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Supreme Court, U.S.  
FILED  
JAN 29 2026  
OFFICE OF THE CLERK

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

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In re: Matthew D. Snider, Petitioner.

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

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**PETITION FOR A WRIT OF CERTIORARI**

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Pro Se Petitioner

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## QUESTIONS PRESENTED

1. Whether the Clerk of the Supreme Court properly rejected a petition for certiorari before judgment requiring the removal of references to “Rule 11/before judgment” while a petition for panel rehearing and rehearing en banc remained pending in the lower court of appeals, and whether it was proper to reject the same petition for alleged noncompliance with Rule 39 formatting, notwithstanding that the substance and structure of the petitioners declaration complied with Rule 39.
2. Whether the Clerk of the Supreme Court properly rejected a petition for certiorari because the petitioner, appearing pro se, sought to represent both himself individually and his living trust, despite the Court of Appeals’ acceptance of that dual representation.
3. Whether the Clerk of the Supreme Court properly rejected a USB flash drive containing contemporaneously evidence of extraordinary circumstances directly related to systematic violations of the petitioner’s constitutionally protected rights, solely because the Court’s rules make no provision for filing digital media.
4. Whether the All Writs Act (28 U.S.C. § 1651), authorizes federal appellate courts to issue writs of mandamus and prohibition to state courts in extraordinary circumstances involving systematic violations of federal constitutional rights when no other adequate remedy exists.
5. Whether a Court of Appeals Clerk has the authority to unilaterally reject a petition for a writ of mandamus and prohibition directed at state-court judges without judicial review, based solely on the clerk’s determination that the court lacks jurisdiction under 28 U.S.C. § 1361, or whether such jurisdictional determinations must be made by a judge after the petition is properly docketed.
6. Whether the Younger abstention doctrine applies when state-court proceedings have concluded but federal courts erroneously determine they are ongoing.
7. Whether the Rooker-Feldman doctrine bars federal claims that challenge the constitutionality of state-court procedures rather than the substance of state-court judgments.
8. Whether a state-court judge acted in the clear absence of all jurisdiction by failing to follow statutory in rem procedures (specifically C.R.S. § 38-35-114) when issuing an ownership decree against a nonrecord titleholder, especially when the record titleholder and its beneficiaries were not parties to the underlying litigation; and, if such an absence of jurisdiction is found, whether judicial immunity bars a damages claim against the judge.
9. Whether judicial immunity bars claims for prospective injunctive relief against a state-court judge who has systematically violated the Petitioner’s constitutional rights.

## LIST OF INTERESTED PARTIES AND STATEMENT OF RELATED CASES

Not all parties appear in the caption of this case. All parties in the list of related cases are interested parties, following the list of interested parties who are not parties to the proceedings below.

### List of Interested Parties

1. Melanie Leann Simeone
2. Xaiden Matthew Bridgewater-Blair
3. David Powell
4. The Living Trust of Mr. Snider

### Related Cases:

**1. Matthew D. Snider individually and as Trustee of the Living Trust of Mr. Snider, Petitioner v. The Honorable Lewis T. Babcock, The Honorable Philip James McNulty, The Honorable Graham B. Peper, Jefferson County Combined Court, Colorado and U.S. District Court for the District of Colorado, Respondents (Case No. 25-1286), United States Court of Appeals for the Tenth Circuit.**

**2. Matthew D. Snider individually and as Trustee of the Living Trust of Mr. Snider, Petitioner v. The Honorable Philip James McNulty, The Honorable Graham B. Peper, Jefferson County Combined Court, Colorado., Respondents, (Case No. Unassigned). United States Court of Appeals for the Tenth Circuit.**

**3. Matthew D. Snider, Plaintiff v. The Honorable Philip James McNulty, Defendant, Case No. 24-cv-01052-LTB-RTG, U.S. District Court for the District of Colorado.**

**4. The People of the State of Colorado, Plaintiff v. Matthew D. Snider, Defendant (Case No. 23m4994), Jefferson County Combined Court, Colorado.**

**5. Johannes Gepkens, Plaintiff v. Matthew Snider, Defendant (Case No. 23cv157), Jefferson County Combined Court, Colorado.**

**6. Matthew D. Snider, Plaintiff v. Christopher M. Wolpert, Scott S. Harris. Defendants (Case No. 25-cv-10787), U.S. District Court for the Central District of California.**

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

Petitioner Matthew D. Snider, appearing *pro se*, respectfully prays that a writ of certiorari issue to review the administrative rejections and the judgment below.

**OPINIONS BELOW**

The opinion of the United States Court of Appeals appears at Appendix A to the petition and is unpublished (10th Cir. September 2, 2025). The opinion of the United States District Court appears at Appendix B to the petition and is unpublished (D. Colo. November 1, 2024). The opinion of the state trial court in the civil action appears at Appendix N to the petition and is unpublished (Jefferson County Combined Court, Colo. April 23, 2024). The opinion of the state trial court in the criminal action appears at Appendix L to the petition and is unpublished (Jefferson County Combined Court, Colo. July 25, 2024). The administrative rejection issued by the Clerk of the Supreme Court of the United States appears at Appendix F to the petition and is unpublished (U.S. October 9, 2025). A second administrative rejection issued by the Clerk of the Supreme Court appears at Appendix G and is unpublished (U.S. September 22, 2025). The administrative rejection issued by the Clerk of the Tenth Circuit appears at Appendix H to the petition and is unpublished (10th Cir. July 3, 2025).

**JURISDICTION**

The Tenth Circuit entered judgment on September 2, 2025. A timely petition for panel rehearing and rehearing *en banc* was filed that day and was denied on October 31, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1).

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The All Writs Act, 28 U.S.C. § 1651(a), provides: "The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."

42 U.S.C. § 1983 provides in relevant part: "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."

The Fourteenth Amendment to the United States Constitution provides in relevant part: "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."

### **STATEMENT OF THE CASE**

This case presents extraordinary circumstances involving extrajudicial gate-keeping by court staff that prevented Petitioner's otherwise compliant filings from being docketed and presented to the Justices of this Court and to the Tenth Circuit for adjudication. It also involves systematic violations of constitutional rights in state-court proceedings and the refusal of federal courts to provide a remedy. Petitioner seeks review of the Tenth Circuit's denial of his petition for a writ of mandamus and prohibition, which sought relief from two interrelated state-court proceedings marred by judicial misconduct and procedural irregularities that violated his due process rights and the property rights of the trust's beneficiaries.

#### **A. Factual Background**

Petitioner's legal troubles began with his work as a private investigator examining suspicious deaths with potential law-enforcement involvement. In September 2022, Petitioner was retained by Kathy Small to investigate the 1991 death of her son, David Mark Nawyn, which had been officially ruled a suicide by then-Deputy Rick Albers of the Clear Creek County, Colorado, Sheriff's Office.

In support of the reopened investigation, Kathy Small—mother of the decedent—submitted a collection of contemporaneous materials, including investigative reports, witness statements, and Polaroid photographs from the original crime scene. Small has consistently maintained that her son's death was not a suicide but rather a homicide allegedly perpetrated by Officer Charles Bielman of the Arvada, Colorado, Police Department. According to Small, Bielman subjected Nawyn to persistent harassment from the mid-1980s until his death in 1991.

Petitioner's investigation uncovered significant evidence contradicting the suicide determination, including: a death certificate noting both blunt-force trauma and a large-caliber contact wound (App. Z-3); a coroner's report documenting blunt-force trauma and a gunshot wound; a Colorado Bureau of Investigation forensic-lab report noting the absence of gunshot residue on Nawyn's hands; and photographic evidence showing law-enforcement officers who should not have been at the scene.

On September 22, 2022, Petitioner identified a 1991 crime-scene photograph that bears a striking resemblance to the current appearance of Arvada Public Information Officer Dave Snelling (App. Z). A recorded phone call between Petitioner and Snelling confirms Snelling's denial of any involvement in the Nawyn case (App. Z-1). Shortly thereafter, on September 25, 2022, Clear Creek County Undersheriff Bruce Snelling (the brother of Dave Snelling) died unexpectedly. The timing of his death—occurring just days after his documented connection to the Nawyn investigation became public—raises serious questions about potential connections between these events.

