

25-6797

No.:

ORIGINAL

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SUPREME COURT OF THE UNITED STATES

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Supreme Court, U.S.  
FILED

JAN 16 2026

OFFICE OF THE CLERK

Eshawn Jessica Scipio

*Petitioner,*

vs.

FINKLEA, HENDRICK & BLAKE, LLC; GARY I. FINKLEA, In his individual and official capacity; CHARLIE BLAKE, JR., In his individual and official capacity; CHARLIE SCIPIO, In his individual capacity under binding contractual agreement; ELVIRA CALDWELL, In her individual capacity under binding contractual agreement; BERNICE WHEELER, In her individual capacity under binding contractual agreement.

*Respondents.*

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

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**PETITION FOR A WRIT OF CERTIORARI**

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Eshawn Jessica Scipio  
Petitioner  
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*Federal Appeals Court Appellant*  
January 16, 2026

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#### **IV. Petition for Writ of Certiorari**

Eshawn Jessica Scipio is a United States Citizen and resident of Darlington County; located in the state of South Carolina. Eshawn Jessica Scipio is a Prose' litigant, and Appellant who respectfully petitions this court for a writ of certiorari to review the judgment of the Fourth Circuit Court of Appeals.

#### **V. Opinions Below**

The unpublished per curiam opinion of the United States Court of Appeals for the Fourth Circuit affirming the district court is reproduced in the appendix. The order denying rehearing and rehearing en banc. The district court's order of dismissal is referenced in the appellate opinion.

#### **VI. Jurisdiction**

The United States Court of Appeals for the Fourth Circuit entered its unpublished per curiam opinion affirming the district court on September 22, 2025, and denied the timely petition for rehearing and rehearing en banc on October 21, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1) and Supreme Court Rule 13.1. The petition is timely filed within 90 days of the denial of rehearing.

#### **VII. Constitutional Provisions Involved**

##### **U.S. Const. amend. V:**

No person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

##### **U.S. Const. amend. XIV, § 1:**

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State 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.

##### **28 U.S.C. § 1254(1):**

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree.

**42 U.S.C. § 1983:**

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

**Fed. R. Civ. P. 1, 6, 60(b)(3):**

**FRCP 1:** These rules govern the procedure in all civil actions and proceedings in the United States district courts, except as stated in Rule 81. They should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.

**FRCP 6:** A judge's delay in ruling for over a year is a matter of potential judicial misconduct or undue delay.

**FRCP 60(b)(3):** (b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party.

**Fed. R. App. P. 40**

Allows petitions for panel rehearing to address overlooked points of law and facts, conflicts with precedent, or exceptional importance.

**VIII. Statement of the Case**

Petitioner Eshawn Jessica Scipio, proceeding pro se, filed suit in the U.S. District Court for the District of South Carolina on November 28, 2023; against the Respondents, the complaint alleged violations of 42 U.S.C. §§ 1981, 1982, and 1983.

The underlying claims stem from respondents' alleged submission of multiple fraudulent property deeds and a fraudulent quitclaim deed to state officials, including the clerk of court and tax assessor, which deprived petitioner of her constitutional right to property without due process. Specifically, the respondent lawyers Gary I. Finklea and Charlie Blake, Jr. are alleged to have acted in concert with family members Charlie Scipio, Elvira Caldwell, and Bernice Wheeler under binding contractual agreements to file these fraudulent documents with government offices, effectively invoking state authority to effectuate the deprivation.

The district court referred the matter to a magistrate judge, who issued a Report and Recommendation (R&R) recommending dismissal for failure to state a claim. The Petitioner Eshawn Jessica Scipio timely objected to the first R&R on January 22, 2024. The district court docket reflected that replies to objections were due February 5, 2024, under Fed. R. Civ. P. 6. Despite this, the district court took no action on the objections for over one year; as the Petitioner Eshawn Jessica Scipio and her minors remained homeless. The Petitioner Eshawn Jessica Scipio also timely objected to a subsequent R&R issued April 11, 2025, on April 17, 2025, which was not filed by the same U.S. District Court Clerk that was allowed to retire, instead of being prosecuted for her crimes; as also shown on the record.

However, multiple filings including objections and critical exhibits were not properly docketed in the correct case 4:23-cv-06088-JD. Instead, they were misfiled in a separate action 4:23-cv-01223-JD-TER and simply disappeared from the record. The Petitioner Eshawn Jessica Scipio presented evidence of these irregularities, including docket entries showing misfiling's on March 13, 2024, June 11, 2024, and April 17, 2025. The Petitioner Eshawn Jessica Scipio PACER Billing History also reflect that "EFC No. 21 in Case No. 4:23-cv-06088-JD" was accessed on July 8, 2024 and not on March 19, 2025, as the Petitioner Eshawn Jessica Scipio current record reflects.

Proving the Petitioner Eshawn Jessica Scipio entire U.S. District Court Timeline is Fraud. On June 16, 2025 more than one year after January 2024, the district court dismissed the case. The Fourth Circuit affirmed on September 22, 2025, holding that petitioner Eshawn Jessica Scipio forfeited appellate review by failing to file objections to the R&R, despite petitioner's evidence that objections were filed but not reflected in the record due to fraud or clerical misconduct.

