

App No. _____

**In The
Supreme Court of the United States**

LESLY POMPY, M.D.

Applicant,

v.

**FIRST MERCHANTS BANK, f/k/a Monroe Bank & Trust;
Marc Moore, Lt., MANTIS; Brian Bishop, Diversion Investigator, DEA;
Blue Cross Blue Shield of Michigan,
Respondents.**

**On Application for an Extension of Time to File Petition for a Writ of
Certiorari to the United States Court of Appeals for the Sixth Circuit**

Originating Case Number: 24-1249

Lesly Pompy

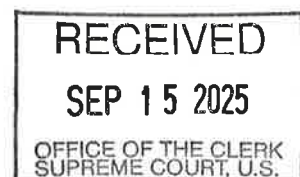
533 N. Monroe St

Monroe, Mi 48162

Tel: (734) 819-0634

Email: pompypain@gmail.com

Law Student



To the Honorable Brett Kavanaugh, as Circuit Justice for the United States Court of Appeals for the Sixth Circuit:

In accordance with this Court's Rules 13.5, 22, 30.2, and 30.3, Applicant Lesly Pompy, M.D., respectfully requests that the time to file its petition for a writ of certiorari be extended for 60 days, **to** and including Monday, November 24, 2025—within which to file a petition for a writ of certiorari. The United States Court of Appeals for the Sixth Circuit entered its opinion on May 23, 2025 (Exhibit B) and denied rehearing on June 27, **2025** (Exhibit A). Absent an extension, the petition is currently due Sunday, September 25, 2025. On July 15, 2025, **a** MOTION TO RECALL MANDATE was filed.

BACKGROUND

The forthcoming petition will ask whether (i) *Bivens* extends to joint-task-force searches that would otherwise leave victims without a federal remedy; (ii) qualified immunity applies where governing law was clearly established by binding Sixth Circuit precedent; (iii) the Westfall Act forecloses RICO claims against private parties acting under color of federal authority; and (iv), The Sixth, First, and Eighth Circuits disagree on whether *Bivens* applies to warrantless property searches, thus causing a circuit split.

The Sixth Circuit court of appeals affirmed dismissal of Petitioner's claims under *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971), and the Racketeer Influenced and Corrupt Organizations Act, holding that (1) no new *Bivens* remedy lies for Fourth-Amendment violations arising from a joint state-federal opioid-task-force raid; (2) the individual federal agents are entitled to qualified immunity; (3) the Westfall Act, 28 U.S.C. § 2679, bars suit against state and private actors alleged to have conspired with the agents; and (4) failed to consider the impact of the misuse of federal funds in proprietary joint public /private selective prosecutions.

I. **UNRESOLVED OUTSTANDING ISSUES**

The forthcoming petition will address recurring and important questions, including:

1. **Bivens / Fourth Amendment:** Whether, after *Egbert v. Boule*, 596 U.S. 482 (2022), a *Bivens* remedy remains available for **warrantless searches and seizures of property** by federal officers (including in joint task-force operations) when alternative remedies are discretionary or inadequate.
2. **Qualified Immunity:** Whether qualified immunity applies where **binding circuit law clearly established** the relevant Fourth Amendment constraints, including limitations on

warrant scope and warrantless property seizures later in the day following a morning search. See, e.g., *Messerschmidt v. Millender*, 565 U.S. 535 (2012).

3. **Westfall Act and Private/State Co-Conspirators:** Whether the Westfall Act, 28 U.S.C. § 2679, forecloses civil RICO liability or other federal claims against **private parties and state officials** alleged to have **conspired** with federal agents in joint operations, where the gravamen is fabrication, pretext, or misuse of processes. See *Holmes v. SIPC*, 503 U.S. 258 (1992); cf. *DeGuelle v. Camilli*, 724 F.3d 933 (7th Cir. 2013).

4. **"New Context" Analysis:** Whether the Sixth Circuit misapplied *Egbert's* "new context" framework by focusing on the defendants' titles (e.g., DEA Diversion Investigator) rather than the core Fourth Amendment violation, contrary to the emphasis on the nature of the constitutional claim. See *Hernandez v. Mesa*, 140 S. Ct. 735 (2020).

5. **Forfeiture / Due Process (Equitable Sharing):** Whether seizures executed through the Equitable Sharing regime comport with **due process and excessiveness limits** when property is taken without timely post-deprivation process and when **private entities benefit** from the seizure program.

See *Timbs v. Indiana*, 586 U.S. ____ (2019); *United States v. Bajakajian*, 524 U.S. 321 (1998).

6. Applicant anticipates also addressing whether executive-branch policy (including **Executive Order 14119** (May 9, 2025)) bears on the legality of alleged regulatory weaponization in joint state-federal operations, and whether the Sixth Circuit's approach deepens disagreements among the circuits regarding **Bivens** for **warrantless property searches** and the adequacy of purported alternative remedies.