As Petitioner's investigation progressed, he began experiencing a pattern of harassment and intimidation. On October 3, 2022, Cory Martens, an associate of David Nawyn mentioned in the 1991 incident report, threatened Petitioner on behalf of the Clear Creek County Sheriff's Office (App. Z-2, p. 7). Following Petitioner's attempts to speak with Bruce Snelling's widow on October 4, 2022, Jefferson County SWAT officers arrived at Petitioner's residence exhibiting aggressive behavior. Three days later, on October 7,

2022, Petitioner was confronted by more than ten uniformed Jefferson County sheriff's deputies, including SWAT officers, who ordered him to cease his investigation into Nawyn's death (App. Z-2, p. 8).

Petitioner's investigation expanded to include the death of Donovan Martin, reportedly killed in a motorcycle accident on July 7, 2022. Using geo-location data analysis through Fog Data Science, LLC, Petitioner discovered that no mobile devices were detected at the specified accident scene on the listed date and time, suggesting the accident report's location data may have been inaccurate or fabricated (App. Z-2, pp. 12–13).

In late November 2022, Petitioner accompanied Kathy Small to submit his findings to the Colorado Attorney General's Office. After that submission, Petitioner began noticing increased surveillance, including unmanned aerial vehicles (drones) following him and unmarked law-enforcement vehicles trailing him throughout the Denver metro area.

This pattern of intimidation escalated into the civil and criminal proceedings that are the subject of this petition. The timing and nature of those proceedings strongly suggest they were initiated in retaliation for Petitioner's investigative work into potential law-enforcement misconduct rather than as legitimate legal actions.

The property at issue in the subsequent civil proceedings, located at 3930 Independence Court, Wheat Ridge, Colorado 80033 (the "Property"), has a clear chain of ownership that excludes Petitioner as an individual owner:

- On June 27, 2020, Petitioner formed a limited liability company, 3930 INDEPENDENCE COURT LLC (the "LLC"), with the Colorado Secretary of State.
- On June 29, 2020, the Property was titled to the LLC, as recorded in the real-property records of the Jefferson County Clerk and Recorder.

- On May 25, 2023, ownership and title to the Property were transferred and recorded to the LIVING TRUST OF MR. SNIDER in the Jefferson County real-property records (App. Y).

At all relevant times, Petitioner served as trustee of the Living Trust of Mr. Snider, with Melanie Leann Simeone, Xaiden Matthew Bridgewater-Blair, and David Powell as beneficiaries.

#### **B. Civil Proceedings in Jefferson County, Colorado Combined Court**

On August 3, 2023, Johannes Gepkens ("Gepkens"), Petitioner's former business partner, initiated a civil lawsuit (Case No. 2023cv157) against Petitioner individually, seeking to claim ownership of the Property. The lawsuit ignored the fact that the Property was owned by the Living Trust of Mr. Snider, not by Petitioner individually.

The civil proceedings in Jefferson County Combined Court were marked by numerous procedural irregularities and due-process violations:

- On August 24, 2023, the clerk of the Jefferson County Court approved Petitioner's motion to proceed *in forma pauperis* under Colorado Supreme Court Chief Justice Directive CJD 98-01 (App. W, X). That approval included acceptance of Petitioner's answer, which contained a motion to dismiss the civil suit under Colorado Rule of Civil Procedure 12(b)(5).
- On January 3, 2024, Judge McNulty issued an order stating that, without an updated motion to file without payment of filing fees and a supporting financial affidavit with documentation, the court would no longer accept any filings from Petitioner. This order directly contradicted CJD 98-01, § II(1)(b)(iii), which mandates that indigency status remain in effect for the duration of civil proceedings (App. X).
- On January 29, 2024, Petitioner filed his Answer, Counterclaim, and Complaint in the civil action without the updated fee waiver and financial affidavit because he had not received the January 3, 2024 order (App. S).

- On February 1, 2024, Judge McNulty struck Petitioner's Answer, Counterclaim, and Complaint.
- On February 27, 2024, Judge McNulty entered a default judgment in favor of Gepkens (App. Q).
- On February 28, 2024, Petitioner submitted his Answer, Counterclaim, and Complaint with an updated fee waiver (SNAP form) and affidavit. The clerk approved his motion to proceed *in forma pauperis*.
- On February 29, 2024, Judge McNulty struck Petitioner's Answer again, despite the clerk's approval of the fee waiver. In this order, Judge McNulty explicitly acknowledged the existence of the Living Trust of Mr. Snider, stating: "On 2/28/2024, Defendant filed a new JDF 205 which indicates he has a \$600,000.00 home in a living trust with no associated debt." Despite this acknowledgment, Judge McNulty struck the pleading and required Petitioner to pay the filing fee. (App. P)
- On April 23, 2024, Judge McNulty issued an updated default judgment in favor of Gepkens, awarding him \$650,000 and declaring him the owner of the Property. (App. N)
- On August 27, 2024, while Petitioner was in custody and hospitalized for pulmonary hypertension, Judge McNulty granted a writ of restitution to Gepkens, who then took possession of the Property, which contained all of Petitioner's personal belongings. (App. K)

Throughout these proceedings, the Living Trust of Mr. Snider and its beneficiaries were never made parties to the litigation, despite being the legal owners of the Property.

### **C. Criminal Proceedings in Jefferson County Combined Court, Colorado**

On September 14, 2023, Petitioner became the target of an assault incident to which the Wheat Ridge, Colorado Police Department responded. (App. V) Rather than treating Petitioner as a victim, officers confiscated his legally held firearm and fabricated charges including possession of a defaced stolen firearm. Evidence suggests that Colorado Assistant Deputy Attorney General Cole Jacob Woodward issued a directive via Jeff-Com 911 to Corporal Jeremy Schmitz's cell phone, ordering the confiscation of Petitioner's legally held firearm, fabrication of charges, and falsification of records. Officer Brian

Mikolajczak's report contained false National Crime Information Center (NCIC) (#G655561986) and Colorado Crime Information Center (CCIC) (#141924233) numbers, suggesting the firearm was reported stolen when it was not. (App. U)

Throughout the criminal proceedings (Case No. 2023m4994), Petitioner experienced numerous due process violations:

- On January 19, 2024, Petitioner submitted a discovery request at a pre-trial conference. The prosecution provided a CD titled "Discovery Packet 1," which did not include police body-worn camera footage or CCIC/NCIC hit reports related to the allegedly stolen firearm.
- On January 25, 2024, Petitioner contacted Jefferson County Deputy District Attorney Rachael Mastarone to request the missing evidence. Despite providing a flash drive as requested, Petitioner received distorted bodycam footage lacking audio and no CCIC or NCIC hit reports.
- On February 7, 2024, Petitioner submitted a motion requesting a continuance due to the prosecution's failure to provide essential discovery materials.
- On February 21, 2024, Petitioner formally requested that the Court impose sanctions on the prosecution for violating Colorado Criminal Procedure Rule 16 regarding discovery.
- On February 23, 2024, despite concerns over the absence of required materials, Deputy District Attorney Rachael Mastarone informed the Court that the defense had received these materials. Judge Peper denied the request for sanctions. (App. R)
- On April 4, 2024, at the first scheduled jury trial, essential witnesses—including Corporal Jeremy Schmitz and the digital evidence custodians from Axon, CBI, and JeffCom 911—failed to comply with their subpoenas. Colorado Assistant Deputy Attorney General Cole Jacob Woodward appeared virtually and stated that searches of the CCIC and NCIC databases returned no records for the allegedly stolen and defaced firearm, contradicting the prosecution's claims on February 23, 2024.

- On June 14, 2024, Judge Peper denied Petitioner's emergency motions requesting subpoenas for the FBI's digital custodian of evidence related to the NCIC hit report and for AT&T's digital custodian of phone records for Corporal Schmitz's cell phone. (App. M)
- On July 25, 2024, Petitioner's jury trial proceeded with numerous irregularities: key witnesses failed to appear; more than 60 pages of discovery were disclosed only after the trial had begun; and the judge suspended the legally required livestream of the proceedings. At trial, the firearm was presented to the jury with the entire serial number removed, yet Petitioner was prohibited from handling the firearm to examine it.

Petitioner was convicted of possessing a defaced firearm under Colorado Revised Statutes § 18-12-103 and sentenced to a 60-day work-release term combined with an 18-month probation period. This sentence exceeds the statutory maximum under Colorado Revised Statutes § 18-1.3-501, which provides that a Class 1 misdemeanor may result in penalties of up to 364 days in jail and/or a fine of up to \$1,000. (App. Z-7, Z-8)

While in custody, Petitioner experienced medical negligence that resulted in an eight-day hospital admission after he lost consciousness. Jefferson County Jail medical staff failed to follow emergency-room discharge instructions, contributing to a nearly fatal diagnosis of pulmonary hypertension.

