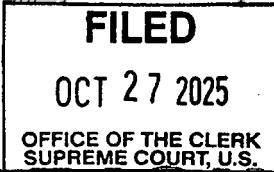


25-6297

SUPREME COURT OF THE UNITED STATES

PETER JOSEPH POLINSKI



*Petitioner in Equity*

-v.

UNITED STATES

*Respondent*

ORIGINAL

WRIT OF CERTIORARI

From Federal Court of Appeals for the Federal Circuit  
Case No. 25-1568

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WRIT OF CERTIORARI

# In the Supreme Court of the United States

Peter- Joseph: Royal House Polinski, ) Case No.  
Living Man, Ecclesiastical Minister,  
Private Attorney General, Ambassador  
for Christ

Petitioner in Equity

)

) Judge:

v.

)

)

The United States of America )

PETITION FOR A WRIT OF  
CERTIORARI

Respondent. )

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

### **I. QUESTIONS PRESENTED**

1. Whether the Court of Federal Claims may dismiss a pro se complaint for failure to prosecute based solely on an assertedly incomplete in forma pauperis application without employing lesser measures or providing a meaningful opportunity to cure, consistent with due process and access to courts.
2. Whether affirming a Rule 41(b) dismissal that prevents any consideration of a Fifth Amendment takings claim under the Tucker Act, 28 U.S.C. § 1491, is consistent with this Court's pleading standards that judge sufficiency by plausibility rather than proof at the threshold.

## **II. LIST OF PARTIES**

All parties appear in the caption.

**Petitioner:** Peter Joseph Polinski, Marcy, New York.

**Respondent:** United States of America, represented in the courts below by the United States Department of Justice, Civil Division, Commercial Litigation Branch. Counsel of record below included Tara K. Hogan, with Patricia M. McCarthy and Yaakov Roth.

## **III. RELATED CASES**

Polinski v. United States, No. 1:24-cv-02136-EDK, United States Court of Federal Claims.

Order dismissing for failure to prosecute entered February 11, 2025. Judgment entered February 14, 2025. Judge Elaine D. Kaplan.

Polinski v. United States, No. 2025-1568, United States Court of Appeals for the Federal Circuit. Non-precedential per curiam decision affirming entered October 16, 2025. Judgment: Affirmed. Panel: Lourie, Reyna, and Chen, Circuit Judges.

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## **V. OPINIONS BELOW**

The United States Court of Appeals for the Federal Circuit issued a nonprecedential per curiam decision affirming on October 16, 2025, in No. 2025-1568. The decision and judgment appear in Appendix A.

The United States Court of Federal Claims dismissed for failure to prosecute on February 11, 2025, and entered judgment on February 14, 2025, in No. 1:24-cv-02136-EDK. The decision is published at Polinski v. United States, 2025 WL 462603 (Fed. Cl. Feb. 11, 2025). These appear in Appendix B.

## **VI. JURISDICTION**

The court of appeals entered judgment on October 16, 2025. No petition for rehearing was filed. This petition is timely under 28 U.S.C. § 2101(c). The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). This Court's authority is exercised pursuant to Article III, § 2 of the Constitution.

## **VII. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

U.S. Constitution Amendment V Takings Clause.

28 U.S.C. § 1491 Tucker Act.

Rule 41(b) Rules of the United States Court of Federal Claims.

28 U.S.C. § 1254(1).

28 U.S.C. § 2101(c).

The full texts appear in Appendix D.

### **VIII. STATEMENT OF THE CASE**

1. Proceedings in the Court of Federal Claims. On December 26, 2024 Petitioner filed a prose complaint in the United States Court of Federal Claims alleging uncompensated deprivation of property interests including alleged seizure or misappropriation involving General Services Administration bonds and a bill of exchange valued at sixty six million dollars. Petitioner moved to proceed in forma pauperis. The court ordered Petitioner to file a completed in forma pauperis application or pay the filing fee by February 10, 2025 and warned that failure to comply would result in dismissal for failure to prosecute. Petitioner filed a second in forma pauperis application on January 30, 2025. On February 11, 2025 the court dismissed the action without prejudice under Rule 41(b) and entered judgment on February 14, 2025. In explaining its ruling the court stated that the second application was again incomplete and that the financial disclosures lacked credibility because they reflected no income for six years no expenses no property and a bank balance of \$0.33. The court did not provide a brief extension request a targeted supplemental declaration to clarify the missing entries such as date of last employment monthly income and explanation of how basic expenses were paid or allow fee payment within a short period. The court did not reach jurisdiction or the merits of the Fifth Amendment claim.
2. Proceedings in the Court of Appeals. Petitioner appealed. On October 16, 2025 the United States Court of Appeals for the Federal Circuit affirmed in a nonprecedential per

curiam disposition applying abuse of discretion review. The court concluded that dismissal under Rule 41(b) was not an abuse of discretion because Petitioner did not file a completed form or pay the fee by the deadline identified in the trial court's order. The court expressly did not reach jurisdictional arguments or any aspect of the merits because the dismissal rested solely on failure to prosecute.

