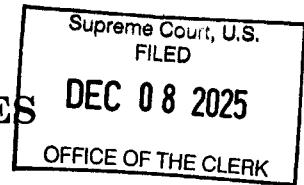


25-6443 **ORIGINAL**
PETITION FOR A WRIT OF
CERTIORARI

SUPREME COURT OF THE UNITED STATES



CARMINE AMELIO,

Petitioner,

v.

DEUTSCHE BANK NATIONAL TRUST COMPANY, AS
TRUSTEE FOR RESIDENTIAL ASSET SECURITIZATION
TRUST 2007-A6 MORTGAGE PASS-THROUGH CERTIFICATES
SERIES 2007-F,

Respondent.

On Petition for a Writ of Certiorari to the Supreme Court of
Connecticut

DOCKET NO.: LLI-CV-15-6011721-S

Trial Judge: Hon. Walter Menjivar

Recusal Judge: Hon. Andrew W. Roraback

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QUESTIONS PRESENTED

1. Whether due process is violated when a state trial judge conducts a dispositive evidentiary hearing on standing and jurisdiction while an appellate matter (AC 47676) is pending, and then refuses to adjudicate the Petitioner's Motion to Vacate for lack of jurisdiction.
2. Whether a judge's subsequent recusal—based expressly on having acted in violation of the appellate stay—requires retroactive invalidation of the tainted rulings, reinstatement of the Motion to Vacate, and restoration of appellate review obstructed by the same judge's improper actions.
3. Whether Connecticut courts violated due process by refusing to address jurisdiction after the trial judge acknowledged the pending appeal, mischaracterized the Motion to Vacate, and continued to act without authority, in conflict with this Court's precedents requiring strict jurisdictional compliance.
4. Whether a state supreme court violates the Fourteenth Amendment when it declines to remedy a lower court's unconstitutional refusal to hear jurisdictional motions—even after the judge was later recused for bias directly connected to those same proceedings.
5. Whether jurisdictional defects—non-waivable under this Court's decisions in *Steel Co.*, *Arbaugh*, and *Capron*—may be ignored by both

trial and appellate courts, including dismissing an appeal without addressing jurisdiction.

Whether a litigant who is deprived of any meaningful judicial forum due to judicial bias, improper recusal handling, refusal to hear jurisdictional motions, and the state supreme court's refusal of review, has a right to federal intervention under the Due Process Clause and the structural constitutional guarantee of a neutral adjudicator.

TABLE OF CONTENTS

Front Matter (Roman Numerals)

Questions Presented.....	i
Table of Contents.....	iii
Table of Authorities.....	v

Main Petition (Arabic Numerals)

Petition for a Writ of Certiorari Statement	1
Opinions Below	2
Jurisdiction	3
Constitutional and Statutory Provisions Involved	4
Parties to the Proceeding	5
Introduction	6
Statement of the Case	8
Section I	8
Section II	9
Section III	9
Section IV	10
Section V	11
Section VI	12
Reasons for Granting the Writ	13
Section I	13
Section II	13

Section III	13
Section IV	14
Section V	14
Section VI	15
Conclusion	16
Signature Page	17
Note Regarding Appendix Materials	18
Appendix Index	18
Proof of Service	20

TABLE OF AUTHORITIES

United States Supreme Court Cases

• Caperton v. A.T. Massey Coal Co., 556 U.S. 868 (2009)	14
• Marshall v. Jerrico, Inc., 446 U.S. 238 (1980)	14
• Mathews v. Eldridge, 424 U.S. 319 (1976)	13
• Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950)	13
• Steel Co. v. Citizens for a Better Environment, 523 U.S. 83 (1998)	13
• Wahba v. JPMorgan Chase Bank, N.A., 141 S. Ct. 2462 (2021) (statement respecting denial)	9

Connecticut Cases

• AC 47676 (Conn. App. Ct. 2025) (granting relief and remanding) ..i, 2, 8, 13, 14, 15	
• Wahba v. JPMorgan Chase Bank, N.A., 337 Conn. 145 (2020)	7

PETITION FOR A WRIT OF CERTIORARI

Petitioner, **Carmine Amelio**, respectfully petitions for a writ of certiorari to review the judgment of the Supreme Court of Connecticut.

OPINIONS BELOW

The Connecticut Supreme Court's order denying Petitioner's Motion for Reconsideration En Banc (SC250015), dated September 9, 2025, consisted of a one-word order: "Denied."

The Connecticut Appellate Court dismissed Petitioner's appeal in AC 48074.

The Connecticut Supreme Court denied certification in PSC-240335.