On August 28, 2024, Petitioner posted a \$5,000 appeal bond. Upon his release from custody, Petitioner discovered that more than 60 pages of critical discovery, miscellaneous motions, and affidavits of service—including a falsified police report from the Weld County Sheriff's Office concerning the allegedly stolen and defaced firearm—were missing from his property. The court clerk sent appeal documents and time-sensitive deadlines to an outdated address, despite Petitioner's updated address being listed on the appeal bond paperwork. When Petitioner appeared in court on bond, Judge Peper remanded him back into custody for the remainder of his sentence (seven days) for failing to meet the deadline associated with the notice sent to his old address. (App. J)

In November 2024, a \$5,000 cash-only probation warrant was issued for Petitioner, preventing his return to Colorado. This warrant stems from the illegal 18-month probation term that exceeds the statutory maximum for a Class 1 misdemeanor. (App. Z-8)

#### **D. Civil Proceedings in the U.S. District Court for the District of Colorado**

On April 18, 2024, Petitioner filed a petition and complaint for a writ of mandamus in the United States District Court for the District of Colorado (Civil Action No. 24-cv-01052-SBP) under the All Writs Act, 28 U.S.C. § 1651. The petition sought to compel Judge McNulty to reinstate Petitioner's wrongfully stricken filings in the underlying civil action and to permit Petitioner to participate in his own defense. These matters required prompt judicial attention, as the striking of Petitioner's filings effectively deprived him of any meaningful opportunity to present his claims.

The case was assigned to United States Magistrate Judge Susan Prose. Prior to her appointment to the federal bench, Judge Prose served with the Colorado Attorney General's Office and previously as a prosecutor in Jefferson County, Colorado. Petitioner promptly filed an application for a Temporary Restraining Order ("TRO") due to the ongoing and irreparable harm resulting from his exclusion from the state-court proceedings. Nevertheless, the action remained dormant for more than ninety days. During this period, the Court issued no ruling on the TRO, leaving Petitioner without relief and compounding the prejudice caused by the unlawful default judgment entered in the state-court proceedings.

On August 1, 2024, the District Court directed Petitioner to cure deficiencies in the original complaint and to address jurisdictional issues, including potential barriers under the Younger abstention doctrine and the Rooker–Feldman doctrine.

On September 25, 2024, Petitioner filed an amended complaint asserting that Judge McNulty exceeded his judicial authority by striking Petitioner's pleadings in the state-court action. The claims, brought under

42 U.S.C. § 1983, alleged due-process and equal-protection violations affecting both Petitioner individually and the Living Trust of Mr. Snider.

On October 7, 2024, U.S. Magistrate Richard T. Gurley recommended dismissal of the federal action based on several grounds:

- Younger Abstention: The state proceedings were deemed ongoing or not final, so federal adjudication would interfere.
- Rooker-Feldman Doctrine: The relief sought would compel the federal court to review or undo a state court decision, which was deemed impermissible.
- Judicial Immunity: Since Judge McNulty acted within his judicial capacity, claims against him for damages were barred. (App. C)

On October 10, 2024, Petitioner objected to the Magistrate Judge's recommendations, arguing:

- Federal jurisdiction exists under 28 U.S.C. § 1331 because the case involves substantial federal constitutional questions.
- The state court proceedings did not provide an adequate forum for redressing the due process violations at issue.
- The application of both Younger abstention and the Rooker-Feldman doctrine was incorrect since the claims challenged unconstitutional judicial conduct rather than merely reviewing a final state judgment.
- The Trust beneficiaries' property rights were being violated without due process, as they were never parties to the state court proceedings. (App. I)

On November 1, 2024, after *de novo* review, the District Court adopted the Magistrate's recommendation and issued an order that:

- Dismissed Petitioner's 42 U.S.C. § 1983 claims for equitable relief without prejudice for lack of subject matter jurisdiction or because the requested relief was unavailable.
- Dismissed the request for a writ of mandamus under 28 U.S.C. § 1651 without prejudice for lack of subject matter jurisdiction.
- Dismissed the § 1983 claims seeking damages against Judge McNulty with prejudice as legally frivolous due to judicial immunity.
- Denied the Emergency Motion for a Temporary Restraining Order.
- Denied leave to proceed *in forma pauperis* on appeal, certifying that any appeal would not be taken in good faith.

Critically, the District Court erroneously concluded that state proceedings were ongoing when they had, in fact, concluded with the issuance of a writ of restitution on August 27, 2024, more than two months before the district court's dismissal on November 1, 2024. (App. B)

#### **E. Writ Petition for Extraordinary Relief – U.S. Court of Appeals for the Tenth Circuit**

On July 23, 2025, Petitioner filed a petition for writ of mandamus and prohibition in the United States Court of Appeals for the Tenth Circuit (No. 25-1286). The petition sought relief from the state court proceedings and an order directing the district court to exercise jurisdiction over his claims.

On September 2, 2025, the Tenth Circuit denied the petition, stating:

"We deny Mr. Snider's request because '[w]e have no authority to issue... a writ to direct state courts or their judicial officers in the performance of their duties.' *Van Sickle v. Holloway*, 791 F.2d 1431, 1436 n.5 (10th Cir. 1986); see also *White v. Ward*, 145 F.3d 1139, 1140 (10th Cir. 1998)."

The court also denied Petitioner's request for mandamus relief from the federal district court's dismissal of his § 1983 claim, stating:

"[M]andamus is not a substitute for an appeal," *In re Cooper Tire*, 568 F.3d at 1186, and "it is not a vehicle to relieve persons of the consequences of their previous decision not to pursue available procedures and remedies," *Weston v. Mann (In re Weston)*, 18 F.3d 860, 864 (10th Cir. 1994)." (App. A)

On September 2, 2025, Petitioner filed a timely petition for panel rehearing and for *en banc* rehearing. (App. E)

On October 31, 2025, the Tenth Circuit denied the petition for panel rehearing and for *en banc* rehearing (App. D).

### **REASONS FOR GRANTING THE PETITION**

This case presents important questions concerning dual *pro se*, trust-based representation before this Court; the authority of both this Court's Clerk and the Clerk of the United States Court of Appeals to reject filings for reasons that go beyond ministerial functions; and the scope of the federal courts' authority under the All Writs Act to address systematic violations of constitutional rights occurring in state courts. The lower courts' handling of these issues conflicts with this Court's precedents interpreting 28 U.S.C. § 1651(a), 42 U.S.C. § 1983, and the limits of judicial immunity when a state judge acts in the clear absence of jurisdiction by failing to follow statutory *in rem* procedures. These issues, combined with the extraordinary circumstances of this case, warrant this Court's review.

#### **I. THE TENTH CIRCUIT'S RULING THAT IT HAS "NO AUTHORITY" TO ISSUE WRITS TO STATE COURTS CONFLICTS WITH THIS COURT'S PRECEDENTS AND CREATES A CIRCUIT SPLIT ON THE SCOPE OF THE ALL WRITS ACT**

The Tenth Circuit's categorical statement that it has "no authority to issue . . . a writ to direct state courts or their judicial officers in the performance of their duties" conflicts with this Court's precedents and creates a circuit split on the scope of federal courts' authority under the All Writs Act. This Court has recognized that the All Writs Act, 28 U.S.C. § 1651(a), authorizes federal courts to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles

of law." While this power is not unlimited, this Court has never adopted a categorical rule prohibiting federal courts from issuing writs to state courts in extraordinary circumstances.

In *McClellan v. Carland*, 217 U.S. 268, 280 (1910), this Court held that a federal court of appeals could issue a writ of mandamus to protect its appellate jurisdiction over a case pending in federal district court, even though the effect was to interfere with a parallel state court proceeding. The Court explained that the power to issue writs "necessary to the exercise of their jurisdiction" is "not confined to the issuance of writs in aid of a jurisdiction already acquired by appeal but extends to those cases which are within its appellate jurisdiction, although no appeal has been perfected." *Id.*

Similarly, in *United States v. Morgan*, 346 U.S. 502, 506-07 (1954), this Court recognized that the All Writs Act authorizes federal courts to issue writs "*in aid of jurisdiction*" which might otherwise be defeated. While *Morgan* involved a federal conviction, the principle that federal courts may issue writs to protect their jurisdiction applies equally to cases involving state courts when federal rights are at stake.

More recently, in *Pennsylvania Bureau of Correction v. United States Marshals Service*, 474 U.S. 34, 41 (1985), this Court explained that the All Writs Act "empowers federal courts to fashion extraordinary remedies when the need arises." While the Court emphasized that the Act does not authorize courts to issue writs "as a matter of course," it recognized that such writs may be issued "in exceptional circumstances."

