

**No. 25-658**

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IN THE  
**Supreme Court of the United States**

MATTHEW JONES, YSIDRO RENTERIA, AND  
WILLIAM L. JONES CARR,

*Petitioners,*

v.

AMBER M. KING, CHRIS H. BUSSE, AND  
BRANDON W. JONES,

*Respondents.*

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

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**BRIEF IN OPPOSITION**

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**QUESTION PRESENTED**

In a proceeding to question a panel of potential jurors under oath to determine whether they meet the statutory qualifications to serve on a jury, does a judge have judicial immunity from ruling that members of the panel are disqualified because they do not satisfy the statutory residency requirement?

## **RELATED PROCEEDINGS**

The Petition omits the following related proceeding:

1. United States Court of Appeal (5th Cir.):  
*Jones, et al. v. King, et al.*, No. 25-51009  
(pending)

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## INTRODUCTION

There is no appellate jurisdiction over the question presented as framed by Petitioners. Petitioners ask whether ordering their “wrongful arrests” in a jury qualification proceeding is shielded by judicial immunity. But the district court *granted* judicial immunity for Judge King’s contempt orders, and there is no interlocutory appeal from an order granting immunity. For this reason, the court of appeals dismissed Petitioners’ cross-appeal for want of jurisdiction. This Court likewise has no jurisdiction over the issue of Petitioners’ allegedly unlawful arrests.

Subsequent developments in this case further counsel against this Court’s review. The court of appeals has issued its mandate, the district court has entered final judgment, and Petitioners have filed a notice of appeal from that final judgment. The entire case—including the immunity order Petitioners complain about here—is now pending before the court of appeals in that second appeal. This Court should decline to review an issue on interlocutory appeal that is currently under review by the court of appeals on appeal from final judgment.

Finally, the court of appeals’ ruling below is correct on the merits. Judge King is immune from civil damages claims premised on the disqualifications of potential jurors who appeared on a jury summons to her court. And if this Court had jurisdiction to reach the issue, her contempt orders are also judicial acts entitled to immunity. There is no conflict with any decision of this Court or other court of appeals on these issues, nor any other reason for this Court to grant review.

## STATEMENT OF THE CASE

*1. Facts as alleged by Petitioners.* Because this case comes to this Court on a 12(b)(6) motion, it is framed by the following allegations as quoted from Petitioners' complaint. R.228.<sup>1</sup>

Amber King, the Justice of the Peace presiding over the Loving County Justice Court, "informed the Loving County clerk that she needed a jury for an upcoming trial." R.236. "Shortly thereafter, each Plaintiff received a summons to appear for jury selection in Justice of the Peace Court in Loving County." *Id.*

"[E]ach Plaintiff appeared as summoned to a meeting room (not a courtroom) in the annex of the Loving County Courthouse, along with several other individuals." R.237. "King began by addressing the assembled group. She first stated that any of those summoned who were not 'qualified jurors' could leave voluntarily. She then stated that any person who is found not to be a 'qualified juror' would be 'submitted to the district attorney for a [sic] aggravated perjury, a third-degree felony' and held in contempt of court. None of the 'jurors' left." R.238.

A deputy sheriff "asked the summoned jurors to stand, raise their right hand, and swear to tell the truth in response to King's questions regarding their 'service and qualifications as a juror.' Each person affirmed." *Id.*

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<sup>1</sup> The appellate record is cited as: "R.[page number]." Documents filed in the trial court since the appellate record was filed are cited as "Doc. No. [docket number]."

“King then proceeded to ask the assembled group a series of ‘yes’ or ‘no’ questions:

- ‘You are all 18 years of age or older?’ The summoned jurors responded in unison, ‘yes.’
- ‘You are all citizens of this country and residents of this county?’ The summoned jurors responded in unison, ‘yes.’
- ‘You are all able to read and write?’ The summoned jurors responded in unison, ‘yes.’
- ‘You are currently eligible to become a qualified voter of this country under the Constitution and the laws of this state?’ The summoned jurors responded in unison, ‘yes.’
- ‘You’re not convicted of a misdemeanor theft or any felony?’ The summoned jurors responded in unison, ‘no.’
- ‘You’re not under indictment for legal accusations for misdemeanor theft or felony?’ The summoned jurors responded in unison, ‘no.’”

R.238–39.

“Immediately thereafter, King stated: ‘So *it’s come to this Court’s attention there are several jurors who are not residents of this county*. And you were given the opportunity to leave. Since you have not left you will be held in contempt of court, and you will be remanded to the Winkler County Jail for obstruction of the proper administration of justice as well as disrespect to the Court.’” R.239 (emphasis in original).