The Connecticut Appellate Court's decision in **AC 47676** (granting relief and remanding but remaining silent on the pending Motion to Vacate) is unpublished but available in the state docket.

The Connecticut Supreme Court denied certification.

No court addressed the jurisdictional defect created by Judge Menjivar's actions.

JURISDICTION

The Connecticut Supreme Court issued its final order denying relief on May 27, 2025. A timely petition for rehearing was filed pursuant to Conn. Practice Book § 71-5 and denied on September 9, 2025.

This petition is timely under **Supreme Court Rules 13.1 and 13.3**.

This petition is filed within 90 days of the denial of rehearing. Jurisdiction is invoked under **28 U.S.C. § 1257(a)**.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- **U.S. Const. amend. I** – Freedom of Speech, Religion, Assemble and Petition the Government for Redress of Grievances

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

- **U.S. Const. amend. V** – Due Process Clause

"No person shall be... deprived of life, liberty, or property, without due process of law."

- **U.S. Const. amend. XIV, § 1** – Due Process & Equal Protection Clauses

"No State shall... deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

- **U.S. Const. art. III** – Judicial Tribunal Requirement

Establishes the judicial power of the United States and the requirement for an impartial federal tribunal.

- **28 U.S.C. § 455** – Judicial Disqualification

"Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned."

This statute serves as persuasive authority for the principle that judges must recuse themselves when bias or conflict of interest exists.

- **Canon 3(C), Code of Judicial Conduct** – Mandatory Recusal for Bias

Requires a judge to disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including situations involving personal bias or prejudice concerning a party.

PARTIES TO THE PROCEEDING

Petitioner: Carmine Amelio

Respondent: Deutsche Bank National Trust Co., J.D. of Litchfield Company as Trustee for Residential Asset Securitization Trust 2007-A6 Mortgage Pass-Through Certificates Series 2007-F

Additional relevant actor: Judge Walter Menjivar, whose recusal on June 10, 2025, is central to the constitutional issues.

Trial Judge: Hon. Walter Menjivar (later recused).

Subsequent Judge / Recusal Order: Hon. Andrew W. Roraback, (entered recusal of Menjivar on June 10, 2025).

INTRODUCTION

This case presents a fundamental question:

Can a state judge who is later recused for bias render binding rulings on jurisdiction, and may a state supreme court refuse to correct the resulting constitutional violations?

Petitioner raised serious jurisdictional defects in a long-running foreclosure matter, including standing failures, improper assignments, and noncompliance with jurisdictional prerequisites. The trial judge, Walter Menjivar, refused to adjudicate the motion to vacate for lack of jurisdiction. Months later, on **June 10, 2025**, Judge Menjivar was **recused for bias** and for his improper handling of petitioner's case, including his July 29, 2024 hearing conducted in violation of Appellate Court restrictions.

Despite this, the Connecticut Supreme Court declined to remedy the tainted rulings or apply the recusal retroactively.

Under long-standing federal law, judicial recusal for bias invalidates prior rulings infected by that bias. Yet the Connecticut Supreme Court declined to reinstate Petitioner's appeal or address the jurisdictional defects, effectively insulating unconstitutional conduct from review.

This Court's precedents establish that:

- A biased judge violates due process.
- Jurisdictional rulings by a biased judge cannot stand.
- Jurisdictional defects must be heard and decided; they cannot be ignored.

The Connecticut courts did all three things wrong.

This petition presents constitutional questions of recurring national importance, especially in foreclosure systems where judicial bias and refusal to hear jurisdictional matters are increasingly documented.

STATEMENT OF THE CASE

I. The Underlying Foreclosure Proceeding and Structural Defects

Petitioner is a defendant in a longstanding foreclosure case, **LLI-CV-15-6011721-S**.

The case became constitutionally defective when **Judge Walter Menjivar**, despite grounds mandating recusal, refused to hear Petitioner's jurisdictional motion to vacate and issued orders without lawful authority.

Petitioner filed a **Judicial Notice** on March 19, 2025, placing the judge and clerk on notice of federal constitutional and statutory obligations—including prohibitions on record tampering, interference with rights under color of law, and the obligation to adjudicate federal claims.

The notice warned that deprivation of rights violates 18 U.S.C. §§ 241, 242, and obstruction of judicial records violates § 1519.

This case arises from the foreclosure action in which Petitioner filed a **Motion to Vacate Judgment** on jurisdictional grounds, supported by evidence of defects regarding standing, authenticity of the note, and the need for expert examination.

While this Motion to Vacate was pending, Petitioner also sought relief in **Appellate Court case AC 47676**, which involved overlapping jurisdictional questions.