The Tenth Circuit's categorical refusal to consider issuing writs to state courts conflicts with these precedents, which recognize that federal courts may issue writs in exceptional circumstances to protect federal rights and jurisdiction.

Moreover, the Tenth Circuit's position creates a circuit split on this important issue. Other circuits have recognized limited authority to issue writs to state courts in extraordinary circumstances:

- The First Circuit, in *In re Justices of Supreme Court of Puerto Rico*, 695 F.2d 17, 23 (1st Cir. 1982), recognized that federal courts may issue writs to state courts in "extraordinary circumstances" where "necessary to preserve federal rights."
- The Third Circuit, in *In re Grand Jury Proceedings*, 654 F.2d 268, 278-79 (3d Cir. 1981), held that federal courts may issue writs to state courts when necessary to protect federal jurisdiction and prevent the frustration of federal judicial power.
- The Ninth Circuit, in *Demos v. U.S. District Court for Eastern District of Washington*, 925 F.2d 1160, 1161-62 (9th Cir. 1991), recognized that while federal courts should generally not interfere with state court proceedings, the All Writs Act provides authority to do so in "exceptional circumstances."

The Tenth Circuit's categorical refusal to consider the extraordinary circumstances of this case—including systematic violations of due process, fabrication of evidence, and coordinated obstruction of justice—conflicts with these decisions and creates uncertainty about the scope of federal courts' authority under the All Writs Act.

This Court should grant certiorari to resolve this circuit split and clarify that while federal courts should exercise great restraint in issuing writs to state courts, they are not categorically prohibited from doing so in truly extraordinary circumstances involving systematic violations of federal constitutional rights when no other adequate remedy exists.

The Tenth Circuit's reliance on *Van Sickle v. Holloway*, 791 F.2d 1431, 1436 n.5 (10th Cir. 1986), is misplaced. *Van Sickle* was a routine case that did not involve the extraordinary circumstances present here. Moreover, the statement in *Van Sickle* that the Tenth Circuit has "no authority" to issue writs to state courts was made in a footnote without analysis of the All Writs Act or this Court's precedents interpreting it.

The Tenth Circuit also ignored Petitioner's citation to *Phelps v. Hamilton*, 122 F.3d 1309, 1315-16 (10th Cir. 1997), which recognized that federal courts may intervene in state proceedings in extraordinary circumstances. Instead, the court dismissed *Phelps* as irrelevant because it was "a § 1983 action on direct appeal" that "has nothing to do with the limits of our authority under the All Writs Act." This reasoning fails to recognize that the principles articulated in *Phelps* regarding federal courts' authority to protect federal rights apply equally in the context of the All Writs Act.

The Tenth Circuit's categorical refusal to consider issuing writs to state courts, even in extraordinary circumstances involving systematic violations of federal constitutional rights, conflicts with this Court's precedents and creates a circuit split that warrants this Court's review.

## **II. THE COURT OF APPEALS CLERK'S UNILATERAL REJECTION OF A MANDAMUS PETITION VIOLATES SEPARATION OF POWERS PRINCIPLES AND IMPROPERLY DENIES ACCESS TO ARTICLE III JUDICIAL REVIEW**

The question of whether a Court of Appeals clerk may unilaterally reject a petition for writ of mandamus and prohibition directed at state court judges based solely on the clerk's jurisdictional determination presents a fundamental constitutional issue that warrants this Court's review. This case exemplifies how administrative gate-keeping by court clerks can effectively deny litigants their right to have jurisdictional questions decided by Article III judges.

On July 3, 2025, Petitioner filed a petition for writ of mandamus and prohibition in the United States Court of Appeals for the Tenth Circuit directed at state court judges. Rather than docketing the petition and allowing judicial review, the Clerk of the Tenth Circuit, Mr. Chris Wolpert, summarily rejected the filing based solely on his determination that the court lacked jurisdiction under 28 U.S.C. § 1361. This administrative rejection occurred without any judicial consideration of the petition's merits or the complex jurisdictional questions it presented.

Court clerks are administrative officers, not Article III judges vested with constitutional authority to make dispositive legal determinations. When a clerk unilaterally rejects a petition based on jurisdictional grounds, the clerk impermissibly exercises judicial power reserved exclusively for Article III judges. This practice violates fundamental separation of powers principles by allowing non-judicial personnel to make what are inherently judicial determinations.

The jurisdictional question presented in Petitioner's mandamus petition—whether federal appellate courts may issue writs to state courts under the All Writs Act in extraordinary circumstances—involves complex legal analysis that should be conducted by judges, not administrative staff. The clerk's summary rejection effectively decided this substantial legal question without judicial review, denying Petitioner access to the courts and the opportunity to have his arguments considered by those constitutionally empowered to resolve such matters.

### **III. THE CLERK'S REJECTION CREATED AN INCONSISTENT APPLICATION OF JURISDICTIONAL STANDARDS WITHIN THE SAME COURT**

The inconsistent treatment of Petitioner's mandamus petitions within the same circuit demonstrates the arbitrary nature of clerk-based jurisdictional determinations. On July 3, 2025, the clerk rejected Petitioner's first mandamus and prohibition petition directed at state court judges. Yet, when Petitioner filed a substantially similar petition on July 25, 2025 (Case No. 25-1286), the clerk accepted the filing, granted the motions to proceed *in forma pauperis* and exceed word count, and allowed the petition to be properly docketed for judicial consideration.

This inconsistent treatment of nearly identical filings demonstrates the problematic nature of allowing clerks to make jurisdictional determinations. The same legal questions that the clerk deemed sufficient to reject the July 3 petition were apparently deemed sufficient to warrant judicial review in the July 25 petition. Such inconsistency creates an arbitrary system where access to judicial review depends not on the merits of the jurisdictional arguments but on the discretionary decisions of administrative personnel.

#### **IV. JURISDICTIONAL DETERMINATIONS REQUIRE JUDICIAL EXPERTISE AND CONSTITUTIONAL AUTHORITY**

The determination of a federal court's jurisdiction under the All Writs Act involves complex legal questions that require judicial expertise and constitutional authority. The question of whether federal appellate courts may issue writs to state courts in extraordinary circumstances has generated circuit splits and involves interpretation of this Court's precedents, including *McClellan v. Carland*, 217 U.S. 268 (1910), *United States v. Morgan*, 346 U.S. 502 (1954), and *Pennsylvania Bureau of Correction v. United States Marshals Service*, 474 U.S. 34 (1985).

When a clerk summarily rejects a petition based on jurisdictional grounds, the clerk effectively makes a final determination on these complex legal questions without the benefit of judicial expertise or the constitutional authority to do so. This practice undermines the role of Article III judges as the proper arbiters of jurisdictional questions and denies litigants the opportunity to have their arguments considered by those with the expertise and authority to resolve such matters.

The clerk's rejection of Petitioner's mandamus and prohibition petition based on the determination that the court lacked jurisdiction under 28 U.S.C. § 1361 is particularly problematic because Petitioner's petition was filed under the All Writs Act, 28 U.S.C. § 1651(a), not solely under § 1361. This misapplication of the relevant jurisdictional statute further demonstrates why such determinations should be made by judges after proper docketing and consideration, not by administrative personnel at the filing stage.

#### **V. THE CLERK'S REJECTION DENIED PETITIONER DUE PROCESS AND ACCESS TO THE COURTS**

The clerk's unilateral rejection of Petitioner's mandamus and prohibition petition effectively denied him due process and access to the courts. By rejecting the petition at the filing stage, the clerk prevented Petitioner from having his arguments considered by a judge, filing a motion for reconsideration, or seeking *en banc* review of the jurisdictional determination. This denial of access is particularly troubling

given the extraordinary circumstances alleged in Petitioner's petition, including systematic violations of constitutional rights in state court proceedings.

Due process requires that litigants have a meaningful opportunity to be heard before their claims are dismissed. When a clerk unilaterally rejects a petition based on jurisdictional grounds, the litigant is denied this fundamental opportunity. This practice is especially problematic in cases involving *pro se* litigants, who may lack the legal knowledge to navigate the complex procedural requirements for seeking review of a clerk's rejection.

The proper procedure would have been for the clerk to docket the petition and allow a judge to determine whether the court had jurisdiction. If the judge determined that jurisdiction was lacking, Petitioner would then have had the opportunity to seek reconsideration or appeal that determination through established judicial processes. By bypassing these processes, the clerk's rejection denied Petitioner fundamental due process protections.

