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25-7201

No. \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

REGINALD WINANS

*Petitioner*

v.

MICHAEL K. MCKAY

*Respondent*

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

**PETITION FOR A WRIT OF CERTIORARI**

REGINALD WINANS

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Date: April 8, 2026

## QUESTIONS PRESENTED

1. Whether a federal court violates Due Process Clause and the protections of the Federal Rule of Civil Procedure 56(d) when it denies a nonmovant's request for limited, outcome determinative discovery and proceeds to enter summary judgment affecting asserted property rights, where the district court denied Rule 56(d) in a summary order, and the court of appeals affirmed even though it acknowledged that "[w]ithout offering an explanation as to why, the district court denied" the Rule 56(d) motion.
2. Whether, absent an express order shortening the Federal Rule's response period, a party may refuse to answer written discovery served before a court-ordered discovery deadline by claiming the deadline required "completion" of discovery, so that service near the deadline is "untimely" because responses would fall after the cutoff, and whether summary judgment may be affirmed after the opposing party refused to answer Requests for Admission served a few days before the close of discovery, where the requested admissions sought judicial authorization and service/notice proof for an alleged writ of seizure and sheriff's sale central to the claimed chain of title.

**PARTIES TO THE PROCEEDING**

Petitioner is Reginald Winans. Petitioner was the Plaintiff in the district court and the appellant in the United States Court of Appeals for the Fifth Circuit.

Respondent is Michael K. McKay. Respondent was the defendant in the district court and appellee in the United States Court of Appeals for the Fifth Circuit.

**CORPORATE DISCLOSURE STATEMENT**

Pursuant to this Court's Rule 29.6, Petitioner has no parent or publicly held company.

**STATEMENT OF RELATED PROCEEDINGS**

**United States District Court for the Western District of Louisiana.**

On March 13, 2025, the district court entered a Memorandum Ruling granting Respondent's motion for summary judgment. App. B. On March 13, 2025, the court entered Final Judgment dismissing the case with prejudice and ordering cancellation relief. App. C. On December 11, 2024, the district court denied Petitioner's Rule 56(d) motion. App. D. On July 29, 2024, the court extended discovery and set: "New discovery deadline is Oct. 25, 2024." App. E.

**United States Court of Appeals for the Fifth Circuit.**

On November 5, 2025, the Fifth Circuit affirmed. App. A. No petition for rehearing was filed.

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**PETITION FOR A WRIT OF CERTIORARI**

Reginald Winans, individually and Pro Se, petition for a writ of certiorari to review the judgment of the Fifth Circuit in this case.

**OPINIONS BELOW****United States District Court for the Western District of Louisiana**

On March 13, 2025, the district court entered a Memorandum Ruling granting Respondent's motion for summary judgment. App. B. On March 13, 2025, the court entered Final Judgment dismissing the case with prejudice and ordering cancellation relief. App. C. On December 11, 2024, the district court denied Petitioner's Rule 56(d) motion. App. D. On July 29, 2024, the court extended discovery and set: "New discovery deadline is Oct. 25, 2024." App. E.

**United States Court of Appeals for the Fifth Circuit**

On November 5, 2025, the Fifth Circuit affirmed. App. A. No petition for rehearing was filed.

**JURISDICTION**

The United States Court of Appeals for the Fifth Circuit entered the judgment sought to be reviewed on November 5, 2025. App. A. No petition for rehearing was filed, and no extension of time to file this petition was sought or granted. This Court has jurisdiction under 28 U.S.C. 1254(1).

**CONSTITUTIONAL AND STATUTORY  
PROVISIONS INVOLVED**

**U. S. Const. amend. XIV, § 1 (Due Process Clause).**

“No State shall ... deprive any person of life, liberty, or property, without due process of law.”

**Fed. R. Civ. P. 56(d).**

Allows a court to defer or deny summary judgment or allow time for discovery when the nonmovant shows it “cannot present facts essential to justify its opposition.”

**Fed. R. Civ. P. 36(a).**

Provides that a matter is admitted unless a timely answer or objection is served.

**Fed. R. Civ. P. 33(b)(2) and 34(b)(2)(A).**

Provide 30 days to respond to interrogatories and requests for production unless otherwise stipulated or ordered.