Despite acknowledging the pendency of the appellate matter, the trial judge—Hon. **Walter Menjivar**—proceeded with a July 29, 2024 hearing and **refused to hear the jurisdictional Motion to Vacate**.

The Appellate Court later granted AC 47676 in Petitioner's favor and remanded.

Judge Menjivar was **recused on June 10, 2025** expressly because the July 29, 2024 hearing violated the appellate stay. But no court corrected the underlying jurisdictional violation.

II. Judge Menjivar Refused to Hear the Jurisdictional Motion

On May 16, 2024, Petitioner filed a **Motion to Vacate for Lack of Subject-Matter and Personal Jurisdiction**, citing extensive evidence that the foreclosing entity lacked standing and that due process had been violated.

Judge Menjivar:

- refused to schedule a hearing,
- refused to issue any ruling,
- refused even to acknowledge the motion,
- continued issuing orders despite lacking jurisdiction.

This refusal prevented any merits review and deprived Petitioner of a meaningful forum.

III. July 29, 2024 Hearing (Excerpted)

Judge Menjivar opened by acknowledging the pending appellate matter:

“I called you both in today because I had two motions pending on the short calendar docket. ... I wanted to hear from plaintiff's counsel in my consideration of the

motion to vacate or open, how the Connecticut Supreme Court decision in Wahba versus J.P. Morgan Chase affects the outcome of this case." (Transcript, pp. 1-2)

Petitioner explained the need for expert inspection of the note and objection to its authenticity:

"I stated why that note appears fabricated, and the only opposition I got was from a judge who's not a document expert. ... That's why I filed my motion to vacate, Your Honor, and I respectfully ask that either my relief is granted, or you deny it so I can have recourse on the denial of what I'm asking for." (Transcript, pp. 14-15)

Judge Menjivar then mischaracterized the Motion to Vacate as a "motion to open," even though Respondent's own pleadings correctly called it a Motion to Vacate (jurisdictional relief).

Despite raising these issues, Menjivar **did not adjudicate the Motion to Vacate**, focusing instead on extending law days and appraisals:

"I am inclined to grant, you know, your motion to open on that basis. You've made other arguments ... I'm telling you that I'm inclined to deny that argument for the reason that you've already appealed that all the way through." (Transcript, pp. 12-13)

But the "appeal" he referenced—AC 47676—**was still pending**, depriving him of authority.

Instead of adjudicating jurisdiction, he extended law days and valuation issues, which subsequently reversed and remanded – AC 47676.

IV. April 14, 2025 Hearing (Transcript Not Yet Available—

Summary Provided)

On April 14, 2025, Judge Roraback denied Petitioner's motion to recuse Judge Menjivar, despite:

1. Menjivar's explicit acknowledgment of the pending appeal;
2. Menjivar's refusal to adjudicate a jurisdictional Motion to Vacate;
3. Menjivar's proceeding in violation of AC 47676.

While the full transcript is pending, the record shows Petitioner presented **clear evidence of bias and procedural irregularities**, which the trial court ignored, forcing Petitioner to continue in a forum lacking impartiality and denying adjudication of jurisdictional motions.

V. June 9–10, 2025 Hearing and Order (Transcript Not Yet Available—Summary Provided)

The court reversed itself.

Judge Roraback issued a written order on **June 10, 2025** recusing Judge Menjivar because:

- the July 29, 2024 hearing was conducted **in violation of the pending Appellate Court matter AC 47676**, which had issued party memorandums for pleadings

AC 47676 was ultimately **granted in Petitioner's favor and remanded**, but the Court remained silent on Menjivar's refusal to hear the Motion to Vacate.

Critically:

- The recusal confirmed bias and impropriety.
- The recusal confirmed the July 29, 2024 hearing was improper.
- But the jurisdictional Motion to Vacate was still never ruled on.

This sequence confirms that prior rulings were **tainted by bias and procedural irregularities**, yet the state courts treated those rulings as valid, **insulating unconstitutional conduct from review**.

VI. The Connecticut Supreme Court Declined to Remedy the Constitutional Violations

Petitioner appealed (AC 48074), requesting reinstatement and review of the jurisdictional defects.

AC 47676 was then **granted in Petitioner's favor**, confirming the impropriety of Menjivar's actions.

The Connecticut Supreme Court:

- Menjivar's refusal to adjudicate the Motion to Vacate;
- the mischaracterization of the motion;
- Non-waivable jurisdictional defects;
- Bias-confirmed recusal;
- Structural due process violations;
- dismissed without explanation;
- ignored the retroactive effect of the judge's recusal;
- ignored the structural constitutional violation;
- dismissed without explanation;
- denial of a forum;

Thus, the jurisdictional violation persists.