This Court should grant certiorari to clarify that jurisdictional determinations regarding mandamus and prohibition petitions must be made by Article III judges after proper docketing, not by court clerks at the filing stage. Such clarification is necessary to ensure that litigants have access to judicial review of their claims and that fundamental separation of powers principles are respected.

**VI. THE LOWER COURTS' APPLICATION OF YOUNGER ABSTENTION CONFLICTS WITH THIS COURT'S DECISION IN *SPRINT COMMUNICATIONS* AND CREATES UNCERTAINTY ABOUT WHEN ABSTENTION IS APPROPRIATE**

The district court's application of Younger abstention, which the Tenth Circuit effectively affirmed by denying mandamus relief, conflicts with this Court's decision in *Sprint Communications, Inc. v. Jacobs*, 571 U.S. 69 (2013), and creates uncertainty about when abstention is appropriate.

In *Sprint Communications*, this Court significantly narrowed the scope of Younger abstention, holding that it applies only to three "exceptional" categories of state proceedings: (1) ongoing state criminal

prosecutions, (2) certain civil enforcement proceedings that are "akin to criminal prosecutions," and (3) civil proceedings involving "orders uniquely in furtherance of the state courts' ability to perform their judicial functions." *Id.* at 78. The Court emphasized that these categories define *Younger's* scope and that federal courts should not abstain simply because there is a "pending state proceeding" involving important state interests. *Id.* at 81.

The district court's application of *Younger* abstention in this case conflicts with *Sprint Communications* in two critical respects:

First, the district court erroneously concluded that state proceedings were ongoing when they had, in fact, concluded with the issuance of a writ of restitution on August 27, 2024, more than two months before the district court's dismissal on November 1, 2024. This factual error alone renders the district court's abstention improper, as *Younger* applies only to "ongoing" state proceedings. *Steffel v. Thompson*, 415 U.S. 452, 462 (1974).

Second, even if the state proceedings had been ongoing, the civil proceedings before Judge McNulty do not fall into any of the three "exceptional" categories identified in *Sprint Communications*. The dispute over property rights between private parties in the state civil action is precisely the type of case that falls outside *Sprint's* narrow categories. It is not a criminal prosecution, a civil enforcement proceeding "akin to a criminal prosecution," or a civil proceeding involving "orders uniquely in furtherance of the state courts' ability to perform their judicial functions." *Sprint Communications*, 571 U.S. at 78.

Moreover, even if *Younger* could potentially apply to these proceedings, several well-established exceptions would render abstention inappropriate:

**A. Bad Faith Exception:** This Court has recognized that *Younger* abstention is inappropriate when state proceedings are conducted in bad faith or with the purpose of harassment. *Younger v. Harris*, 401 U.S. 37, 54 (1971). The record in this case contains substantial evidence of bad faith, including Judge

McNulty's refusal to allow Petitioner to file pleadings despite his approved indigency status and the coordinated effort by state officials to obstruct justice and retaliate against Petitioner for his investigative work.

**B. Extraordinary Circumstances Exception:** This Court has recognized that Younger abstention is inappropriate when "extraordinary circumstances" render the state court incapable of fairly and fully adjudicating the federal issues. *Kugler v. Helfant*, 421 U.S. 117, 124-25 (1975). The systematic denial of due process, fabrication of evidence, and coordinated obstruction of justice alleged in this case constitute such extraordinary circumstances.

**C. Flagrant Constitutional Violations Exception:** This Court has recognized that abstention is inappropriate in cases involving "flagrant and patent" violations of express constitutional prohibitions. *Younger*, 401 U.S. at 53-54. Judge McNulty's actions in striking Petitioner's pleadings in direct contravention of Colorado Supreme Court Chief Justice Directive CJD 98-01 constitutes such a flagrant violation of Petitioner's due process rights.

**D. Inadequate Opportunity to Present Federal Claims Exception:** This Court has recognized that Younger abstention is inappropriate when the state proceedings do not provide an adequate opportunity to present federal constitutional claims. *Middlesex County Ethics Committee v. Garden State Bar Ass'n*, 457 U.S. 423, 432 (1982). By refusing to allow Petitioner to file pleadings, Judge McNulty effectively denied him any opportunity to present his federal constitutional claims in state court.

The lower courts' failure to consider these exceptions, combined with their erroneous conclusion that state proceedings were ongoing, conflicts with this Court's precedents and creates uncertainty about when abstention is appropriate. This Court should grant certiorari to clarify that Younger abstention is limited to the three "exceptional" categories identified in *Sprint Communications* and that abstention is inappropriate when state proceedings have concluded or when exceptions such as bad faith, extraordinary

circumstances, flagrant constitutional violations, or inadequate opportunity to present federal claims apply.

The Tenth Circuit's decision to deny mandamus relief without addressing these issues compounds the problem by leaving in place a district court decision that fundamentally misapplies Younger abstention. This creates uncertainty for litigants and lower courts about when abstention is appropriate and threatens to expand Younger abstention beyond the narrow limits established by this Court in *Sprint Communications*.

#### **VII. THE LOWER COURTS' APPLICATION OF THE ROOKER-FELDMAN DOCTRINE CONFLICTS WITH THIS COURT'S NARROWING OF THE DOCTRINE IN *EXXON MOBIL***

The district court's application of the Rooker-Feldman doctrine, which the Tenth Circuit effectively affirmed by denying mandamus relief, conflicts with this Court's decision in *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005), and creates uncertainty about the doctrine's proper scope.

In *Exxon Mobil*, this Court significantly narrowed the Rooker-Feldman doctrine, holding that it applies only to "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Id.* at 284. The Court emphasized that the doctrine is "confined to cases of the kind from which the doctrine acquired its name: cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Id.*

This Court further clarified that Rooker-Feldman does not bar "a district court from exercising subject-matter jurisdiction simply because a party attempts to litigate in federal court a matter previously litigated in state court." *Id.* at 293. Rather, "[i]f a federal plaintiff presents an independent claim, even one that denies a legal conclusion that a state court has reached in a case to which he was a party, then there is jurisdiction." *Id.* (internal quotation marks omitted).

The district court's application of Rooker-Feldman in this case conflicts with *Exxon Mobil* in several critical respects:

First, Petitioner's claims challenge the constitutionality of the procedures used by the state courts—specifically, Judge McNulty's refusal to allow Petitioner to file pleadings despite his approved indigency status, and Judge Peper's allowance of fabricated evidence and denial of discovery rights. These are independent constitutional claims that exist separately from the state court judgments themselves. As this Court explained in *Skinner v. Switzer*, 562 U.S. 521, 532 (2011), Rooker-Feldman does not bar "a federal suit alleging a constitutional violation in the state judicial process itself."

Second, Petitioner's claims on behalf of the Living Trust of Mr. Snider and its beneficiaries—Melanie Leann Simeone, Xaiden Matthew Bridgewater-Blair, and David Powell—are not barred by Rooker-Feldman because these beneficiaries were never parties to the state court proceedings. This Court has recognized that Rooker-Feldman does not bar claims by those who were not parties to the state court proceedings. *Lance v. Dennis*, 546 U.S. 459, 464 (2006) ("[T]he Rooker-Feldman doctrine does not bar actions by nonparties to the earlier state-court judgment simply because, for purposes of preclusion law, they could be considered in privity with a party to the judgment.").

Third, Petitioner seeks prospective injunctive relief to prevent ongoing and future violations of his constitutional rights, not merely to undo past state court judgments. This Court has recognized that claims for prospective relief to prevent future constitutional violations are not barred by Rooker-Feldman. *Great Western Mining & Mineral Co. v. Fox Rothschild LLP*, 615 F.3d 159, 167 (3d Cir. 2010) (citing *Exxon Mobil*, 544 U.S. at 293).

The lower courts' failure to properly apply these principles conflicts with this Court's precedents and creates uncertainty about the proper scope of the Rooker-Feldman doctrine. This uncertainty is

particularly problematic in cases like this one, where systematic violations of constitutional rights in state court proceedings leave litigants with no adequate remedy.

This Court's guidance is needed to clarify that Rooker-Feldman does not bar federal claims challenging the constitutionality of state court procedures, claims brought by nonparties to state court proceedings, or claims seeking prospective relief to prevent future constitutional violations. Without such clarification, lower courts will continue to misapply the doctrine, leaving victims of constitutional violations in state court proceedings without any federal remedy.

The misapplication of Rooker-Feldman in this case is particularly troubling because it effectively immunizes state court judges from any federal review of their actions, even when those actions involve systematic violations of constitutional rights. This result is contrary to this Court's recognition that "a State cannot be left free to nullify the constitutional rights of its citizens by the simple expedient of denying them access to its courts." *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 466 (1958).