**Fed. R. Civ. P. 16(b).**

Governs scheduling orders and discovery deadlines.

**INTRODUCTION**

This petition presents a recurring breakdown in federal summary-judgment procedure with constitutional consequences. The district court extended discovery to a date certain, “New discovery deadline is Oct. 25, 2024,” App. E, yet Respondent refused to answer narrowly targeted Requests for Admission served before that deadline on the theory that discovery had to be “complete” by the cutoff. App. G. Petitioner sought relief under Rule 56(d) to obtain the limited discovery needed to oppose summary judgment, but “[w]ithout offering an explanation as to why, the

district court denied Winans' Rule 56(d) motion." App. D.

Petitioner then invoked Rule 56(d), the rule designed to prevent summary judgment when the nonmovant cannot present facts essential to oppose the motion. The district court denied Rule 56(d) in a one-page order. App. D.

The district court then granted summary judgment, dismissed the case with prejudice, and ordered the "erasure and cancellation" of Petitioner's recorded instrument. App. B-C. The Fifth Circuit affirmed, describing the same sequence: Petitioner served Requests for Admission "a few days before the close of discovery," Respondent "refused to answer" as "untimely," and "[w]ithout offering an explanation as to why, the district court denied Winans' Rule 56(d) motion." App. A.

This case is not a vehicle to relitigate title facts. It is a vehicle to decide whether federal courts may (1) treat a discovery cutoff as a silent "responses due" deadline that nullifies written discovery served within the discovery period, and (2) deny Rule 56(d) without explanation and still enter and affirm summary judgment on a record shaped by that refusal. These questions recur across federal dockets and directly affect the fair operation of Rules 16, 33, 34, 36, and 56(d).

### **STATEMENT OF THE CASE**

#### **A. The scheduling order extended discovery and set a date-certain discovery cutoff.**

This case arises from a dispute over title and the validity of a Louisiana Writ of Seizure Sheriff Sale in Respondent's asserted chain of title. In the district court, the

parties proceeded under a scheduling order that set discovery and dispositive-motion deadlines. The district court later extended those deadlines by written order. The order states: “New discovery deadline is Oct. 25, 2024. Dispositive motion deadline is now Nov. 25, 2024.” App. E. The order contains no additional language imposing a minimum lead time for serving written discovery, nor does it state that written discovery must be served a certain number of days before the discovery deadline. App. E.

**B. Petitioner served targeted Requests for Admission before the discovery cutoff; Respondent refused to answer on a “completion” theory.**

Before the discovery deadline, Petitioner served Requests for Admission directed to a narrow, foundational point: whether Respondent possessed judicial authorization and service/notice proof for an alleged writ of seizure and sheriff’s sale that Respondent relied upon as a divestiture event. App. G. Petitioner’s summary judgment opposition later placed those Requests for Admission into the district court record, printing them verbatim and stating that “Mr. McKay never responded” to them. App. G.

Respondent refused to answer the Requests for Admission, not on the ground of privilege or burden, but on the ground that service near the discovery cutoff was “untimely” because responses would come due after the cutoff. App. F. Respondent’s written position was explicit: “The service of discovery requests on October 24, 2024 does not constitute the timely service of discovery requests” because the October 25 date was the “deadline for completion of discovery,” and responses would be due thirty days later. App. F. Respondent further emphasized that the response date would fall

on November 25, the dispositive motion deadline. App. F.

At the same time, Respondent disclaimed possession of information about the underlying judicial proceeding beyond what appears in conveyance records. Respondent stated: "Mover has no information about that judicial proceeding beyond that which appears in the Conveyance Records." App. F. In other words, Respondent took the position that he lacked information beyond record conveyance entries concerning the judicial proceeding that Petitioner sought to test through admissions. App. F.