7. **Constitutional Claims**

a. Whether, after *Egbert v. Boule*, 596 U.S. 482 (2022), a *Bivens* remedy exists for Fourth Amendment violations involving warrantless property seizures by federal officers.

b. Whether qualified immunity applies to state actors who violate clearly established law while executing federally funded programs.

8. **RICO Claims**

a. Whether a private corporation (Blue Cross Blue Shield of Michigan) and state officials may be held liable under RICO (18 U.S.C. § 1962(d)) for conspiring to misuse federal funds (Medicare/Medicaid, Equitable Sharing Program) to

destroy a business.

b. Whether the Sixth Circuit erred in requiring a "separate criminal purpose" beyond the alleged racketeering activity.

9. Federal Funding Violations

a. Whether recipients of federal funds (Medicare, Medicaid, BJA grants) forfeit immunity for civil rights violations that render their funding impermissible under:

i. 42 U.S.C. § 1983

ii. 31 U.S.C. § 5316 (Equitable Sharing Act)

iii. 34 U.S.C. § 10151 (BJA grant conditions)

10. Whether the Sixth Circuit erred in dismissing Petitioner's *Bivens* **claim** against a DEA Diversion Investigator for a warrantless search, despite evidence that the officer participated in a pretextual administrative inspection later converted into a raid—creating a conflict with circuits that permit *Bivens* claims for Fourth Amendment violations involving similar deception (*Lanuza v. Love*, 899 F.3d 1019 (9th Cir. 2017)) and disregarding this Court's instruction that *Egbert v. Boule*, 142 S. Ct. 1793 (2022), does not categorically bar *Bivens* for core Fourth Amendment violations.

11. Whether the panel improperly affirmed qualified immunity for federal agents who (a) relied on facially

defective warrants lacking jurisdictional validity (see Search Warrant, Doc. 156-2), and (b) conducted a warrantless afternoon seizure of property after a morning search—deepening a split on whether *Messerschmidt v. Millender*, 565 U.S. 535 (2012), shields officers who exceed warrant scope or act without probable cause.

12. Whether the Sixth Circuit misapplied the "new context" analysis under *Bivens* by treating Diversion Investigators as a distinct category of defendants despite their integral role in joint law enforcement operations—contrary to *Hernandez v. Mesa*, 140 S. Ct. 735 (2020), which emphasizes the constitutional violation, not the officer's title.

13. Whether the court erred in dismissing Petitioner's RICO claims against Blue Cross Blue Shield and law enforcement actors for conspiring to fabricate evidence and weaponize civil forfeiture—conflicting with *Holmes v. SIPC*, 503 U.S. 258 (1992), and circuits recognizing RICO liability for institutional bad-faith investigations (*DeGuelle v. Camilli*, 724 F.3d 933 (7th Cir. 2013)).

14. Whether the Equitable Sharing Act's forfeiture provisions violate due process when (a) property is seized without a post-deprivation hearing, and (b) private

entities (Blue Cross) profit from seizures—joining a conflict over *Timbs v. Indiana*, 586 U.S. ____ (2019), and *United States v. Bajakajian*, 524 U.S. 321 (1998)

15. *Whether, after Egbert v. Boule, a Bivens remedy exists for a warrantless search and seizure of property by federal officers when no arrest occurs and alternative remedies are discretionary. Courts are*

II. GOOD CAUSE EXISTS FOR THIS EXTENSION

1. **Complexity of Legal Issues:** The proposed petition presents multiple, complex, and interconnected questions of federal law that warrant careful and thorough briefing. Specifically, the petition will address:

1. Whether *Egbert v. Boule*, 596 U.S. 482 (2022), permits a *Bivens* remedy for a Fourth Amendment violation in the context of a warrantless search and seizure by federal officers participating in a joint task force, an issue on which the Circuits are split split on whether § 3724 is an adequate alternative.
2. Whether the Sixth Circuit misapplied the doctrine of qualified immunity to federal agents who executed a search based on a facially defective warrant and conducted a separate warrantless seizure.

3. Whether the Westfall Act bars RICO claims against private entities alleged to have conspired with federal actors, a novel question of statutory interpretation.
4. Whether the Equitable Sharing Program, as applied, violates due process under *Timbs v. Indiana*, 586 U.S. ____ (2019).

The complexity of these issues and the need to clearly frame the acknowledged circuit splits require additional time for precise drafting and legal research.

2. **Applicant's Pro Se Status:** Applicant is proceeding without counsel and is simultaneously managing other related litigation that imposes significant demands on her time, including a state administrative matter and a parallel civil case. This extension is necessary to allow the Applicant to dedicate the focused attention required to prepare a petition of this complexity to the standard expected by this Court.

3. PREJUDICE AND DILIGENCE

Applicant is acting diligently. The Sixth Circuit denied rehearing on June 27, 2025, and this motion is filed well in advance of the September 25 deadline. The requested extension is reasonable and will not prejudice any respondent, as none have yet appeared in this Court and the extension will not delay any proceedings.

