION(S) PRESENTED

1. Whether systemic barriers preventing a pro se litigant from securing counsel, where stigma impedes representation, constitute “extraordinary circumstances” justifying equitable tolling of 42 U.S.C. § 1983 claims.
2. Whether due process is violated when a government employer relies on biased arbitration findings that contradict a judicial acquittal, thereby depriving an acquitted employee of a protected property interest in reinstatement.

LIST OF PARTIES

CITY OF PHILADELPHIA

PHILADELPHIA POLICE DEPARTMENT;

VILMA CUBIAS, ASSISTANT DISTRICT ATTORNEY, PHILADELPHIA DISTRICT ATTORNEY'S OFFICE;

SYIBL MURPHY, ASSISTANT DISTRICT ATTORNEY, PHILADELPHIA DISTRICT ATTORNEY'S OFFICE

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TABLE OF AUTHORITIES CITED

Cases

Albright v. Oliver, 510 U.S. 266 (1994)

Bounds v. Smith, 430 U.S. 817 (1977)

Cantrell v. Knoxville Cmty. Dev. Corp., 60 F.3d 1177 (6th Cir. 1995) ..

Erickson v. Pardus, 551 U.S. 89 (2007)

Foman v. Davis, 371 U.S. 178 (1962)

Gibbs v. Legrand, 767 F.3d 879 (9th Cir. 2014)

Haines v. Kerner, 404 U.S. 519 (1972)

Harris v. City of New York, 607 F.3d 18 (2d Cir. 2010)

Holland v. Florida, 560 U.S. 631 (2010)

Johnson v. City of Shelby, 574 U.S. 10 (2014)

Loudermill v. Cleveland Bd. of Educ., 470 U.S. 532 (1985)

Mathews v. Eldridge, 424 U.S. 319 (1976)

McDonald v. City of West Branch, 466 U.S. 284 (1984)

Monell v. Dep't of Social Servs., 436 U.S. 658 (1978)

Swierkiewicz v. Sorema N.A., 534 U.S. 506 (2002)

Thompson v. Clark, 596 U.S. 36 (2022)

Statutes and Rules

28 U.S.C. § 1254(1)

42 U.S.C. § 1983

OPINIONS BELOW

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below. The judgment of the United States Court of Appeals for the Third Circuit was entered on June 24, 2025. The opinion is unpublished and is reproduced in the Appendix at Appendix. A. The opinion of the United States District Court for the Eastern District of Pennsylvania dismissing the action is reproduced at App. B.

II. JURISDICTION

The judgment of the United States Court of Appeals for the Third Circuit was entered on June 24, 2025. It affirmed dismissal of Petitioner's § 1983 action as untimely, categorically rejected equitable tolling based on systemic inability to secure counsel, and declined to reach Petitioner's Fourth and Fourteenth Amendment claims. No Petition for rehearing was filed. Plaintiff was found not guilty of state criminal charges on January 12th 2022, leading to the suit under 42 U.S.C. § 1983. The decision of the United States Court of Appeals for the Third Circuit is final and dispositive of all federal claims. Its non-precedential designation does not affect this Court's jurisdiction, and review is warranted because the judgment rests solely on a procedural ground that foreclosed consideration of substantial constitutional questions. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. IV

U.S. Const. amend. XIV

42 U.S.C. § 1983

28 U.S.C. § 1254(1)

STATEMENT OF THE CASE

Petitioner, Emmanuel Folly, respectfully seeks a writ of certiorari asking the Supreme Court to review and address a fundamental question: whether rigid procedural barriers may deny pro se litigants' meaningful access to justice, where stigma and systemic obstacles prevent timely legal representation and leave serious constitutional violations unreviewed.

In this case, petitioner filed a civil rights action under 42 U.S.C. § 1983 alleging unconstitutional arrest, malicious prosecution, unlawful search and seizure, and due process violations by the City of Philadelphia, its police department, and individual prosecutors. Petitioner further challenged his dismissal from the police department and the arbitration award upholding that dismissal as constitutionally infirm, because the arbitrators impermissibly substituted their own finding of 'guilt' in direct contravention of a judicial acquittal. By disregarding the final judgment of a court of law, the arbitration deprived Petitioner of his constitutionally protected property interest in continued employment, in violation of the Due Process Clause. This case is particularly compelling because courts are ordinarily reluctant to disturb arbitration awards, leaving petitioners with no meaningful remedy even where arbitrators contradict binding judicial determinations. That entrenched deference places Petitioner, and other similarly situated petitioners in a uniquely disadvantaged position, making Supreme Court review especially necessary to ensure that arbitration cannot be used as a vehicle to nullify constitutional rights.