**C. Petitioner invoked Rule 56(d) to obtain limited discovery before summary judgment; the district court denied Rule 56(d) in a summary order**

Following Respondent's refusal to answer, Petitioner invoked Federal Rule of Civil Procedure 56(d) to seek limited discovery in order to oppose summary judgment. App. 26. The district court denied that request in a one-page order. App. D. The order states that Petitioner's Rule 56(d) motion "is DENIED." App. D. The Fifth Circuit later described that denial as having been entered without offering an explanation as to why. App. A. The court of appeals also described Petitioner's Rule 56(d) motion as requesting a deferral of summary judgment pending discovery. App. A.

**D. The district court granted summary judgment and entered final judgment dismissing the case with prejudice, including cancellation relief.**

The district court granted Respondent's motion for summary judgment by Memorandum Ruling. App. B. In that ruling, the district court addressed Petitioner's discovery-related submissions in connection with the summary judgment record. App. B. The court entered final judgment dismissing Petitioner's claims with prejudice. App. C.

The final judgment also ordered cancellation relief affecting recorded instruments. The judgment directs “ERASURE AND CANCELLATION” of Petitioner’s recorded quitclaim deed. App. B. Thus, the judgment did not merely reject Petitioner’s claims; it ordered record-altering relief tied to the asserted title dispute. App. B-C.

**E. The Fifth Circuit affirmed, recounting the refusal-to-answer dispute and acknowledging the unexplained Rule 56(d) denial.**

Petitioner appealed. The Fifth Circuit affirmed in an opinion dated November 5, 2025. App. A. In summarizing the procedural history, the court of appeals described the scheduling order and the discovery dispute in terms that frame the questions presented here.

First, the court of appeals noted that the district court’s scheduling order required the parties “to complete all appropriate discovery and file any motions to compel” by the discovery deadline. App. A. The Fifth Circuit further noted that the district court extended discovery to October 25, 2024. App. A.

Second, the Fifth Circuit described Petitioner’s service of Requests for Admission near the end of the discovery period and Respondent’s refusal to answer as “untimely.” The court stated that Petitioner served the Requests for Admission “a few days before the close of discovery,” and that Respondent “refused to answer” the requests on the ground that they were “untimely” and “[w]ithout offering an explanation as to why, the

district court denied Winans' Rule 56(d) motion." App. A.

Third, the Fifth Circuit addressed Petitioner's invocation of Rule 56(d) and expressly acknowledged that the district court denied Rule 56(d) without explanation. App. A. The Fifth Circuit then affirmed the judgment. App. A. No petition for rehearing was filed. App. A.

### **REASONS FOR GRANTING THE WRIT**

#### **I. The decision below drains Rule 56(d) of its protective function and invites summary judgment on an incomplete record**

Rule 56(d) exists to prevent summary judgment from becoming a shortcut when a nonmovant cannot present facts essential to oppose the motion without discovery. Here, Petitioner sought limited, record-focused discovery and invoked Rule 56(d) after Respondent refused to answer Requests for Admission served before the discovery cutoff. App. G. The district court denied Rule 56(d), and the court of appeals affirmed even though it acknowledged that "[w]ithout offering an explanation as to why, the district court denied Winans' Rule 56(d) motion." App. A. Summary judgment then issued with prejudice and with cancellation relief affecting recorded instruments. App. B-C.

The district court extended discovery and set a date-certain schedule: "New discovery deadline is Oct. 25, 2024. Dispositive motion deadline is now Nov. 25, 2024." App. E. Two days before the discovery deadline, Petitioner served Requests

for Admission targeted to the core factual predicate for Respondent's title theory: whether Respondent possessed the judicial authorization and service/notice proof for the alleged writ of seizure and sheriff's sale relied upon as a divestiture event. App. G. Respondent refused to answer, not because the requests were improper, but because Respondent recharacterized the court's discovery deadline into an unwritten lead-time requirement. Respondent asserted that service on October 24 "does not constitute the timely service" of discovery because discovery had to be "complete" by the cutoff and responses would come due later. App. F. The Fifth Circuit expressly recounted this sequence and confirmed that Respondent "refused to answer" on an "untimely" theory even though the Requests for Admission were served just before the close of discovery. App. A-G.