III. Relief Requested

For the reasons above, Petitioner respectfully requests that the time to file the petition for a writ of certiorari be extended 60 days—from Sunday, September 25, 2025, **to** and including Monday, November 24, 2025.

Respectfully submitted,

September 10, 2025

/s/ lesly. pompy

Lesly Pompy M.D.

Pro se, law student Petitioner

533 N. Monroe St

Monroe Mi, 48162

734-819-0634

Pompypain@gmail.com

APPENDICES / EXHIBITS

- **Exhibit A:** Sixth Circuit order denying rehearing (June 27, 2025)
- **Exhibit B:** Sixth Circuit judgment/opinion (May 23, 2025)
- **Exhibit C:** Motion to Recall Mandate (July 15, 2025)

CERTIFICATE OF SERVICE

I certify that on September 10, 2025, I served this Application by first-class mail, postage prepaid, as follows, and (where available) also provided courtesy electronic copies:

Solicitor General of the United States

Department of Justice, Room 5616
950 Pennsylvania Ave., N.W.
Washington, DC 20530-0001

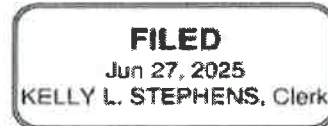
Counsel of record below (courtesy e-mail notices):

- Ms. Kyla L. Barranco — barrancok@michigan.gov; ballingerb1@michigan.gov; bartonb2@michigan.gov; gustafsonh@michigan.gov
- Mr. Bradley H. Darling, Assistant U.S. Attorney — bradley.darling@usdoj.gov; tracey.pyle@usdoj.gov; sara.verdun@usdoj.gov; caseview.ecf@usdoj.gov; usamie.ecfapp@usdoj.gov; (cc) darling451@gmail.com
- Mr. Phillip J. DeRosier — pderosier@dickinsonwright.com; jmerlo@dickinsonwright.com
- Mr. Scott R. Knapp — sknapp@dickinsonwright.com; aforkel@dickinsonwright.com

/s/ Lesly Pompy
Lesly Pompy, M.D.

No. 24-1249

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT



LESLY POMPY, President, Interventional Pain Management Associates, P.C.,
Petitioner-Appellant,
v.
FIRST MERCHANTS BANK, fka Monroe Bank & Trust,
Defendant,
and
MARC MOORE, Lt., MANTIS; BRIAN BISHOP, Agent, Diversion Investigator, DEA; BLUE CROSS BLUE SHIELD OF MICHIGAN,
Defendants-Appellees.

ORDER

Before: SUHRHEINRICH, BATCHELDER, and LARSEN, Circuit Judges.

Dr. Lesly Pompy, proceeding pro se, has filed a petition for rehearing of this court's order of May 23, 2025, affirming the district court's order dismissing his action filed under the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968; *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971); 42 U.S.C. § 1983; other federal statutes; and state law.

Upon consideration, this panel concludes that it did not misapprehend or overlook any point of law or fact when it issued its order. See Fed. R. App. P. 40(b)(1)(A).

No. 24-1249

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We therefore **DENY** the petition for rehearing.

ENTERED BY ORDER OF THE COURT


Kelly L. Stephens, Clerk

United States Court of Appeals for the Sixth Circuit

U.S. Mail Notice of Docket Activity

The following transaction was filed on 06/27/2025.

Case Name: Lesly Pompy v. First Merchants Bank, et al

Case Number: 24-1249

Docket Text:

ORDER filed: We DENY the petition for panel rehearing [7363277-2], Richard F. Suhrheinrich, Circuit Judge; Alice M. Batchelder, Circuit Judge and Joan L. Larsen, Circuit Judge.

The following document(s) are associated with this transaction:

Document Description: Order

Notice will be sent to:

Mr. Lesly Pompy
533 N. Monroe Street
Monroe, MI 48162

A copy of this notice will be issued to:

Ms. Kyla L. Barranco
Mr. Bradley H. Darling
Mr. Phillip J. DeRosier
Ms. Kinikia D. Esstx
Mr. Scott R. Knapp

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

KELLY L. STEPHENS, Clerk

LESLY POMPY, President, Interventional Pain
Management Associates, P.C.,

Plaintiff-Appellant,

v.

FIRST MERCHANTS BANK, fka Monroe Bank &
Trust,

Defendant,

and

MARC MOORE, LI, MANTIS; BRIAN BISHOP,
Agent, Diversion Investigator, DEA; BLUE
CROSS BLUE SHIELD OF MICHIGAN,

Defendants-Appellees.

ON APPEAL FROM THE UNITED
STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF
MICHIGAN

ORDER

Before: SUHRHEINRICH, BATCHELDER, and LARSEN, Circuit Judges.

Dr. Lesly Pompy, proceeding pro se, appeals the district court's judgment dismissing his action filed under the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961-1968; *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971); 42 U.S.C. § 1983; other federal statutes; and state law. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. See Fed. R. App. P. 34(a). As discussed below, we affirm.

**Additional material
from this filing is
available in the
Clerk's Office.**