“King then identified each Plaintiff by name and ordered them to be arrested.” *Id.* Judge King signed orders finding each Plaintiff in contempt. R.285–90. The orders “remanded” each Plaintiff to the Winkler

County Jail. *Id.* Loving County Constable Brandon Jones and deputies of Sheriff Chris Busse “escorted Plaintiffs out of the room and into an enjoining hallway, where Plaintiffs were ordered to empty their pockets. R.239. Deputies then placed handcuffs on each Plaintiff and walked them to waiting vehicles. The deputies drove Plaintiffs to the Winkler County jail[.]” *Id.* Plaintiffs were released after approximately five hours. *Id.*

2. *Proceedings below.* The district court granted judicial immunity to Judge King for her orders holding Petitioners in contempt and committing them to jail. *Pet. App.* 32a–37a. But the district court denied immunity for Judge King’s disqualification of Petitioners from jury service, concluding that a jury qualification proceeding was not a “judicial act.” *Id.* at 29a–32a.

Judge King and the other Respondents filed a notice of interlocutory appeal from the part of the district court’s order that had denied them absolute or qualified immunity. R.479. Petitioners filed a notice of cross-appeal, appealing the part of the district court’s order that had granted Judge King judicial immunity for the contempt orders. R.482.

The court of appeals held that the jury qualification proceeding was a judicial act entitling Judge King to immunity, reversing the district court’s contrary conclusion. *Pet. App.* 19a. The court of appeals also dismissed Petitioners’ cross-appeal. *Id.* The court of appeals determined that it had no jurisdiction over the cross-appeal because the collateral order doctrine applies only to interlocutory orders *denying* immunity, not interlocutory orders *granting* immunity. *Id.* at 16a–17a. The court further ruled that the cross-

appeal did not meet the stringent requirements for the assumption of “pendent” appellate jurisdiction. *Id.*

No party sought to stay the mandate pending certiorari under Fed. R. App. Proc. 41(d). The court of appeals therefore issued its mandate, conferring jurisdiction on the district court. The district court entered final judgment. Doc. No. 37. Petitioners filed a notice of appeal from that final judgment, specifying that its appeal “encompasses all orders of the district court, including the previously appealed November 4, 2023 order” that granted Judge King judicial immunity for the contempt orders. Doc. No. 38. This second appeal is currently pending before the U.S. Court of Appeals for the Fifth Circuit as Cause No. 25-51009.

## REASONS FOR DENYING CERTIORARI

### **I. This Court does not have jurisdiction over the issue raised in Petitioners’ Question Presented.**

This Court’s limited appellate jurisdiction to review interlocutory orders does not extend to a district court’s orders granting judicial immunity. Because Petitioners include within the scope of the Question Presented the district court’s interlocutory order granting immunity to Judge King, this Court has no appellate jurisdiction to review that issue. The petition for certiorari should therefore be denied.

Below, Petitioners challenged by cross-appeal the district court’s grant of judicial immunity to Judge King for her orders committing Petitioners to jail for contempt. The court of appeals dismissed the cross-appeal for want of jurisdiction, ruling that, on interlocutory appeal, it had no appellate jurisdiction to

review an interlocutory order *granting* immunity. *Pet. App.* 16a–17a. Petitioners ask this Court to grant review of this interlocutory order without addressing this jurisdictional obstacle.

Under the “collateral order” doctrine, “the *denial* of a substantial claim of absolute immunity is an order appealable before final judgment, for the essence of absolute immunity is its possessor’s entitlement not to have to answer for his conduct in a civil damages action.” *Mitchell v. Forsyth*, 472 U.S. 511, 525 (1985) (emphasis added). But the same is not true of a trial court’s order *granting* immunity: “Ordinarily, grants of immunity are not immediately appealable because they may be fully and effectively reviewed upon entry of final judgment.” *Pet. App.* 16a–17a (citing *Thompson v. Betts*, 754 F.2d 1243, 1246 (5th Cir. 1985)).