If that approach stands, litigants cannot safely use Rules 33, 34, and 36 during the final month of discovery unless the scheduling order expressly says "last day to serve" rather than "discovery deadline." The Federal Rules already provide response periods; courts can modify them, but they should not be modified silently by after-the-fact arguments that convert "discovery deadline" into an implied 30-day service cutoff. This is precisely the kind of procedural uncertainty that invites gamesmanship and leads to summary judgments entered on incomplete records.

## **II The Fifth Circuit's affirmance of an unexplained Rule 56(d) denial warrants review because it drains Rule 56(d) of its protective function.**

Rule 56(d) exists to prevent summary judgment from becoming a shortcut when "facts essential to justify" opposition are unavailable without discovery. Here, the district court denied Rule 56(d) in a one-page order. App. 26. The Fifth Circuit then affirmed while acknowledging the district court denied Rule 56(d) "[w]ithout offering an explanation as to why." App. A.

That combination raises an important, reviewable question: whether Rule 56(d) can be denied, without any articulated reason, when the nonmovant identifies narrow discovery aimed at foundational, outcome-determinative issues, and the opposing party's refusal to answer is justified only by an implied timing rule not stated in the scheduling order.

The consequences here are not abstract. The district court's final judgment dismissed Petitioner's claims with prejudice and ordered "erasure and cancellation" relief affecting recorded property interests. App. B-C. This is the precise context where the Court has emphasized the importance of fair procedures before rights are finally adjudicated. Rule 56(d) was designed to preserve that fairness; the decision below approves a path that sidesteps it.

## **III The prejudice is concrete and easy to see from the record because Respondent admitted he lacked the underlying judicial record beyond conveyance entries.**

This petition does not ask the Court to decide the merits of the title dispute. It asks the Court to ensure that summary judgment is not used to decide property rights while insulating key facts from discovery. The Requests for Admission printed in the record sought admissions on narrow, verifiable matters: whether Respondent possessed the judicial order authorizing the writ of seizure and sale and whether Respondent possessed proof of service/notice for that proceeding. App. G. Petitioner's opposition stated plainly that "Mr. McKay never responded" to those admissions. App. G.

Critically, Respondent's own filing underscores why discovery was necessary:

Respondent conceded that he had no information about the judicial proceeding beyond what appears in the conveyance records. App. F. That is not a denial on the merits; it is a disclaimer of possession of the underlying court file. If Respondent relies on a sheriff's sale divestiture, and simultaneously disclaims knowledge beyond recorded conveyances, targeted discovery to locate or test the existence of authorization and service/notice proof is not optional. It is exactly the type of discovery Rule 56(d) is intended to protect before summary judgment is entered.

**IV This case is an ideal vehicle: the record is compact, the procedural facts are undisputed, and the questions can be resolved without revisiting the title merits.**

The appendix contains all of the critical materials needed to resolve the questions presented:

- the Fifth Circuit's account of the refusal-to-answer dispute and its acknowledgment that the district court denied Rule 56(d) without explanation, App. A;
- the district court's merits ruling and final judgment, App. B-C;
- the Rule 56(d) denial order, App. D;
- the discovery extension order setting the date-certain discovery and dispositive deadlines, App. E;
- Respondent's own "completion/timely service" theory and disclaimer of knowledge beyond conveyance records, App. F; and
- the excerpt showing the RFAs and nonresponse in the summary-judgment record, App. G.

Because the question is one of procedure, how scheduling orders, Rules 33/34/36 response periods, and Rule 56(d) operate together, this Court can provide clear guidance that will prevent similar procedural deprivations in future cases. For these reasons, the petition should be granted.

### CONCLUSION

The record shows a recurring procedural problem with concrete consequences. The district court set a date-certain discovery deadline, App. E, yet Respondent refused to answer narrowly targeted Requests for Admission served before that deadline on the ground that discovery had to be "complete" by the cutoff and service near the deadline was "not timely." App. F. Petitioner sought Rule 56(d) relief to obtain the limited discovery necessary to oppose summary judgment; the district court denied that relief in a summary order, App. D, and the court of appeals affirmed while acknowledging that the Rule 56(d) denial was entered without offering an explanation. App. A. The judgment below dismissed Petitioner's claims with prejudice and ordered cancellation relief affecting recorded title instruments. App. B-C.

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

Respectfully submitted,

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