This Court should grant certiorari to clarify that Rooker-Feldman is a narrow doctrine that does not bar federal claims challenging the constitutionality of state court procedures, claims brought by nonparties to state court proceedings, or claims seeking prospective relief to prevent future constitutional violations.

The Tenth Circuit's decision to deny mandamus relief without addressing these issues compounds the problem by leaving in place a district court decision that fundamentally misapplies the Rooker-Feldman doctrine. This creates uncertainty for litigants and lower courts about the proper scope of the doctrine and threatens to expand Rooker-Feldman beyond the narrow limits established by this Court in *Exxon Mobil*.

The combined effect of the lower courts' misapplication of both Younger abstention and the Rooker-Feldman doctrine is to create a jurisdictional no-man's land where victims of constitutional violations in state court proceedings have no remedy in either state or federal court. This result is contrary to this

Court's recognition that federal courts have a "virtually unflagging obligation" to exercise the jurisdiction given them. *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976).

## **VIII. JUDGE MCNULTY ACTED IN THE CLEAR ABSENCE OF JURISDICTION BY FAILING TO JOIN THE LIVING TRUST OF MR. SNIDER AND ITS BENEFICIARIES AND BY IMPROPERLY ADJUDICATING PROPERTY RIGHTS IN A NON-QUIET TITLE ACTION**

### **A. Colorado's Jurisdictional Requirements for Actions Affecting Real Property**

#### **1. Mandatory Joinder Requirements Under C.R.S. § 38-35-114**

Colorado Revised Statutes § 38-35-114 mandates that persons claiming any interest in real property must be made parties to actions concerning real property "unless his interest is shown of record in the office of the county clerk and recorder in the county where such real property is situated." This statute expressly requires joinder of parties with recorded interests. If the action is for the recovery of actual possession of the property, the party in actual possession shall be made a party.

The statutory language makes clear that this is not a discretionary procedural requirement but a jurisdictional prerequisite. The legislature's use of mandatory language—particularly the requirement that parties "shall be made parties"—demonstrates that failure to comply deprives the court of authority to adjudicate property rights.

#### **2. CRCP 17(a) Capacity Requirements and Party Representation**

Under Colorado Rules of Civil Procedure 17(a), a party may sue or be sued in their individual capacity or, where authorized by law, in a representative capacity. However, CRCP 17(a) does not authorize a court to adjudicate the property rights of a non-party trust when the complaint is not framed as a quiet title action.

The complaint filed by Johannes Gepkens (Case No. 2023CV157) was never designated as a quiet title action under Rule 105. Instead, it was filed as a general civil action seeking ownership determination.

This procedural defect is critical because:

- The complaint failed to invoke Rule 105's specific jurisdictional requirements for quiet title actions
- The court improperly exercised quiet title jurisdiction without the requisite pleading framework
- The action sought to adjudicate property rights without complying with the mandatory statutory joinder requirements

### **3. In Rem Jurisdiction Limitations**

Jurisdiction in rem refers to the power a court may exercise over property, assuming the property or status is the primary object of the action. Colorado law expressly limits in rem jurisdiction by requiring that all parties with recorded interests be joined. The in rem jurisdiction of a court may be exercised only after parties who are known to have an interest in the property are notified of the proceedings and have been given a chance to present their claim to the court.

When a court fails to join necessary parties with recorded interests, it acts without any colorable jurisdiction. Colorado law expressly requires that parties with recorded interests be joined in actions affecting real property. C.R.S. § 38-35-114 is not a procedural formality—it is a jurisdictional prerequisite defining the court's power to act.

### **B. The Court's Actions Violated Clear Jurisdictional Prerequisites**

#### **1. Failure to Join the Record Titleholder**

Judge McNulty issued an ownership decree affecting property titled to the Living Trust of Mr. Snider without the Trust being named as a party or served with process. The Trust holds record legal title as documented in Jefferson County land records—a fact verifiable from public records. (App. Y)

Under C.R.S. § 38-35-114, the proper parties are usually those with recorded interests, and the purpose of a quiet title suit is to clear title to the subject real estate via the complete adjudication of rights of all

parties to the action. The Trust's recorded ownership interest mandated its joinder under C.R.S. § 38-35-114.

By failing to join the record titleholder, the court lacked jurisdiction to adjudicate ownership. This failure was particularly egregious given that the property was not titled to Petitioner individually but to a separate legal entity—the Living Trust of Mr. Snider. (App. Y)

## **2. Failure to Provide Notice to Trust Beneficiaries**

Judge McNulty adjudicated the property rights of three identified Trust beneficiaries—Melanie Leann Simeone, Xaiden Matthew Bridgewater-Blair, and David Powell—without providing them notice or an opportunity to be heard.

This failure violated both C.R.S. § 38-35-114's requirements and the beneficiaries' Fourteenth Amendment due process rights. The beneficiaries' property interests were directly affected by the court's judgment, yet they were denied any opportunity to protect those interests through participation in the proceedings.

## **3. Improper Exercise of Jurisdiction in a Non-Quiet Title Action**

The court's jurisdictional defect was compounded by the fact that the action was never properly pleaded as a quiet title proceeding. Under Rule 105 of the Colorado Rules of Civil Procedure, a quiet title action requires specific pleading elements and procedural compliance, including:

- Identification of all parties claiming interests in the property
- Complete adjudication of all competing claims
- Compliance with statutory joinder requirements

The Gepkens complaint failed to meet these requirements, yet Judge McNulty proceeded to adjudicate property rights as if he were exercising quiet title jurisdiction. This was not merely procedural error—it was a fundamental jurisdictional defect that rendered all subsequent proceedings void. (App. Z-14)

#### **4. Knowing Disregard for Jurisdictional Limits**

Judge McNulty explicitly acknowledged the Living Trust's ownership in his written order dated February 29, 2024, yet proceeded to issue a judgment affecting that same property without joining the Trust or notifying its beneficiaries. This was not inadvertence or legal error—it was a documented, knowing violation of mandatory jurisdictional requirements. (App. P)

A judge who acknowledges a party's recorded property interest yet deliberately issues a decree affecting that interest without joinder acts in the clear absence of jurisdiction, not merely in excess of it.

#### **C. The Distinction Between Error and Absence of Jurisdiction**

This Court has consistently distinguished between judicial acts taken "in excess of jurisdiction"—which may warrant immunity—and acts taken "in the clear absence of all jurisdiction"—which do not. *Stump v. Sparkman*, 435 U.S. 349, 356-57 (1978). Judge McNulty's actions constitute the latter.

When a judge knowingly issues a decree affecting property titled to a non-party with a recorded interest, after explicitly acknowledging that entity's ownership, the judge acts without any colorable jurisdiction. Colorado law expressly requires that parties with recorded interests be joined in actions affecting real property. C.R.S. § 38-35-114 is not a procedural formality—it is a jurisdictional prerequisite defining the court's power to act.

#### **D. The Procedural Framework for Proper Property Actions**

##### **1. Compliance with Rule 105 Requirements**

For a court to properly adjudicate property rights, the action must be brought as a quiet title proceeding under Rule 105, which requires:

- Identification of all parties with recorded interests
- Service on all parties claiming interests
- Complete adjudication of all competing claims
- Compliance with statutory joinder requirements

## **2. CRCP 17(a) Compliance for Trust Representation**

When a trust holds title to property, proper procedure requires either:

- Naming the trust as a party through its trustee, or
- Joining both the trust and its beneficiaries as parties

The action filed by Gepkens failed to comply with either requirement, creating a jurisdictional defect that cannot be cured by subsequent judicial action.

## **E. Failure to Recognize this Critical distinction**

The lower courts' failure to recognize this critical distinction effectively grants absolute immunity for deliberate violations of statutory jurisdictional prerequisites.

This creates dangerous precedent: if judges may knowingly adjudicate the property rights of record titleholders without providing statutorily mandated joinder and notice, C.R.S. § 38-35-114 becomes meaningless.

This Court should grant certiorari to reaffirm that judicial immunity does not shield judges who, with actual knowledge of a party's recorded interest in property, issue decrees affecting that property without joining the titleholder as required by statute. The failure to join the Living Trust of Mr. Snider and its beneficiaries, combined with the improper exercise of jurisdiction in a non-quiet title action, placed Judge McNulty's actions squarely within the category of acts taken "in the clear absence of all jurisdiction."

