

No. 25-6795

ORIGINAL

Supreme Court, U.S.
FILED

JAN - 2 2026

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

NORMAN Lee Scott, Sr ProSe PETITIONER
(Your Name)

vs.

Whitney R. Bailey, et al., — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Norman Lee Scott, Sr ProSe
(Your Name)

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QUESTION(S) PRESENTED

1. Whether a federal court may apply judicial estoppel to dismiss a civil action when the debtor reopened the bankruptcy case, amended the schedules with court approval, the trustee was appointed, and the bankruptcy was fully administered and closed before the civil dismissal.
2. Whether the Due Process Clause permits a district court to Sua Sponte reverse its prior ruling rejecting judicial estoppel, without notice or an opportunity to be heard, based solely on a decision from a different case involving different claims.
3. Whether judicial estoppel may be imposed without findings of intentional concealment, bad faith, or prejudice, contrary to *New Hampshire v. Maine*, 532 U.S. 742 (2001), and this Court's bankruptcy-fresh-start jurisprudence.
4. Whether punishing a debtor for correcting a bankruptcy disclosure undermines the Bankruptcy Code's "fresh start" policy.

LIST OF PARTIES

- [] All parties appear in the caption of the case on the cover page.
- [X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

WHITNET R. BAILEY

DONALD GLOVER

The Children's Hospital of Philadelphia

RELATED CASES

United States District Court (Eastern District of Pennsylvania):

Scott v. Bailey, No. 2:22-cv-03654 (Sept. 23, 2024)

United States Court of Appeals for the Third Circuit:

Scott v. Bailey, No. 24-2809 (Judgment Nov. 4, 2025; rehearing denied Nov. 18, 2025)

Scott v. The Children's Hosp. of Phila., Nos. 23-2609 & 23-2610 (3d Cir.) ("Scott I")

Bankruptcy Court:

In re Scott, No. 22-19638 (Bankr. D.N.J.)

Final Decree entered January 4, 2024

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TABLE OF AUTHORITIES

Cases

New Hampshire v. Maine, 532 U.S. 742 (2001)

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

Krystal Cadillac-Oldsmobile GMC Truck, Inc. v. GM, 337 F.3d 314 (3d Cir. 2003)

Ryan Operations G.P. v. Santiam-Midwest Lumber Co., 81 F.3d 355 (3d Cir. 1996)

MD Mall Assocs., LLC v. CSX Transp., Inc., 715 F.3d 479 (3d Cir. 2013)

Ah Quin v. County of Kauai Dep't of Transp., 733 F.3d 267 (9th Cir. 2013)

Eubanks v. CBSK Fin. Grp., Inc., 385 F.3d 894 (6th Cir. 2004)

Slater v. U.S. Steel Corp., 871 F.3d 1174 (11th Cir. 2017) (en banc)

In re Coastal Plains, Inc., 179 F.3d 197 (5th Cir. 1999)

Eastman v. Union Pac. R.R., 493 F.3d 1151 (10th Cir. 2007)

Statutes & Rules

U.S. Const. amend. V

28 U.S.C. § 1254(1)

11 U.S.C. §§ 350, 521

Sup. Ct. R. 10, 13, 33, 34, 39

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

PETITION FOR REHEARING DENIED

C

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 11/4/2025.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 11/18/2025, and a copy of the order denying rehearing appears at Appendix C.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL & STATUTORY PROVISIONS

U.S. Constitution

Fifth Amendment — Due Process Clause

United States Code

11 U.S.C. § 350 (reopening bankruptcy cases)

11 U.S.C. § 521 (debtor's disclosure duties)

28 U.S.C. § 1254(1) (Supreme Court jurisdiction)

Rules

Supreme Court Rule 10, 13, 33, and 39 (grounds for certiorari)

STATEMENT OF THE CASE

Petitioner Norman L. Scott, Sr. filed a defamation action in the Eastern District of Pennsylvania in 2022 against his former employer and supervisors. While that case was pending, he also had a pro se Chapter 7 bankruptcy in the District of New Jersey.

In February 2023, Petitioner inadvertently failed to list the defamation action on one bankruptcy schedule. When the omission was identified, he promptly moved to reopen the bankruptcy and amend all schedules. The Bankruptcy Court granted the motion, allowed the amendments, appointed a trustee, and fully cured the case. The bankruptcy then proceeded normally and was closed by final decree on January 4, 2024.

There was no creditor objection, no finding of bad faith, and no revocation of discharge. The Bankruptcy Court accepted the corrected schedules and the case was resolved.

Eight months later, on September 23, 2024, the district court in the defamation action sua sponte reversed its earlier ruling and dismissed the case on judicial estoppel—despite the fact that the bankruptcy had already been cured and closed. The Third Circuit affirmed, relying on prior non-precedential decisions and holding that reopening the bankruptcy was “insufficient” as a matter of law.

This Petition follows.

REASONS FOR GRANTING THE PETITION

A. The Decision Conflicts with New Hampshire v. Maine

This Court has made clear that judicial estoppel is an extraordinary remedy that requires careful analysis of intent, bad faith, and whether a lesser sanction would suffice. *New Hampshire v. Maine*, 532 U.S. 742, 750–51 (2001).

The Third Circuit did none of that. It applied estoppel automatically, even though:

Petitioner corrected the omission

The Bankruptcy Court approved the correction

The case was fully cured and closed

No creditor was misled

No court found bad faith

That approach squarely conflicts with *New Hampshire*, which forbids mechanical estoppel and requires a fact-specific inquiry.

B. The Decision Creates and Deepens a Circuit Split

Federal circuits are divided on whether judicial estoppel requires proof of intentional concealment.

The 7th, 9th, and 10th Circuits require intent and prejudice.

The 5th and 11th Circuits apply a harsher rule.

The Third Circuit now applies estoppel even after full correction, making it the most punitive.

This split affects thousands of bankruptcy litigants nationwide and warrants this Court's review.

C. The Bankruptcy Case Was Fully Cured Before Dismissal

This case is extraordinary:

The bankruptcy was fully resolved eight months before the civil dismissal.

Judicial estoppel exists to protect courts from being misled. But by January 4, 2024, no court was misled anymore. The schedules were corrected, the trustee was appointed, and the Bankruptcy Court entered a final decree.

Applying estoppel after the cure turns the doctrine into a punitive forfeiture, not an equitable safeguard.

D. The District Court Violated Due Process

Judge Rufe originally rejected judicial estoppel. She later reversed herself Sua Sponte, without:

notice

briefing

or an opportunity to be heard

That violates the Fifth Amendment's Due Process Clause. A litigant must be given a meaningful chance to contest a dispositive ruling.

E. The Decision Undermines the Bankruptcy Code's "Fresh Start"

The Bankruptcy Code encourages debtors to correct errors. Section 350 expressly allows reopening for that purpose.

Punishing a debtor for reopening and correcting schedules contradicts the Code's central goal: honest disclosure and a fresh start.

F. Pro Se Litigants Are Being Singled Out for Punitive Estoppel

Under *Haines v. Kerner*, courts must construe pro se filings liberally. Instead, the Third Circuit imposed the harshest possible sanction on a pro se debtor who did exactly what the law requires: corrected the mistake.

That rule will chill disclosure and disproportionately harm unrepresented litigants.

CONCLUSION

This case presents a clean, fully cured bankruptcy record and a stark legal question:

Can a federal court destroy a civil claim after the bankruptcy has already been fixed?

The Third Circuit's answer conflicts with Supreme Court precedent, bankruptcy law, due process, and national uniformity. The Petition should be granted.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Norman L. Scott by Pro Se

Date: 1/2/2026

APPENDIX A