Here, the district court denied immunity to Judge King for conducting the jury qualification proceeding, *id. at 29a–32a*, but the district court granted immunity for ordering Petitioners to jail on a finding of contempt. *Id. at 32a–37a*. As the Fifth Circuit held, only the denial of immunity for the jury qualification was reviewable on interlocutory appeal. *Id. at 5a*. Petitioners attempted to invoke the court of appeals’ “pendent appellate jurisdiction,” but the court ruled the doctrine did not apply, in part because disqualifying Petitioners from jury service and ordering them to jail on a finding of contempt were factually and legally distinct issues: “[T]he differences—both factual and legal—between the jury proceeding issue and the contempt-orders issue led the district court to treat

them as distinct, analyzing them in separate sections of its ruling.” *Id. at 17a–18a.*

In their Question Presented, Petitioners ignore this distinction between appealable and non-appealable interlocutory orders by asking this Court to review the alleged “wrongful arrests” of Petitioners with their disqualification from jury service. This Court has no jurisdiction over an interlocutory appeal of the order granting Judge King’s immunity for Petitioners’ alleged “wrongful arrests.” Immunity was granted for that conduct by the district court, and the court of appeals dismissed Petitioners’ cross-appeal of that issue for want of jurisdiction. The petition neither argues this Court has jurisdiction over the district court’s interlocutory order granting immunity to Judge King for this conduct, nor challenges the court of appeals’ dismissal of their cross-appeal for want of appellate jurisdiction. Because there is no jurisdiction for this Court to decide the Question Presented as framed by Petitioners, certiorari should be denied.

**II. The order that Petitioners ask this Court to review is currently pending before the court of appeals in a second appeal.**

The Court should decline review, because a second appeal from final judgment in this case is pending before the court of appeals. Petitioners fail to include this second appeal in the list of directly related proceedings required by Sup. Ct. R. 14(b)(iii).

The relevant procedural background is as follows:

- In an order dated November 4, 2023, the district court signed its interlocutory order on immunity. *Pet. App. 43a.*

- The court of appeals reversed the district court’s order to the extent it had denied immunity to Respondents. *Id. at 1a.*
- The court of appeals issued its mandate, as no party sought to stay the court of appeals’ mandate pending certiorari under Fed. R. App. Proc. 41(d).
- On receipt of the mandate, the district court entered final judgment. Doc. No. 37.
- On November 28, 2025, Petitioners filed a notice of appeal from the final judgment – an appeal that Petitioners stated: “encompasses all orders of the district court, including the previously appealed November 4, 2023 order.” Doc. No. 38. This appeal is currently pending before the U.S. Court of Appeals for the Fifth Circuit as Cause No. 25-51009.
- On December 8, 2025, Petitioners filed this petition seeking review of the interlocutory order.

This procedural posture warrants denial of the petition. The interlocutory nature of a case “alone furnishes sufficient ground for the denial of the application.” *Hamilton-Brown Shoe Co. v. Wolf Bros. & Co.*, 240 U.S. 251, 258 (1916). Further, the same interlocutory order Petitioners ask this Court to review is currently under review by the court of appeals in a second appeal. Denying certiorari of the interlocutory order promotes judicial efficiency by avoiding duplicative or conflicting dispositions and allowing consolidation of issues considered at earlier stages of the litigation. That is especially true here, where the court of appeals dismissed Petitioners’ cross-appeal because the court had no appellate jurisdiction over the

interlocutory order. Now, on appeal from final judgment, the court of appeals may reach the merits of the issue that forms part of the Question Presented. Granting review before the court of appeals has the chance to rule on the merits would be, at best, premature. In its current posture, therefore, this case is a poor vehicle for reviewing the issues as presented by Petitioners.

In sum, certiorari should be denied because Petitioners present a question from an interlocutory appeal of a non-final order when that question has not yet been decided by the court of appeals and is currently pending before the court of appeals in an appeal from the final judgment.

**III. The court of appeals' decision is correct on the merits and does not conflict with any decision of this Court or the other courts of appeal.**

On the merits, the court of appeals' disposition of the issue of judicial immunity was correct. The decision does not conflict with this Court's precedents, nor does it conflict with any decision of another court of appeals. Even if the court of appeals' decision were erroneous in some respect, Petitioners' complaint is, at bottom, that the court of appeals misapplied settled law, which is not a sufficient reason for certiorari. Sup. Ct. R. 10.

The jury qualification proceeding conducted by Judge King is a judicial act entitled to immunity. Judge King questioned under oath the panel of potential jurors who appeared in response to a jury summons to her court. She made factual determinations on whether each met the statutory qualifications to

serve as a juror. That is normally a judicial task, especially so in Texas state court, where state law provides that the “court is the judge, after proper examination, of the qualifications of a juror.” Tex. Code Crim. Proc. art. 35.21.