The Petitioner Eshawn Jessica Scipio sought rehearing, arguing that the panel overlooked the fraud upon the court withholding/misfiling of material records, the violation of Fed. R. Civ. P. 1 and 6 by the district court's excessive delay, and the resulting denial of due process. The Fourth Circuit denied rehearing on October 21, 2025. Since this time the United States District Court for the State of South Carolina, Florence Division, has released their clerk but on the grounds of retirement and not criminal prosecution for her actions.

## **IX. Reasons for Granting the Writ**

The decision below warrants certiorari because:

**A. The Fourth Circuit's decision creates a conflict with decisions of this Court and other circuits on the reviewability of fraud-upon-the-court claims and forfeiture findings.**

This Court has long recognized that federal courts possess inherent equitable power to vacate judgments procured by fraud upon the court, including schemes that deceive the court through deliberate withholding or misfiling of material evidence. See, Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238, 244–46 (1944); also see, Marshall v. Holmes, 141 U.S. 589 (1891). The power is not extinguished by appellate affirmance when fraud taints the very record on which the appellate court relied. See, United States v. Beggerly, 524 U.S. 38 (1998).

The Fourth Circuit affirmed solely on forfeiture grounds, without addressing petitioner's unrebutted evidence that timely objections and exhibits were misfiled or withheld. This creates a

conflict with Hazel-Atlas and with other circuits that have vacated judgments where clerical or intentional misconduct deprives a litigant of a fair record. See, In re Levander, 180 F.3d 1114 (9th Cir. 1999).

**B. The decision below raises important federal questions concerning due process and equal treatment of pro se litigants.**

The district court's failure to rule on objections for over one year while dismissing for failure to prosecute violates Fed. R. Civ. P. 1's command for "*just, speedy, and inexpensive*" determination of actions and the constitutional right to reasonably prompt adjudication. See, Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380 (1993). Courts routinely sanction litigants for delay.

The decision allows disparate treatment to pro se litigants whom are held to strict compliance with procedural rules, while institutional actors such as a clerk, and judges escape scrutiny for misfiling, timeline fraud or withholding documents. This raises serious questions of due process and equal protection under the Fifth and Fourteenth Amendments of the United States Constitution.

The Fourth Circuit's refusal to remand for an evidentiary hearing on fraud upon the court threatens the integrity of the judicial process and access to justice for unrepresented litigants.

**C. The decision below perpetuates uncertainty regarding when private attorneys become state actors through misuse of state recording processes, presenting a question of national importance with potential circuit conflicts.**

The underlying § 1983 claim turns on whether the respondents' private attorneys acted "under color of state law" by submitting multiple fraudulent property deeds and a fraudulent quitclaim deed to the clerk of court and tax assessor, who are state officials, who then recorded them, depriving the petitioner Eshawn Jessica Scipio of her rightful property rights without due process.

Under this Court's precedents, private parties can be deemed state actors if they engage in joint action or conspiracy with state officials, or if their conduct is attributable to the state. See Lugar v. Edmondson Oil Co., 457 U.S. 922 (1982). The private invocation of state attachment procedure can constitute state action if joint participation exists.

Private parties conspiring with corrupt judges are state actors. See, Adickes v. S.H. Kress & Co., 398 U.S. 144 (1970). Conspiracy with state officials suffices. See, Dennis v. Sparks, 449 U.S. 24 (1980).

The private lawyers' alleged submission of fraudulent documents to government offices invoking state authority to validate and enforce the deeds raises the question of whether such actions create a "sufficiently close nexus" to render them state actors, particularly if the officials knowingly participated or failed to verify the real Darlington County Tax Map Numbers. Circuits appear divided on the threshold; some hold that mere misuse of state processes such as filing false documents and destroying the petitioner Eshawn Jessica Scipio right to inherited real property by falsifying real property deeds and acquiring loans by fraud and deception. This case provides a vehicle to resolve whether private attorneys' fraudulent filings with state recording offices common in property disputes transform them into state actors, clarifying a recurring issue in civil rights litigation.

## **X. Conclusion**

For the foregoing reasons, this Court should grant the petition for a writ of certiorari. The Fourth Circuit's decision not only conflicts with this Court's precedents in Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238 (1944), and Marshall v. Holmes, 141 U.S. 589 (1891), regarding the inherent power to vacate judgments tainted by fraud, but also perpetuates critical uncertainties in due process protections for pro se litigants and the state actor doctrine under 42

U.S.C. § 1983; by overlooking unrebutted evidence of clerical misconduct, institutional delays that violates Federal Rules of Civil Procedure 1 and 6. Private attorneys' misuse of state processes to deprive property rights, undermines the integrity of the federal judiciary and equal access to justice. Granting the Petitioner Eshawn Jessica Scipio certiorari will provide essential guidance on these recurring issues, ensuring that procedural safeguards are upheld without discrimination and that fraud does not prevail over fundamental constitutional rights of every and all United States citizens and residents of the State of South Carolina.

DATED this 16<sup>th</sup> day of January 2026,

Respectfully submitted,



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