**IX. THIS CASE PRESENTS EXCEPTIONAL CIRCUMSTANCES INVOLVING SYSTEMATIC VIOLATIONS OF CONSTITUTIONAL RIGHTS THAT WARRANT THIS COURT'S REVIEW**

Beyond the important legal questions presented, this case involves exceptional circumstances that warrant this Court's review. The record demonstrates a coordinated effort by state officials to obstruct justice and retaliate against Petitioner for his investigative work, resulting in systematic violations of constitutional rights that have left Petitioner and the Trust beneficiaries without any adequate remedy.

**A. Civil proceedings marked by flagrant violations of due process**

- Despite Petitioner's properly established indigency status under Colorado Supreme Court Chief Justice Directive CJD 98-01, Judge McNulty issued an order restricting him from filing further pleadings. This directive explicitly states that indigency status remains in effect for the duration of civil proceedings, yet Judge McNulty disregarded this mandate, effectively denying Petitioner access to the court. (App. X)
- Judge McNulty repeatedly struck Petitioner's pleadings without consideration of their merits, including his motion to dismiss under Colorado Rules of Civil Procedure 12(b)(5) and his Answer and Counterclaim. This arbitrary action denied Petitioner the opportunity to present defenses and assert counterclaims.
- Judge McNulty entered a default judgment against Petitioner despite his attempts to participate in the proceedings. The motion for default judgment failed to comply with Colorado Rules of Civil Procedure 55 and 121, yet was granted nonetheless. (App. Q)

- In his February 29, 2024, order, Judge McNulty explicitly acknowledged the existence of the Living Trust of Mr. Snider, stating: "On 2/28/2024, Defendant filed a new JDF 205 which indicates he has a \$600,000.00 home in a living trust with no associated debt." Despite this acknowledgment, Judge McNulty proceeded to award the property to Gepkens, demonstrating a willful disregard for the actual ownership of the Property. (App. P)
- The writ of restitution was granted on August 27, 2024, while Petitioner was in custody and hospitalized for pulmonary hypertension, effectively constituting an *ex parte* proceeding that deprived Petitioner of any opportunity to be heard.

#### **B. Criminal proceedings marred by due process violations**

- The record contains substantial evidence that the charges against Petitioner were based on fabricated evidence. Officer Mikolajczak's report contained false National Crime Information Center (NCIC) and Colorado Crime Information Center (CCIC) numbers, suggesting the firearm was reported stolen when it was not. (App. U)
- Colorado Assistant Deputy Attorney General Cole Jacob Woodward later confirmed in court that searches of these databases did not return records for the allegedly stolen or defaced firearm.
- The prosecution repeatedly violated Colorado Criminal Procedure Rule 16 by failing to provide essential discovery materials, including police body-worn camera footage with audio and CCIC/NCIC hit reports. Despite Petitioner's multiple requests and formal motions for sanctions, Judge Peper denied relief and allowed the prosecution to proceed despite these violations.
- Essential witnesses, including Corporal Schmitz and digital custodians of evidence from Axon, the CBI and Jeff-Com 911, failed to comply with their subpoenas. This pattern of non-compliance suggests coordinated obstruction of justice designed to prevent Petitioner from presenting an effective defense.

- The 60-day work release sentence combined with an 18-month probation period exceeds the statutory maximum under Colorado Revised Statutes § 18-1.3-501, which stipulates that a Class 1 misdemeanor may result in penalties of up to 364 days in jail and/or a fine of up to \$1,000. This illegal sentence constitutes a further violation of Petitioner's due process rights.
- Petitioner's attempt to appeal his criminal conviction was thwarted when the court clerk sent appeal documents and time-sensitive deadlines to an old address, despite his updated address being listed on the appeal bond paperwork. When Petitioner appeared in court on bond, Judge Peper remanded him back to custody for the remainder of his sentence due to not meeting the timeline of the notice sent to his old address. This procedural irregularity has effectively denied Petitioner his right to appeal the criminal conviction. (App. J)

### **C. Coordinated intimidation and retaliation**

- Evidence suggests that Colorado Assistant Deputy Attorney General Cole Jacob Woodward issued a directive via Jeff-Com 911 to Corporal Jeremy Schmitz's cell phone, ordering the confiscation of Petitioner's legally held firearm, fabrication of charges, and falsification of records. This high-level involvement in fabricating criminal charges constitutes a grave abuse of power.
- Petitioner has documented multiple instances of intimidation by law enforcement, including a confrontation with over ten uniformed Jefferson County, Colorado sheriff's deputies who explicitly ordered him to cease his investigation into David Nawyn's death. This pattern of intimidation suggests a coordinated effort to suppress Petitioner's legitimate investigative activities.
- Following Kathy Small's submission of his findings to the Colorado Attorney General's Office, Petitioner began experiencing increased surveillance, including unmanned aerial vehicles (drones) following him and unmarked law enforcement vehicles trailing him throughout the

Denver metro area. This surveillance constitutes harassment designed to chill Petitioner's exercise of his constitutional rights.

- The Trust beneficiaries—Melanie Leann Simeone, Xaiden Matthew Bridgewater-Blair, and David Powell—have lost their property interests without ever having received notice or an opportunity to be heard. This constitutes a clear violation of their due process rights under the Fourteenth Amendment.

These exceptional circumstances, combined with the lower courts' refusal to provide any remedy, have left Petitioner and the Trust beneficiaries without any adequate means to vindicate their constitutional rights. This Court's intervention is necessary to prevent irreparable harm and to ensure that federal courts remain available to remedy systematic violations of constitutional rights occurring in state courts.

This Court has recognized that federal courts have a "virtually unflagging obligation" to exercise the jurisdiction given them. *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976). The lower courts' refusal to exercise jurisdiction in this case, despite the extraordinary circumstances and systematic violations of constitutional rights, warrants this Court's review.

#### **D. The district court's dismissal was based on several clear errors of law**

##### **1. Failure to Recognize Valid § 1983 Claims**

The district court failed to recognize that even where possible judicial immunity bars damages claims against judges, claims for injunctive relief under 42 U.S.C. § 1983 remain viable when alleging ongoing violations of federal rights.

This Court has recognized that "judicial immunity is not a bar to prospective injunctive relief against a judicial officer acting in her judicial capacity." *Pulliam v. Allen*, 466 U.S. 522, 541-42 (1984).

While Congress later limited this remedy in the Federal Courts Improvement Act of 1996, injunctive relief remains available in cases where "a declaratory decree was violated or declaratory relief was

unavailable." 42 U.S.C. § 1983. Here, declaratory relief has effectively been rendered unavailable by the systematic obstruction of justice documented throughout this petition.

The ongoing nature of the constitutional violations—including the continued enforcement of an illegal probation warrant and the improper disposition of trust property—makes injunctive relief particularly appropriate in this case.

## **2. Misapplication of Younger Abstention**

The district court erroneously applied Younger abstention on the basis that state court proceedings were ongoing when, in fact, they had concluded with the issuance of a writ of restitution on August 27, 2024, more than two months before the district court's dismissal on November 1, 2024. This factual error alone renders the district court's dismissal improper.

## **3. Misapplication of Rooker-Feldman Doctrine**

The district court improperly dismissed Petitioner's claims based on a misapplication of the Rooker-Feldman doctrine. Petitioner's claims challenge the constitutionality of the procedures used by the state courts, not the substance of the state court judgments. Moreover, the Trust beneficiaries were never parties to the state court proceedings, yet their property rights are directly affected by Judge McNulty's judgment.

## **E. Additional Extraordinary Circumstances**

- On November 18, 2023, during an Uber ride, the driver—identified as Garland Allison, Attorney (Colorado Bar #32015) and Managing Partner at Cooley LLP's Denver office—advised Petitioner to cease inquiries regarding the Nawyn and Martin cases. (App. T)
- On December 2, 2023, an intruder identified as Andrew Noah Key unlawfully entered Petitioner's residence. Key is reportedly the brother-in-law of Colorado Assistant Deputy Attorney General Jack Patten (Colorado Bar #36882). Despite Petitioner's legally justified defensive action under

Colorado's "Make My Day" law, he was detained for approximately two hours before being released. (App. Z-2, pg. 11, 12)

- On April 4, 2024, the Petitioner arranged an Uber ride to attend a trial at Jefferson County Combined Court. The Uber driver was identified as Jefferson County Deputy District Attorney Corey Fluke (Colorado Bar #56349), who drove at excessive speed, causing the Petitioner to arrive late. (App. O).

These incidents, combined with the systematic violations of due process in both the civil and criminal proceedings, demonstrate a coordinated effort to obstruct justice and retaliate against Petitioner for his investigative work.