The Connecticut Supreme Court provided no remedy.

A timely rehearing petition under Practice Book § 71-5 was denied.

REASONS FOR GRANTING THE WRIT

I. This case presents a recurring constitutional problem: a judge acted without authority during a pending appeal and then refused to adjudicate jurisdiction.

This Court's cases require that jurisdiction must be decided first, and courts lose authority to act when jurisdiction is absent. *Steel Co.; Espinosa.*

Yet the trial judge openly acknowledged the pending appeal and then:

- proceeded anyway;
- mischaracterized the Motion to Vacate, and
- refused to adjudicate jurisdiction.

This conflicts with federal constitutional doctrine.

II. Due process is violated when a foreclosure court refuses to adjudicate a jurisdictional motion after acknowledging a pending appeal.

Under *Mathews* and *Mullane*, litigants are guaranteed a meaningful opportunity to be heard on jurisdiction.

Here, Petitioner repeatedly sought adjudication of the Motion to Vacate.

The judge refused.

This is a textbook due-process deprivation.

III. The judge's recusal—issued because he acted without authority—renders his prior actions void; the state courts' refusal to correct the violation deepens a constitutional conflict.

Judicial Recusal for Bias Requires Retroactive Vacatur When Rulings Are Tainted

This Court has held:

- **Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847 (1988)**
- **In re Murchison, 349 U.S. 133 (1955)**
- **Tumey v. Ohio, 273 U.S. 510 (1927)**

that a biased judge violates due process, and the recusal must “restore the appearance and reality of impartial justice,” and the remedy must repair the structural damage. A judge cannot refuse jurisdictional motions and then have those refusals protected merely because the state supreme court prefers finality over constitutionality.

Here, the Connecticut courts insulated a tainted process from review. This Court should correct that constitutional error.

A judge who lacked authority and was later recused for that exact reason cannot have his actions preserved.

Yet Connecticut courts left the July 29, 2024 actions intact, refused to reinstate the Motion to Vacate, and refused reinstatement of appellate review.

Menjivar was recused *for cause*.

His jurisdictional rulings, refusals, and conduct preceding the recusal cannot stand.

Refusal of state review violates due process.

This is incompatible with *Caperton, Marshall*, and principles of structural due process.

IV. Jurisdictional Challenges Cannot Be Ignored or Waived

This Court's precedents are unequivocal:

- **Steel Co. v. Citizens for a Better Environment**, 523 U.S. 83 (1998): courts must establish jurisdiction before proceeding.
- **Arbaugh v. Y&H Corp.**, 546 U.S. 500 (2006): jurisdictional defects may be raised at any time.
- **Capron v. Van Noorden**, 2 Cranch 126 (1804): a party may challenge jurisdiction even after judgment.

It is blackletter law that:

- A court must evaluate jurisdiction when raised.
- It cannot proceed without jurisdiction.
- Refusal to hear a jurisdictional motion is a structural violation.

The trial court:

- refused to hear the Motion to Vacate
- acted without jurisdiction
- issued orders in violation of an active appeal

Judge Menjivar's refusal to hear the motion and the Connecticut Supreme Court's refusal to review it contradicts these bedrock principles and this Court's authority.

V. Petitioner Was Deprived of Any Meaningful State Forum

The Fourteenth Amendment guarantees:

- A fair tribunal
- A hearing on jurisdiction
- A right to be heard
- An impartial adjudicator

The state courts:

- ignored jurisdictional motions
- refused recusal until a year later
- acted while jurisdiction was suspended
- then refused appellate review

Connecticut provided none of these. When both trial and appellate courts refuse to adjudicate jurisdiction, federal intervention becomes necessary. See **M.L.B. v. S.L.J.**, 519 U.S. 102 (1996).

VI. The Constitutional Issues Are Recurring and Nationally Significant.

Foreclosure systems across the country rely on proper jurisdiction and due-process protections.

State foreclosure systems across the country have been criticized for:

- Rubber-stamping lender submissions
- Refusing jurisdictional hearings
- Insulating biased trial judges from review
- ignore standing
- refuse hearings
- rely on biased judges
- disregard jurisdiction

If a judge may:

- acknowledge an appellate stay,
- proceed anyway,
- refuse to rule on jurisdiction,
- and later be recused for acting improperly—yet still have his actions preserved—

the integrity of state judicial systems is compromised.

This Court's intervention is required to restore constitutional uniformity.

CONCLUSION

For all the reasons stated above, the petition for a writ of certiorari should be granted.

Dated: New Milford, CT
December 8, 2025

Respectfully submitted,

By: Carmine Amelio

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