The contempt orders Petitioners seek to include within the scope of the Question Presented are also “judicial acts” for which judges have immunity. *See, e.g., Figueroa v. Blackburn*, 208 F.3d 435, 443 (3d Cir. 2000) (“There can be little doubt that holding an individual in contempt is an act normally performed by a judge.”); *Crooks v. Maynard*, 913 F.2d 699, 700 (9th Cir. 1990) (a judge’s contempt order is “clearly” a judicial act); *Adams v. McIlhany*, 764 F.2d 294, 297 (5th Cir. 1985) (“There is no question” a judge’s actions in imposing a contempt sentence are “judicial acts”); *see also Giron v. Chaparro*, 167 Fed. App’x. 716, 720 (10th Cir. 2006) (a contempt order “patently involves a judicial function which must be afforded the defense of absolute immunity”).

There is no conflict with this Court’s opinion in *Ex parte Virginia*, 100 U.S. 339 (1879). As the court of appeals’ opinion explains, the judge in *Ex parte Virginia* was performing the non-judicial act of compiling a list of persons who could be called for grand-jury service. *Pet. App.* 12a–13a. Today, this task is performed by clerks and other non-judicial officials who create such jury lists from drivers-license and voter-registration databases. Judge King was, by contrast, questioning potential jurors under oath who had appeared to court in response to a jury summons to determine each person’s qualification to serve as a juror. This was her judicial duty as a justice of the peace presiding over the Texas justice court. *See Tex. Gov’t Code § 62.015(a)* (“On the day that jurors appear for jury

service in a justice . . . court, the judge, if jury trials have been set, shall select from the names on the jury lists a sufficient number of qualified jurors to serve on the jury panel.”). Her acts in conducting the proceeding and ruling on the juror’s qualifications were therefore judicial acts protected by immunity.

Contrary to Petitioners’ argument, *Pet. App. 20*, the Fifth Circuit’s four-factor test for identifying whether an act is judicial for purposes of immunity is consistent with this Court’s precedent. This Court itself expressly endorsed the Fifth Circuit’s approach to judicial immunity by citing with approval the very Fifth Circuit case that first adopted the four-factor test. *Stump v. Sparkman*, 435 U.S. 349, 361 (1978) (quoting *McAlester v. Brown*, 469 F.2d 1280 (5th Cir. 1972)). In the nearly fifty years since, the Fifth Circuit has continued to use the four-factor test to guide its analysis of whether an act is judicial for purposes of immunity. There is no cause for this Court to review that practice now.

Each of the Fifth Circuit’s four factors, moreover, find firm grounding in this Court’s decisions. The first—whether the act complained of is “a normal judicial function”—is taken straight from this Court’s precedent. *See, e.g., Mireles v. Waco*, 502 U.S. 9, 12 (1991) (judicial act inquiry considers “whether it is a function normally performed by a judge”). The second and third factors—whether the acts occurred in the courtroom or appropriate adjunct spaces and whether the controversy centered around a case pending before the court—have likewise been cited by this Court as relevant factors to consider. *See, e.g., id.* at 12 (noting that plaintiff “was called into the courtroom for purposes of a pending case”). And the fourth factor—whether the acts arose directly out of a visit

to the judge in his official capacity—was quoted with approval by this Court in *Stump*. 435 U.S. at 361 (quoting *McAlester*, 469 F.2d at 1282). Finally, the Fifth Circuit’s four factors are not a rigid test, but a “case-specific” guide for evaluating a judge’s actions. *Daves v. Dallas Cty., Tex.*, 22 F.4th 522, 539 & n.13 (5th Cir. 2022) (en banc). Consideration of these factors in this way does not conflict with this Court’s precedent.

Affording a judge immunity for damages in a private civil action does not leave the public without remedy for judges’ misconduct. Judges may be removed from office by impeachment. They may be disciplined by judicial conduct commissions. In Texas and other states that conduct judicial elections, judges may be voted out of office. In appropriate cases, prospective injunctive relief may be available against a judge. *Pulliam v. Allen*, 466 U.S. 522, 542 (1984). But as to claims for monetary damages, this Court has long recognized that even when a judge is “accused of acting maliciously and corruptly,” *Pierson v. Ray*, 386 U.S. 547, 554 (1967), it is “a general principle of the highest importance to the proper administration of justice that a judicial officer, in exercising the authority vested in him, [should] be free to act upon his own convictions, without apprehension of personal consequences to himself.” *Stump*, 435 U.S. at 355 (quoting *Bradley v. Fisher*, 80 U.S. 335, 347 (1872)). The decision below follows this Court’s precedent on the purposes and scope of judicial immunity. There is no conflict with the decisions of another court of appeals. Review should therefore be denied.

## CONCLUSION

The petition for certiorari should be denied.

Respectfully submitted,

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