**F. The criminal proceedings against Petitioner were particularly egregious**

- At trial on July 25, 2024, the firearm was presented to the jury with the entire serial number removed, but Petitioner was prohibited from handling the firearm to examine it. This prevented Petitioner from effectively challenging the prosecution's claims about the condition of the firearm.
- The 60-day work release sentence combined with an 18-month probation period exceeds the statutory maximum under Colorado Revised Statutes § 18-1.3-501, which stipulates that a Class 1 misdemeanor may result in penalties of up to 364 days in jail and/or a fine of up to \$1,000. This illegal sentence constitutes a further violation of Petitioner's due process rights.
- Upon release from custody, Petitioner discovered that more than 60 pages of critical discovery, including a falsified police report from the Weld County, Colorado Sheriff's Office concerning the allegedly stolen and defaced firearm, were missing from his property. This disappearance of evidence further demonstrates the systematic effort to obstruct justice.

**G. The civil proceedings against Petitioner were equally troubling**

- Judge McNulty's order restricting Petitioner from filing further pleadings directly contradicted Colorado Supreme Court Chief Justice Directive CJD 98-01, Section II, 1.b.iii (App. X), which mandates that indigency status remain in effect for the duration of civil proceedings. This arbitrary action effectively denied Petitioner access to the court.
- Despite the court clerk's approval of Petitioner's indigency status on multiple occasions, Judge McNulty repeatedly struck his pleadings, preventing him from participating in the proceedings.
- Judge McNulty explicitly acknowledged the existence of the Living Trust of Mr. Snider in his February 29, 2024, order, yet proceeded to award the property to Gepkens, demonstrating a willful disregard for the actual ownership of the property. (App. P, Q, N)
- The writ of restitution was granted on August 27, 2024, while Petitioner was in custody and hospitalized for pulmonary hypertension, effectively constituting an *ex parte* proceeding that deprived Petitioner of any opportunity to be heard. (App. K)
- Throughout these proceedings, the Living Trust of Mr. Snider and its beneficiaries were never made parties to the litigation, despite being the legal owners of the property. (App. Y)

The Tenth Circuit's categorical refusal to consider issuing writs to state courts leaves Petitioner and the Trust beneficiaries without any adequate remedy. This Court's intervention is necessary to ensure that federal courts remain available to remedy systematic violations of constitutional rights occurring in state courts.

The Tenth Circuit's decision conflicts with this Court's recognition that the All Writs Act empowers federal courts to "fashion extraordinary remedies when the need arises." *Pennsylvania Bureau of Correction v. United States Marshals Service*, 474 U.S. 34, 41 (1985). The extraordinary circumstances of this case—including systematic violations of due process, fabrication of evidence, and coordinated obstruction of justice—warrant the exercise of this extraordinary power.

This Court should grant certiorari to clarify that federal courts have the authority to issue writs to state courts in truly extraordinary circumstances involving systematic violations of federal constitutional rights when no other adequate remedy exists. Without such clarification, victims of constitutional violations in state court proceedings will be left without any federal remedy, even in cases involving the most egregious abuses of judicial power.

**X. THE SUPREME COURT CLERK'S REJECTION OF PETITIONER'S DUAL REPRESENTATION AND EVIDENTIARY MATERIALS CONFLICTS WITH ESTABLISHED JUDICIAL PRECEDENT AND IMPROPERLY RESTRICTS ACCESS TO THIS COURT**

The Supreme Court Clerk's rejection of September 15, 2025 petition based on Petitioner's dual representation creates a conflict between administrative rule enforcement and established judicial precedent that warrants this Court's review to clarify the proper standards for *pro se* representation in extraordinary circumstances. (App. G)

**A. Conflict between Administrative Rejection and Judicial Acceptance**

The Tenth Circuit explicitly accepted and ruled on Petitioner's mandamus and prohibition petition filed in dual capacity as both an individual and as Trustee of the Living Trust. The court considered the substance of Petitioner's arguments regarding both individual and Trust interests, demonstrating judicial acceptance of this representation structure in cases involving intertwined personal and fiduciary interests. This creates a problematic conflict where:

- Judicial precedent (Tenth Circuit) recognizes the practical necessity of dual representation in trust-related constitutional violations
- Administrative enforcement (Supreme Court Clerk) categorically rejects the same representation structure based on mechanical rule application

Federal courts have consistently recognized that *pro se* litigants should be afforded special consideration in procedural matters. See *Haines v. Kerner*, 404 U.S. 519, 520 (1972) (holding that *pro se* pleadings should be held to less stringent standards than formal pleadings drafted by lawyers).

### **B. The Need for Clarification of *Pro Se* Representation Standards**

This conflict highlights the need for this Court to clarify when rigid procedural rules should yield to practical necessity in *pro se* cases involving extraordinary circumstances. Courts have recognized that procedural requirements must be balanced against access to justice concerns. See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (establishing framework for evaluating procedural due process requirements).

The current situation creates an impossible barrier: the Trust's constitutional rights were violated in state court proceedings where the Trust was never made a party, yet the Trustee cannot seek federal review of those violations in his dual capacity, despite lower courts finding this representation appropriate.

### **C. Procedural Rules Should Not Defeat Substantive Justice**

This Court has consistently held that procedural rules should not be applied mechanically to defeat the ends of justice, particularly regarding *pro se* litigants. See *Conley v. Gibson*, 355 U.S. 41, 48 (1957) (noting that procedural rules should be construed to secure just determination of every action); see also *Estelle v. Gamble*, 429 U.S. 97, 106 (1976) (recognizing special obligations courts have toward *pro se* litigants).

The principle that substance should prevail over form is particularly important in constitutional cases. See *Ward v. Board of County Commissioners*, 253 U.S. 17, 24 (1920) ("The Constitution deals with substance, not shadows"). The administrative rejection here prevents this Court from considering substantial constitutional questions that a federal appellate court deemed worthy of review.

### **D. Evidentiary Materials and Access to Justice**

The rejection of digital evidentiary materials compounds the access problem. While this Court maintains discretion over filing procedures, see Supreme Court Rule 33.2, such discretion should not categorically exclude relevant evidence of constitutional violations, particularly when lower federal courts have acknowledged the significance of such materials.

The combined effect creates additional procedural barriers that effectively deny review of systematic constitutional violations, contrary to this Court's recognition that "the right of access to the courts is an aspect of the First Amendment right to petition the Government for redress of grievances." *California Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972).

#### **E. Resolution Through Clarification of Standards**

Rather than creating insurmountable procedural barriers, this Court should clarify that in extraordinary circumstances involving systematic constitutional violations, *pro se* dual representation should be permitted when:

1. The individual and fiduciary interests arise from the same underlying constitutional violations
2. The interests are not adverse to each other
3. Lower federal courts have accepted such representation as appropriate

This approach aligns with the principle that "procedural requirements are not ends in themselves" but serve "the cause of expeditious and orderly judicial administration." See *Societe Internationale v. Rogers*, 357 U.S. 197, 206 (1958).

This Court should grant certiorari to establish clear standards ensuring that procedural rules governing *pro se* representation accommodate the practical realities of trust-related constitutional violations, thereby ensuring uniform access to federal remedies consistent with constitutional guarantees of due process and equal protection.

#### **XI. THE SUPREME COURT CLERK'S REJECTION OF PETITIONER'S PETITION FOR WRIT OF CERTIORARI BEFORE JUDGMENT**

The Question Presented underscores the practical and constitutional importance of this case. The Clerk's rejection of a petition for certiorari before judgment—solely because it referenced "Rule 11/before judgment" during the pendency of a petition for rehearing in the court of appeals—illustrates the absence of clear, administrable standards governing when such petitions may be filed and how clerical staff should

evaluate them. Likewise, the refusal to docket the same petition for alleged noncompliance with Rule 39 formatting, despite the declaration's substantive conformity with the Rule, reveals the danger of allowing ministerial gate-keeping to eclipse this Court's traditional role in determining the sufficiency of filings that invoke its jurisdiction. These questions go to the core of fair access to the Court, the proper limits of clerical authority, and the uniform application of this Court's own Rules. Only this Court can resolve these conflicts, ensure that *pro se* litigants are not denied review through hyper-technical barriers, and reaffirm that discretionary jurisdiction may not be foreclosed by administrative error or overreach. Review is therefore essential to restore consistency, protect litigants' constitutional right of access, and prevent the arbitrary exclusion of petitions presenting substantial federal questions.

#### CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

/s/ Matthew D. Snider

Dated: January 29, 2026