3. Consequence. As a result no court has addressed whether the complaint plausibly stated a Fifth Amendment takings claim or considered any due process concerns regarding administration of in forma pauperis requirements. The case was terminated on an administrative ground without the use of lesser measures that could have preserved access to an initial merits screen while imposing no prejudice on the Government.

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

- a. **Rule 41(b) dismissal for in forma pauperis form defects without lesser measures or a real opportunity to cure imposes a severe sanction on indigent pro se litigants and raises due process concerns.**

Dismissal for failure to prosecute is a last resort. When the asserted defect is informational or clerical in an in forma pauperis application courts should ordinarily provide a meaningful chance to correct the deficiency consider targeted extensions or lesser measures and weigh the absence of prejudice to the Government. Proceeding directly to dismissal creates nonuniform practices that bar indigent litigants from access to court and from constitutional adjudication. See *Link v. Wabash Railroad Co.* 370 U.S. 626 629 to 633. See also *Haines v. Kerner* 404 U.S. 519 520 to 521 per curiam and *Erickson v. Pardus* 551 U.S. 89 94 per curiam emphasizing fair accommodation for pro se filings.

**b. The judgment foreclosed any threshold merits screening of a Tucker Act takings claim contrary to pleading standards.**

At the pleading stage sufficiency turns on plausibility rather than proof. See Bell Atlantic Corp. v. Twombly 550 U.S. 544 555 to 557 and Ashcroft v. Iqbal 556 U.S. 662 678 to 680. Petitioner alleged uncompensated deprivation of property interests for which the United States may be responsible a classic Fifth Amendment question within the money mandating framework of the Tucker Act. See United States v. Testan 424 U.S. 392 398 to 402. Ending the case on in forma pauperis administration prevented any assessment of whether the complaint plausibly stated a takings claim and prevented the court from applying standard screening or targeted clarification that would cabin issues for early resolution.

**c. This case is a suitable vehicle.**

The court of appeals affirmed solely on failure to prosecute and did not reach jurisdiction or merits. The questions presented are clean recurring and outcome determinative and the record presents a straightforward setting to clarify proper limits on Rule 41(b) use in the in forma pauperis context and to reaffirm that constitutional money claims should receive at least threshold plausibility review.

**d. The takings questions are ripe for threshold consideration and warrant access to an initial merits screen.**

Fifth Amendment Takings claims are paradigmatic money claims within the Court of Federal Claims jurisdiction. See Testan 424 U.S. at 398 to 402. This Court has recognized that just compensation is the usual remedy for established takings and that courts must provide a path to

adjudication. See *First English Evangelical Lutheran Church v. County of Los Angeles* 482 U.S. 304 315 to 318 and *Arkansas Game and Fish Commission v. United States* 568 U.S. 23 31 to 32. The dismissal here foreclosed even a minimal merits inquiry into whether the pleaded deprivation of identified property interests stated a plausible claim for compensation. That outcome chills constitutional litigation by indigent litigants and invites procedural terminations unrelated to the merits of takings claims.

**e. The decision below is in tension with RCFC 1 and with proportional case management.**

RCFC 1 provides that the rules should be construed administered and employed by the court and the parties to secure the just speedy and inexpensive determination of every action. A brief extension or a targeted request for a supplemental declaration on finances would have satisfied the court's administrative concerns while advancing the just and speedy resolution of the case. Resort to the harsh sanction of dismissal for an informational gap in paperwork is disproportionate where no prejudice to the Government is shown and where a short cure window was available. The rule of reason and the canons of fair administration favor lesser measures in this posture.

**f. National importance and uniformity.**

Indigent and pro se litigants routinely rely on in forma pauperis status to reach the courthouse door. Allowing dismissal for minor or curable IFP form gaps without meaningful opportunity to cure produces nonuniform outcomes across fora and burdens a recurring class of constitutional claims. Clarification from this Court will promote uniform application of Rule 41(b) in harmony

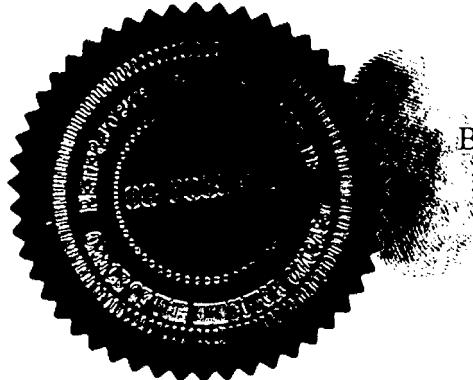
with liberal construction for pro se filings Haines 404 U.S. at 520 to 521 and with basic pleading standards Twombly and Iqbal. It will also confirm that courts should not allow administrative handling of fee status to eclipse access to threshold consideration of constitutional money claims under the Tucker Act.

## X. CONCLUSION

The petition for a writ of certiorari should be granted. Petitioner respectfully requests consideration by the full Court.

Signed under penalty of perjury, Title 28 USC 1746(1)

1 Timothy 1:8-11 King James Version



By:

*Peter-Joseph: Royal House Polinski*  
Peter-Joseph: Royal House Polinski,  
Creditor, Settlor, and living Sui Juris Beneficiary  
II Corinthians 5:20, Mark 4:41,  
Mark 11:15-17, Matthew 21:12-13 King Jimmy  
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*Love and Light*

98-608991  
11-11-28