The district court dismissed petitioners' complaint at the pleading stage as untimely under Pennsylvania's statute of limitations, rejecting equitable tolling and declining to reach the merits

of his constitutional claims. The Court of Appeals for the Third Circuit summarily affirmed on the same grounds, applying Pennsylvania's two-year statute of limitations, holding that equitable tolling was unavailable as a matter of law because in the Third Circuit's view, difficulties in obtaining counsel and other barriers faced by pro se litigants doesn't qualify as extraordinary and therefore doesn't justify tolling. It also concluded that amendment would be futile, effectively shutting the door on further litigation in that forum. Therefore, all petitioners' claims were time-barred, prohibiting petitioner from addressing constitutional claims post-acquittal.

Petitioner asserts that this approach conflicts with decisions of other circuits and this Court's precedents requiring liberal construction of pro se pleadings and meaningful access to the courts. The question presented is recurring and important: whether stigma-based barriers to legal representation and systemic obstacles for pro se litigants may constitute "extraordinary circumstances" warranting equitable tolling of § 1983 claims.

Petitioner believes that this case is an ideal access to justice vehicle, as all individuals should have access to justice, courts and legal representation. The claims are substantial, the record is complete, and the judgment below rests exclusively on a procedural ground that foreclosed review of serious constitutional violations. Without this Court's intervention, pro se litigants raising good-faith § 1983 claims will continue to face inconsistent outcomes depending on geography, with the Third Circuit effectively insulating official misconduct from meaningful judicial review.

III. REASONS FOR GRANTING THE WRIT

A. This Case Raises an Urgent National Question About Access to Justice for Pro Se Litigants

This Court has long recognized that the right of access to the courts is “a fundamental right protected by the Constitution.” *Bounds v. Smith*, 430 U.S. 817 (1977). That right is not contingent upon popularity, resources, or the nature of the charges previously brought against a person. In *Haines v. Kerner*, 404 U.S. 519 (1972), this Court emphasized that pro se litigants must be given a meaningful opportunity to be heard, and that their pleadings are to be construed liberally.

Yet here, Petitioner’s efforts to seek redress for his acquittal and the resulting malicious prosecution, and constitutionally protected interests, were foreclosed based on a rigid application of a limitations period, despite evidence that he diligently attempted to secure counsel and was rejected due to the stigmatized nature of the allegations. The courts below failed to apply *Bounds*, *Haines*, or the equitable tolling doctrine established in *Holland v. Florida*, 560 U.S. 631 (2010).

Petitioner asserts that the Third Circuit compounded petitioner’s constitutional violations by affirming dismissal solely on limitations grounds, expressly declining to consider Petitioner’s equitable tolling arguments or the constitutional claims themselves. In so doing, the appellate court effectively closed the courthouse doors to a pro se litigant who demonstrated diligence but was systemically excluded from representation. Petitioner believes that the third circuits decision illustrates precisely how rigid procedural enforcement can nullify the access-to-justice principles this Court has recognized as fundamental.

Petitioner believes that his issue extends well beyond Petitioner's case, and systemically affects indigent, and otherwise other stigmatized individuals that are routinely unable to secure legal representation in complex civil rights cases. They face systemic exclusion from legal aid, reluctance by private counsel, and the stigma of underlying allegations. Procedural deadlines are then used to dismiss potentially meritorious constitutional claims, creating a recurring national problem.

The Third Circuit's order thus provides a clean vehicle for this Court to address whether systemic denial of counsel, coupled with diligence, warrants equitable tolling in constitutional cases. Without such clarification, litigants in Petitioner's position will continue to face categorical exclusion from the courts, even when their claims involve fundamental rights.

B. There Is a Circuit Split on Whether Inability to Secure Counsel Qualifies as an Extraordinary Circumstance for Tolling

The courts of appeals are divided on whether inability to secure legal counsel constitutes an extraordinary circumstance warranting equitable tolling. The Second, Sixth, and Ninth Circuits have held that barriers to obtaining counsel can justify equitable tolling where they prevent timely filing. See *Harris v. City of New York*, 607 F.3d 18 (2d Cir. 2010) (*recognizing attorney unavailability and systemic barriers as extraordinary circumstances*); *Cantrell v. Knoxville Cnty. Dev. Corp.*, 60 F.3d 1177 (6th Cir. 1995) (*holding that exclusion from representation in civil rights litigation justified tolling*); *Gibbs v. Legrand*, 767 F.3d 879 (9th Cir. 2014) (*equitable tolling appropriate where inability to secure counsel and lack of access to legal materials prevented filing*).

By contrast, the Fifth and Eleventh Circuits have restricted equitable tolling to narrowly defined circumstances, refusing to recognize inability to secure counsel as sufficient. See, e.g., *Cadet v. Fla. Dep’t of Corr.*, 742 F.3d 473 (11th Cir. 2014). These courts emphasize rigid diligence requirements and categorically exclude pro se barriers from consideration.

The Third Circuit, in affirming dismissal here, aligned itself with the restrictive approach by refusing to analyze whether Petitioner’s repeated and unsuccessful efforts to retain counsel constituted extraordinary circumstances. The panel’s order did not address the issue at all, effectively excluding barriers to representation from the tolling analysis. In doing so, the Third Circuit deepened the split and denied review of a recurring obstacle faced by indigent and stigmatized litigants.

Petitioner believes that the current split leaves similarly situated plaintiffs with entirely different outcomes depending on geography and thereby presenting an unequal application in the law across the Nation. A § 1983 plaintiff in the Second, Sixth, or Ninth Circuit may proceed, while an identically situated plaintiff in the Third, Fifth, or Eleventh is barred. The lack of uniformity is particularly troubling given that § 1983 is a nationwide remedial statute designed to ensure equal access to federal courts.

Petitioner believes that the question presented, whether systemic denial of counsel can equitably extend filing deadlines for constitutional claims, is ripe for this Court’s review. This case is an ideal vehicle because the Third Circuit adopted a categorical rule that inability to secure counsel can never warrant equitable tolling, a legal conclusion that foreclosed review of Petitioner’s constitutional claims. That ruling directly conflicts with this Court’s equitable tolling precedents and ensures that the question presented is cleanly posed, dispositive, and of recurring

national importance. Only this Court can resolve the entrenched conflict and ensure that constitutional claims do not rise or fall based on geography.

C. This Case Involves Substantial Federal Questions Under the Fourth and Fourteenth Amendments

Petitioner alleged the following constitutional violations: (1) Fourth Amendment: Arrest and search without probable cause (*Thompson v. Clark*; *Illinois v. Gates*; *Terry v. Ohio*); (2) Fourteenth Amendment Due Process (Employment): Denial of reinstatement to public employment despite acquittal, based on a biased arbitration award (*Loudermill*; *Roth*; *Mathews v. Eldridge*); and (3) Fourteenth Amendment Malicious Prosecution: Pursuit of criminal charges despite exculpatory evidence and eventual acquittal (*Franks v. Delaware*; *Albright v. Oliver*).

The Third Circuit addressed none of these claims. Instead, it dismissed solely on limitations grounds, ignoring viable constitutional violations that would ordinarily survive dismissal at the pleadings stage. Petitioner believes that this conflicts with *Foman v. Davis*, 371 U.S. 178 (1962), and longstanding precedent requiring liberal construction of pro se civil rights pleadings.

In practical terms, the Third circuit's decision functioned as a categorical bar to merits review, not only for this case but for similarly situated pro se litigants whose constitutional claims are dismissed on procedural grounds before courts ever consider them.

Moreover, both questions presented carry national significance. First, whether systemic barriers, such as stigma that prevents pro se litigants from securing counsel, can justify equitable tolling goes to the heart of equal access to justice, and the circuits are divided. Without clarification, pro se civil rights plaintiffs will continue to face inconsistent outcomes depending

on geography, with some courts recognizing extraordinary circumstances and others foreclosing them altogether. Second, whether due process is violated when a government employer relies on biased arbitration findings that contradict a judicial acquittal affects thousands of public employees nationwide, whose careers and reputations turn on fair process. Lower courts are split, and only this Court can ensure that the protections recognized in *Loudermill* and *Roth* apply with full force when acquitted employees seek reinstatement.

By declining to engage the constitutional issues and affirming on limitations alone, the Third Circuit created a double harm: Petitioner's rights went unexamined, and systemic questions of due process, reinstatement, and malicious prosecution remain unresolved nationwide. This Court's intervention is therefore critical to ensure that procedural bars do not eclipse substantive constitutional protections.

D. The Arbitration Ruling, Despite a Judicial Acquittal, raises a Federal Constitutional Due Process Issue

Petitioner's reinstatement was denied in reliance on an arbitration award that explicitly disregarded his acquittal in criminal court. The arbitrator's decision perpetuated stigma, effectively stating petitioner's guilt despite a judicial finding of innocence. This Court has repeatedly affirmed that arbitration, while favored, must comply with basic fairness and cannot override substantive constitutional rights. See *Hall Street Assocs., L.L.C. v. Mattel, Inc.*, 552 U.S. 576 (2008); *Gilmer v. Interstate/Johnson Lane Corp.*, 500 U.S. 20 (1991); *American Express Co. v. Italian Colors Rest.*, 570 U.S. 228 (2013). In addition, this Court has squarely held that arbitration cannot preclude vindication of constitutional rights under § 1983. *McDonald v. City of West Branch*, 466 U.S. 284 (1984) (*arbitration cannot bar a subsequent § 1983 claim, because constitutional rights are of higher order than arbitral finality*). Allowing a biased

arbitration ruling to contradict a judicial acquittal undermines both due process and the legitimacy of arbitration itself.

Yet the Third Circuit never engaged this constitutional question. By affirming solely on statute of limitations grounds, the court left undisturbed an arbitration ruling that effectively nullified a judicial acquittal. That silence creates the dangerous precedent that arbitral finality can override constitutional acquittals where claims are procedurally barred, a result this Court has explicitly rejected in *McDonald*.

This case therefore provides a clean vehicle to decide whether arbitration outcomes tainted by bias, and directly inconsistent with judicial acquittals, may be enforced consistent with the Due Process Clause. If allowed to stand, the Third Circuit's approach leaves thousands of public employees nationwide vulnerable to the loss of constitutional protections merely because arbitral outcomes are insulated from judicial scrutiny.

E. The Dismissal with Prejudice Without Leave to Amend Was an Abuse of Discretion

Federal courts strongly favor granting leave to amend, particularly in pro se civil rights cases. Yet the District Court dismissed Petitioner's complaint with prejudice at the pleading stage, without offering even a single opportunity to amend. That approach directly conflicts with this Court's decisions in *Foman v. Davis*, 371 U.S. 178 (1962), which held that denial of leave to amend without justification is an abuse of discretion; *Erickson v. Pardus*, 551 U.S. 89 (2007) (per curiam), which stressed liberal construction of pro se pleadings; and the pleading standards articulated in *Twombly* and *Iqbal*, which allow dismissal only where amendment would be futile.

By cutting off Petitioner's constitutional claims at the threshold, the lower courts imposed what is effectively a categorical bar on amendment for pro se litigants. The Third Circuit compounded this error by summarily affirming without addressing whether amendment should have been permitted, creating a regime in which dismissal with prejudice has become the default rule for pro se § 1983 cases. Other circuits, by contrast, have repeatedly emphasized that leave to amend must be liberally granted in precisely these circumstances. The result is a deepening split and an entrenched barrier to meaningful access to justice, further underscoring the need for this Court's intervention.

IV. CONCLUSION

This Petition presents an urgent question of law involving the rights of pro se litigants to meaningfully access justice when facing constitutional violations and stigma-driven barriers to legal representation. By dismissing this civil rights complaint on procedural grounds without assessing the merits or considering equitable tolling, the lower courts denied a citizen access to justice despite diligent efforts and well-founded constitutional grievances.

Petitioner respectfully requests that this Court grant the writ of certiorari to resolve the circuit conflict on equitable tolling, clarify due process protections for acquitted public employees, and ensure that biased arbitration cannot override judicial acquittals, constitutional violations, or foreclose access to justice.

Respectfully submitted,

/s/ Emmanuel Folly, *Petitioner*

Date: