

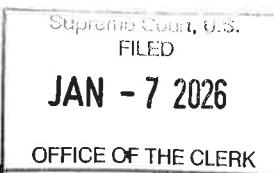
SUPREME COURT OF THE UNITED STATES

25A874

1

Huong Gilmer Giaccio,
Applicant,
v.

Meredith Lyon; Christopher Castro; Fabian Melo; Daimon Hail,
Respondents.



**EMERGENCY APPLICATION FOR STAY OF MANDATE
PENDING PETITION FOR WRIT OF CERTIORARI**
(*Supreme Court Rule 23*)

To the Honorable **Samuel A. Alito, Jr.**

Associate Justice of the Supreme Court of the United States

and Circuit Justice for the Fifth Circuit:

Applicant **Huong Gilmer Giaccio**, proceeding pro se, respectfully applies for a **stay of the mandate** of the United States Court of Appeals for the Fifth Circuit pending the filing and disposition of a Petition for Writ of Certiorari.

I. JURISDICTION

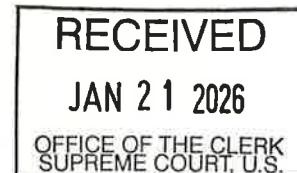
The Fifth Circuit entered judgment on December 30, 2025, in Case No. 25-10861 (consolidated with No. 25-10952).

This Court has jurisdiction under **28 U.S.C. § 1254(1)**.

This application is submitted under **Supreme Court Rule 23**.

II. PROCEDURAL HISTORY

Applicant filed a federal civil-rights action alleging violations of the First, Fourth, and Fourteenth Amendments arising from retaliatory municipal enforcement and repeated warrantless arrests.



The district court dismissed the case on immunity grounds without evidentiary review.

The Fifth Circuit affirmed by unpublished opinion on December 30, 2025.

Applicant timely moved the Fifth Circuit to stay issuance of the mandate pending certiorari. On January 6, 2026, the Fifth Circuit **denied** the stay. The mandate is scheduled to issue **January 20, 2026**. This application follows.

III. STATEMENT OF FACTS SHOWING IRREPARABLE HARM

Applicant is presently subject to **active municipal enforcement actions, citations, and fines** issued by the City of Carrollton, Texas.

In December 2025, Applicant received new citations and a written notice from the City warning that failure to resolve the matters may result in issuance of a **statewide warrant** and arrest. Applicant has previously been arrested multiple times in connection with these enforcement matters. The newly issued citations concern alleged short-term rental and property registration violations and remain active. The City's written notice warns that further enforcement will follow.

Applicant reasonably fears that once the mandate issues, municipal authorities will escalate enforcement actions, including **arrest, additional citations, and compounding fines**. The threatened loss of liberty through arrest, continued exposure to criminal process, and retaliatory enforcement constitute **irreparable harm** that cannot be remedied after the fact.

IV. SUBSTANTIAL CONSTITUTIONAL QUESTIONS PRESENTED

Applicant's forthcoming petition presents substantial constitutional questions, including:

(3)

1. Whether absolute judicial and prosecutorial immunity applies when municipal officials act without jurisdiction and in coordination with retaliatory enforcement actions.
2. Whether retaliatory arrests and prosecutions in response to protected petitioning activity violate the First and Fourteenth Amendments.
3. Whether dismissal of constitutional claims without evidentiary review violates procedural due process and the right of access to courts.
4. Whether repeated warrantless arrests and refusal of judicial review violate the Fourth and Fourteenth Amendments.
5. Whether denial of meaningful language access and ADA accommodations to a pro se litigant facing arrest violates due process and federal disability law.

V. BASIS FOR A STAY

A stay is warranted because:

- Applicant faces **imminent risk of arrest and continued enforcement**
- The harm involves **loss of liberty and ongoing constitutional injury**
- The questions presented are **substantial and non-frivolous**
- Applicant has acted diligently and in good faith
- Denial of a stay would undermine this Court's ability to provide meaningful relief

VI. RELIEF REQUESTED

Applicant respectfully requests that this Court:

1. **Stay issuance of the Fifth Circuit mandate** pending disposition of a Petition for Writ of Certiorari; and

2. Grant such other relief as may be just and proper.

Respectfully submitted,
/s/ Huong Gilmer Giaccio
Applicant, Pro Se Huong Gilmer Giaccio
3719 Kelly Blvd, Carrollton, TX 75007
Email: hgfive@yahoo.com
Phone: 945-546-0934

CERTIFICATE OF SERVICE

I, **Huong Gilmer Giaccio**, certify that on the **7** day of January 2026, a true and correct copy of the foregoing **Emergency Application for Stay of Mandate Pending Petition for Writ of Certiorari**, together with all exhibits, was served by **United States Mail, first-class postage prepaid**, upon counsel for Respondents at their last known addresses.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Huong Gilmer Giaccio
Huong Gilmer Giaccio
Pro Se Applicant



EXHIBIT LIST

Emergency Stay Application – Huong Gilmer Giaccio

Exhibit 1: Fifth Circuit Unpublished Opinion (Dec. 30, 2025)

Exhibit 2: Fifth Circuit Order Denying Stay (Jan. 6, 2026)

Exhibit 3: Fifth Circuit Judgment

Exhibit 4: City of Carrollton Enforcement Warning Letter (Dec. 23, 2025)

Exhibit 5: Active Municipal Citation No. 22821

Exhibit 6: Active Municipal Citation No. 33108

Exhibit 7: Active Municipal Citation No. 33109

Exhibit 8: Active Municipal Citation No. 33110

(All exhibits attached in chronological order.)

(5)

United States Court of Appeals for the Fifth Circuit

No. 25-10861
CONSOLIDATED WITH
No. 25-10952

United States Court of Appeals
Fifth Circuit
FILED
December 30, 2025
Lyle W. Cayce
Clerk

HUONG GILMER GIACCIO,

Plaintiff—Appellant,

versus

MEREDITH LYON; CHRISTOPHER CASTRO; FABIAN MELO;
DAIMON HAIL,

Defendants—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:24-CV-3005
USDC No. 3:24-CV-3005

UNPUBLISHED ORDER

Before STEWART, GRAVES, and OLDHAM, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that Appellant's motion to exempt all PACER fees associated with account No. 8158373 and for the duration of appeal case Nos. 25-11107, 25-10861, and 25-10952 is GRANTED.

No. 25-10861
c/w No. 25-10952

(6)

IT IS FURTHER ORDERED that Appellant's motion to order PACER Service Center not to suspend Appellant's access while indigency motions are pending is DENIED.

(7)

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

December 30, 2025

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 25-10861 Giaccio v. Lyon
USDC No. 3:24-CV-3005
USDC No. 3:24-CV-3005

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By:
Casey A. Sullivan, Deputy Clerk
504-310-7642

Ms. Huong Gilmer Giaccio

United States Court of Appeals for the Fifth Circuit

No. 25-10861
CONSOLIDATED WITH
No. 25-10952

United States Court of Appeals
Fifth Circuit
FILED
January 6, 2026
Lyle W. Cayce
Clerk

HUONG GILMER GIACCIO,

Plaintiff—Appellant,

versus

MEREDITH LYON; CHRISTOPHER CASTRO; FABIAN MELO;
DAIMON HAIL,

Defendants—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:24-CV-3005

ORDER:

(X) The Appellant's motion for stay of the mandate pending petition for writ of certiorari is DENIED.

() The Appellant's motion for stay of the mandate pending petition for writ of certiorari is GRANTED through _____.

No. 25-10861
c/w No. 25-10952

AS
ANDREW S. OLDHAM
United States Circuit Judge

⑨

(10)

United States Court of Appeals for the Fifth Circuit

No. 25-10861
CONSOLIDATED WITH
No. 25-10952

United States Court of Appeals
Fifth Circuit
FILED
December 30, 2025

Lyle W. Cayce
Clerk

HUONG GILMER GIACCIO,

Plaintiff—Appellant,

versus

MEREDITH LYON; CHRISTOPHER CASTRO; FABIAN MELO;
DAIMON HAIL,

Defendants—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC Nos. 3:24-CV-3005, 3:24-CV-3005

Before STEWART, GRAVES, and OLDHAM, *Circuit Judges.*

PER CURIAM:*

Plaintiff Huong Gilmer Giacco filed a complaint in federal district court against four defendants: Carrollton Municipal Judges Meredith Lyon and Christopher Castro, Assistant City Attorney Fabian Melo, and City Marshal Daimon Hail. Giacco brought a myriad of claims under 42 U.S.C.

* This opinion is not designated for publication. *See 5TH CIR. R. 47.5.*

(11)

25-10861
c/w No. 25-10952

§ 1983, alleging that city officials violated her constitutional rights under the First, Fourth, Eighth, and Fourteenth Amendments. The magistrate judge recommended dismissing Giaccio's claims against Judge Lyon, Judge Castro, and Melo for lack of jurisdiction. The magistrate judge recommended dismissing Giaccio's claims against Hail under 28 U.S.C. § 1915(e)(2) for failure to state a claim. The district court adopted the magistrate judge's findings, conclusions, and recommendations. After reviewing Giaccio's brief and the record, we find no reversible error. AFFIRMED.

(12)

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

December 30, 2025

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing
or Rehearing En Banc

No. 25-10861 Giaccio v. Lyon
USDC No. 3:24-CV-3005
USDC No. 3:24-CV-3005

Enclosed is a copy of the court's decision. The court has entered judgment under Fed. R. App. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

Fed. R. App. P. 39 through 41, and Fed. R. App. P. 39, 40, and 41 govern costs, rehearings, and mandates. **Fed. R. App. P. 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following Fed. R. App. P. 40 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals. Fed. R. App. P. 41 provides that a motion for a stay of mandate under Fed. R. App. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under Fed. R. App. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you MUST confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

(13)

Sincerely,

LYLE W. CAYCE, Clerk



By: Casey A. Sullivan, Deputy Clerk

Enclosure(s)

Ms. Huong Gilmer Giaccio



Exh E

(14)

GILMER, HUONG
2808 DAYBREAK DR
Dallas, TX 75287

Date: December 23, 2025

Case Number: 202512956

Attached you will find one or more court citations for violation(s) of either the City of Carrollton Code of Ordinances or the City of Carrollton Comprehensive Zoning Ordinance. Court citations are issued to an individual when a violation is documented on a property or for the failure to bring or maintain the property in compliance with city code(s).

Information on the rear of the enclosed citation(s) will provide instructions on how you may contact the City of Carrollton Municipal Court to settle the outstanding charges filed against you. Failure to appear or pay the fine within twenty (20) days of the date on the citation may result in a statewide warrant being issued for your arrest.

Further citations may be issued if the violation(s) is/are not abated and compliance is not forthcoming.

Should you have questions regarding the violation you may contact our office at envservices@cityofcarrollton.com or by calling me at (972) 466-3102.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Ortega".

Darwin Ortega
Code Enforcement Officer

ENVIRONMENTAL SERVICES DEPARTMENT

1945 E. Jackson Rd, Carrollton, TX 75006 | Fax: 972.466.3175
P.O. Box 110535, Carrollton, TX 75011-0535 | cityofcarrollton.com



Exh F

(15)

GILMER, HUONG
2808 DAYBREAK DR
Dallas, TX 75287

Date: December 23, 2025
Case Number: 202512957

Attached you will find one or more court citations for violation(s) of either the City of Carrollton Code of Ordinances or the City of Carrollton Comprehensive Zoning Ordinance. Court citations are issued to an individual when a violation is documented on a property or for the failure to bring or maintain the property in compliance with city code(s).

Information on the rear of the enclosed citation(s) will provide instructions on how you may contact the City of Carrollton Municipal Court to settle the outstanding charges filed against you. Failure to appear or pay the fine within twenty (20) days of the date on the citation may result in a statewide warrant being issued for your arrest.

Further citations may be issued if the violation(s) is/are not abated and compliance is not forthcoming.

Should you have questions regarding the violation you may contact our office at envservices@cityofcarrollton.com or by calling me at (972) 466-3102.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Ortega".

Darwin Ortega
Code Enforcement Officer

ENVIRONMENTAL SERVICES DEPARTMENT

1945 E. Jackson Rd, Carrollton, TX 75006 | Fax: 972.466.3175
P.O. Box 110535, Carrollton, TX 75011-0535 | cityofcarrollton.com

Exhibit A

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CITY OF CARROLLTON, TEXAS

CITATION NO. 22821

Offense Date	Month 7	Day 10	Year 2025	Week Day	Hour <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Date Citation Issued	Month 7	Day 10	Year 2025		

Defendant Last Name:

Giacchio

First/Middle Name:

Huong

Residence Street Address:

3719 Kelly

City: Carrollton

State: TX

Zip: 75007

Residence Phone no:

Business Phone no:

Name of Business:

Business Type:

Defendant's

Title/Position:

Business Street Address:

City:

State:

Zip:

Date of Birth:

Month:

Day:

Year:

Race:

Sex:

M F

Driver's License State:

D.L. Number:

Type of Driver's License:

DL Yr. Exp.

Commercial

Vehicle

Yes No

VIN:

Registration Exp Date:

State:

License Number:

Vehicle Color:

Year Model:

Make:

Vehicle Model:

Description:

VIOLATION

Location Of Offense:

County:

Specific Location:

3719 Kelly

Carrollton TX 75007

Violation Code:

5523

Description of Offense:

Description Continued:

Operating a STR
without a trading license

Violation Category:

Animal Services
 Community Integrity
 Housing Code

Pretreatment
 Surface Water
 Liquid Waste

Food Service
 Fire Code
 Zoning Ordinance

Building Code
 Other (Describe Above)

Legal Reference:

City

State

Title/Section:

Carrollton City
Ordinance chapter 97 sec 97.03(A)

Officer Name:

Jennifer Vasquez

Officer:

Badge No. 5092

By signing below, WITHOUT ADMITTING GUILT, I hereby, promise to appear at 2001 E. Jackson Road, Carrollton, Texas or pay the fine within the expiration of 20 days following the "issuance date" of this citation. I understand that failing to appear may result in an increase of the fine and/or additional charges filed against me.

Defendant Signature X

refused to sign gave to jail to que back

33108

17

Exh B

CITY OF CARROLLTON, TEXAS

CITATION NO.

Offense Date	Month 12	Day 23	Year 2025	Week Day	Hour <input type="checkbox"/> a.m. <input checked="" type="checkbox"/> p.m.					
Date Citation Issued	Month 12	Day 23	Year 2025							
Defendant Last Name: Huong										
First/Middle Name Gilmer										
Residence Street Address 2808 Daybreak Dr, #										
City: Dallas		State: TX		Zip: 75287						
Residence Phone no: ()		Business Phone no: ()								
Name of Business			Business Type							
Defendant's Title/Position Property Owner										
Business Street Address										
City		State			Zip					
Date of Birth	Month 02	Day 27	Year 1967	Race	Sex <input type="checkbox"/> M <input checked="" type="checkbox"/> F					
Driver's License State TX		D.L. Number 29340910								
Type of Driver's License		DL Yr. Exp.		Commercial Vehicle	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
VIN		Registration Exp Date		State	License Number					
Vehicle Color		Year Model	Make	Vehicle Model	Description					
VIOLATION										
Location Of Offense	County	Specific Location 3719 Kelly Blvd Carrollton TX 75007								
Violation Code	5523	Description of Offense Operating								
Description Continued a short-term rental without a lodging license										
<table border="1"> <tr> <td>Violation Category</td> <td><input type="checkbox"/> Animal Services <input type="checkbox"/> Community Integrity <input type="checkbox"/> Housing Code</td> <td><input type="checkbox"/> Pretreatment <input type="checkbox"/> Surface Water <input type="checkbox"/> Liquid Waste</td> <td><input type="checkbox"/> Food Service <input type="checkbox"/> Fire Code <input type="checkbox"/> Zoning Ordinance</td> <td><input type="checkbox"/> Building Code <input type="checkbox"/> Other (Describe Above)</td> </tr> </table>						Violation Category	<input type="checkbox"/> Animal Services <input type="checkbox"/> Community Integrity <input type="checkbox"/> Housing Code	<input type="checkbox"/> Pretreatment <input type="checkbox"/> Surface Water <input type="checkbox"/> Liquid Waste	<input type="checkbox"/> Food Service <input type="checkbox"/> Fire Code <input type="checkbox"/> Zoning Ordinance	<input type="checkbox"/> Building Code <input type="checkbox"/> Other (Describe Above)
Violation Category	<input type="checkbox"/> Animal Services <input type="checkbox"/> Community Integrity <input type="checkbox"/> Housing Code	<input type="checkbox"/> Pretreatment <input type="checkbox"/> Surface Water <input type="checkbox"/> Liquid Waste	<input type="checkbox"/> Food Service <input type="checkbox"/> Fire Code <input type="checkbox"/> Zoning Ordinance	<input type="checkbox"/> Building Code <input type="checkbox"/> Other (Describe Above)						
Legal Reference	<input type="checkbox"/> City	<input type="checkbox"/> State	Title/Section 97.25(A) of the Carrollton Code of Ordinances 97.25(A)							
Officer Name	D. D. Duggan		Officer Badge No.	50862						
By signing below, WITHOUT ADMITTING GUILT, I hereby promise to appear at 2001 E. Jackson Road, Carrollton, Texas or pay the fine within the expiration of 20 days following the "issuance date" of this citation. I understand that failing to appear may result in an increase of the fine and/or additional charges filed against me. Smt v. a lsp by FNN SUES										
Defendant Signature X										

Exh C

33119

18

CITY OF CARROLLTON, TEXAS

CITATION NO.

Offense Date	Month	Day	Year	Week Day	Hour	<input type="checkbox"/> a.m.	<input type="checkbox"/> p.m.	
Date Citation Issued	Month	Day	Year					
Defendant Last Name: <u>Huong Gilmer</u>								
First/Middle Name								
Residence Street Address <u>2808 Daybreak Dr</u>								
City: <u>Dallas</u>		State: <u>TX</u>		Zip: <u>75237</u>				
Residence Phone no: ()		Business Phone no: ()						
Name of Business		Business Type						
Defendant's Title/Position <u>Property Owner</u>								
Business Street Address:								
City		State		Zip				
Date of Birth	Month	Day	Year	Race		Sex <input type="checkbox"/> M <input checked="" type="checkbox"/> F		
Driver's License State <u>TX</u>		D.L. Number <u>29340910</u>						
Type of Driver's License		DL Yr. Exp.		Commercial Vehicle		<input type="checkbox"/> Yes <input type="checkbox"/> No		
VIN		Registration Exp Date		State		License Number		
Vehicle Color		Year Model		Make		Vehicle Model		
VIOLATION								
Location Of Offense	County	Specific Location	<u>3719 Kelly Blvd</u>					
<u>Carrollton Tx 75007</u>								
Violation Code	<u>96.02(A)(10)</u>		Description of Offense <u>Failure</u>					
Description Continued <u>to register property as a single-family rental</u>								
Violation Category	<input type="checkbox"/> Animal Services <input type="checkbox"/> Community Integrity <input checked="" type="checkbox"/> Housing Code		<input type="checkbox"/> Pretreatment <input type="checkbox"/> Surface Water <input type="checkbox"/> Liquid Waste		<input type="checkbox"/> Food Service <input type="checkbox"/> Fire Code <input type="checkbox"/> Zoning Ordinance		<input type="checkbox"/> Building Code <input type="checkbox"/> Other (Describe Above)	
Legal Reference	<input checked="" type="checkbox"/> City	<input type="checkbox"/> State	Title/Section <u>Carrollton</u>					
Officer Name	<u>D. Orla</u>		Officer Badge No. <u>5062</u>					
By signing below, WITHOUT ADMITTING GUILT, I hereby, promise to appear at 2001 E. Jackson Road, Carrollton, Texas or pay the fine within the expiration of 20 days following the "issuance date" of this citation. I understand that failing to appear may result in an increase of the fine and/or additional charges filed against me.								
<u>Seal V.G vsps by enr</u>								
Defendant Signature X _____								

33110

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Ex D

CITY OF CARROLLTON, TEXAS

CITATION NO.

Offense Date	Month 12	Day 23	Year 2025	Week Day	Hour <input type="checkbox"/> a.m. <input checked="" type="checkbox"/> p.m.
Date Citation Issued	Month 12	Day 23	Year 2025	Year	
Defendant Last Name: <u>2808 Daybreak</u>		Huong			
First/Middle Name: <u>Gilmer</u>					
Residence Street Address: <u>2808 Daybreak Dr</u>		City: <u>Dallas</u>		State: <u>TX</u>	Zip: <u>75287</u>
Residence Phone no: ()		Business Phone no: ()			
Name of Business		Business Type			
Defendant's Title/Position: <u>Property Owner</u>					
Business Street Address					
City		State		Zip	
Date of Birth	Month 2	Day 27	Year 1967	Race	Sex <input type="checkbox"/> M <input checked="" type="checkbox"/> F
Driver's License State <u>TX</u>		D.L. Number <u>29340910</u>			
Type of Driver's License		DL Yr. Exp.		Commercial Vehicle <input type="checkbox"/> Yes <input type="checkbox"/> No	
VIN		Registration Exp Date		State License Number	
Vehicle Color		Year Model		Make	Vehicle Model
VIOLATION					
Location Of Offense	County	Specific Location <u>3719 Kelly Blvd</u>			
		<u>Carrollton TX 75007</u>			
Violation Code		Description of Offense <u>short-term rental property operating a/t allowing more than (4) unrelated individuals.</u>			
Description Continued <u>rental property operating a/t allowing more than (4) unrelated individuals.</u>					
Violation Category <input type="checkbox"/> Animal Services <input type="checkbox"/> Pretreatment <input type="checkbox"/> Food Service <input type="checkbox"/> Building Code <input type="checkbox"/> Community Integrity <input type="checkbox"/> Surface Water <input type="checkbox"/> Fire Code <input type="checkbox"/> Other (Describe Above) <input type="checkbox"/> Housing Code <input type="checkbox"/> Liquid Waste <input type="checkbox"/> Zoning Ordinance					
Legal Reference <input checked="" type="checkbox"/> City <input type="checkbox"/> State		Title/Section <u>Carrollton Code</u>			
Officer Name <u>D. O. Legg</u>		Officer Badge No. <u>5082</u>			
By signing below, WITHOUT ADMITTING GUILT, I hereby, promise to appear at 2001 E. Jackson Road, Carrollton, Texas or pay the fine within the expiration of 20 days following the "issuance date" of this citation. I understand that failing to appear may result in an increase of the fine and/or additional charges filed against me.					
Defendant Signature <u>X</u> <u>sent via UPS by ENO 2025</u>					

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CITATION NOS. 22821, 33108, 33109, 33110

IN THE MUNICIPAL COURT OF CARROLLTON, TEXAS

HUONG GILMER GIACCIO,
Defendant.

EMERGENCY MOTION TO DISMISS AND MOTION TO QUASH CITATIONS
(Lack of Probable Cause, Retaliation, Abuse of Process, and Constitutional Violations)

Plaintiff-Appellant, Huong Gilmer Giaccio, respectfully moves the Court to dismiss and quash all remaining municipal citations and related enforcement actions, and in support states as follows:

I. INTRODUCTION

This case arises from a prolonged pattern of municipal code enforcement actions imposed against Appellant's **owner-occupied** residence **without evidence of any code violation**, lawful inspection, or probable cause. Despite the absence of construction, rental activity, or change of use, Defendants issued dozens of **frivolous duplicative citations**, escalated enforcement into criminal proceedings, imposed excessive fines, and pursued custodial arrests. These actions constitute unlawful retaliation, abuse of process, and violations of the **Fourth and Fourteenth Amendments**.

II. FACTUAL BACKGROUND

1. Appellant has continuously resided at her home with her husband and son and has never leased, advertised, or operated the residence as a rental property.
2. No construction, alteration, or structural work occurred at the property that would require a building permit.

3. Defendants issued more than fifty citations—many duplicative—without contemporaneous inspection, personal observation, or documentary evidence of violations.
4. City records reflect prior inspections finding no violations and closure of enforcement cases, yet citations continued to be mailed to Appellant's home.
5. After Appellant filed objections, motions, and federal complaints, enforcement escalated into criminal prosecutions, excessive fines, threats of arrest, and warrantless arrests.

At no time did Appellant lease, advertise, or operate the residence as a rental property, nor was there any change of use under applicable municipal or Texas law.

III. GROUNDS FOR DISMISSAL AND QUASHING

A. Lack of Probable Cause and Unlawful Enforcement

The frivolous, duplicative, and excessive citations against my private home at 3719 Kelly Blvd Carrollton. The citations issued against Appellant's owner-occupied residence at 3719 Kelly Blvd were issued without inspection, evidence, or probable cause, in violation of the Fourth Amendment Enforcement actions based on unsupported allegations violate the Fourth Amendment and cannot sustain criminal or quasi-criminal penalties.

- Citation 22821 issued date July 10, 2025,
- Citation 33108 issued date December 23, 2025,
- Citation 33109 issued date December 23, 2025,
- Citation 33110 issued date December 23, 2025,

MUNICIPAL COURT
FILED
DEC 30 2025
CITY OF CARROLLTON

My family and I have been living in our private home since we bought it in 2016. We have never ever leased our home. Tim Roush forced me to pay fee for property rental while

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we live in our home. Mr. Roush testified in court with pictures of the interior's decoration of my home without any lease or any renter, No STR, without violation evidence.

B. Retaliation for Protected Activity (42 U.S.C. § 1983)

Defendants escalated enforcement after Appellant engaged in protected conduct, including filing motions, objections, appeals, and federal complaints. The absence of probable cause, combined with temporal proximity, establishes retaliatory motive.

C. Abuse of Process

Municipal process was misused not to remedy code violations, but to coerce payment, punish protected speech, inflate fines, and justify arrest. This constitutes abuse of legal process under § 1983.

D. Due Process Violations

Appellant was deprived of notice, meaningful hearings, access to evidence, and neutral adjudication. Civil code matters were improperly converted into criminal prosecutions, resulting in excessive fines and custodial arrests without lawful basis. The imposition of fines up to \$2,000 per citation, absent any violation or inspection, further violates the Excessive Fines Clause of the Eighth Amendment.

E. Municipal Liability

The pattern of duplicative citations, lack of inspection, escalation into arrest, and failure to correct known errors reflects a municipal custom, policy, or practice actionable under *Monell*.

IV. RELIEF REQUESTED

Appellant respectfully requests that the Court:

MUNICIPAL COURT
FILED

DEC 30 2025

CITY OF CARROLLTON

23

1. Dismiss all citations with prejudice;
2. Quash all related enforcement actions, warrants, and penalties;
3. Vacate all fines, fees, and collateral consequences;
4. Suppress all evidence derived from unlawful inspections and enforcement; and
5. Grant such other and further relief as justice requires.

V. PRESERVATION FOR APPEAL

This motion is filed to preserve Appellant's constitutional claims under the First, Fourth, Eighth, and Fourteenth Amendments and 42 U.S.C. § 1983 for appellate review.

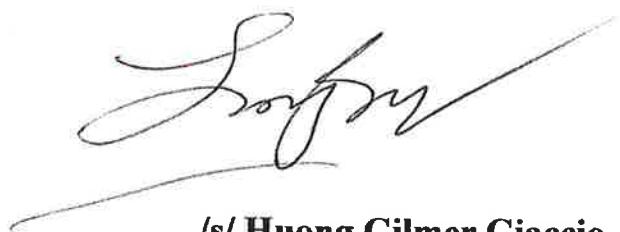


Respectfully Submitted,
/s/ Huong Gilmer Giaccio
Pro se Huong Gilmer Giaccio
Address: 3719 KELLY BLVD
CARROLLTON TX, 75007
Cell phone: 945-546-0934

CERTIFICATE OF SERVICE

I, Huong Gilmer Giaccio hereby certify that on this 30th day of December 2025, a true and correct copy of this Motion was served on all parties of record by electronic filing and filed in person upon:

Municipal Court Clerk – City of Carrollton
2001 E. Jackson Rd, Carrollton, TX 75006



/s/ Huong Gilmer Giaccio

Please see exhibits: A, B, C, D, E

MUNICIPAL COURT
FILED
DEC 30 2025
CITY OF CARROLLTON

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**UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**
No. 25-10861
(consolidated with No. 25-10952)

**Huong Gilmer Giaccio,
Plaintiff-Appellant,
v.
Meredith Lyon, et al.,
Defendants-Appellees.**

**MOTION TO STAY ISSUANCE OF THE MANDATE
PENDING PETITION FOR WRIT OF CERTIORARI**

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff-Appellant Huong Gilmer Giaccio, proceeding pro se, respectfully moves this Court pursuant to **Federal Rule of Appellate Procedure 41(d)(2)** for a stay of the mandate pending the filing and disposition of a petition for a writ of certiorari to the United States Supreme Court.

I. STATEMENT OF INTENT TO SEEK SUPREME COURT REVIEW

Appellant intends to file a **petition for a writ of certiorari** seeking review of this Court's unpublished decision entered on **December 30, 2025**, affirming dismissal of Appellant's federal civil-rights claims.

The mandate is currently scheduled to issue on **January 20, 2026**.

II. SUBSTANTIAL QUESTIONS WARRANTING A STAY

This case presents **substantial constitutional questions** appropriate for Supreme Court review, including but not limited to:

1. **Whether absolute judicial and prosecutorial immunity applies when municipal officials act without subject-matter jurisdiction and in coordination with retaliatory enforcement actions, including warrantless arrests and unlawful citations.**
2. **Whether repeated retaliatory enforcement and arrests in response to protected petitioning activity violate the First and Fourteenth Amendments, particularly where courts refuse factual review of evidence submitted by a pro se litigant.**
3. **Whether summary dismissal of constitutional claims without evidentiary consideration violates procedural due process and the right of access to courts, especially where liberty interests are implicated.**
4. **Whether repeated warrantless arrests and enforcement actions violate the Fourth and Fourteenth Amendments when judicial review is denied at both the trial and appellate levels.**
5. **Whether denial of meaningful language access and ADA accommodations to a pro se litigant facing arrest, fines, and incarceration violates due process and federal disability law.**

These issues implicate **structural constitutional protections**, extend beyond the facts of this case, and raise important questions regarding **municipal accountability, judicial immunity limits, and access to courts**.

III. GOOD CAUSE FOR STAY

A stay is warranted because:

- Appellant intends to seek Supreme Court review in good faith;

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- The constitutional issues presented are substantial and non-frivolous;
- Issuance of the mandate may expose Appellant to continued collateral consequences and retaliatory enforcement;
- A stay will preserve the status quo pending Supreme Court consideration.

IV. DURATION OF REQUESTED STAY

Appellant respectfully requests a stay of the mandate for **90 days**, or until final disposition of the petition for a writ of certiorari, consistent with **Fed. R. App. P. 41(d)(2)(B)**.

V. CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court **stay issuance of the mandate** pending Supreme Court review.

Respectfully submitted,
By: /s/ Huong Gilmer Giaccio
Pro Se Plaintiff Huong Gilmer Giaccio
3719 Kelly Blvd, Carrollton, TX 75007
Phone: 945-546-0934
Email: hgfive@yahoo.com
Date: December 30, 2025

CERTIFICATE OF SERVICE

I, Huong Gilmer Giaccio hereby certify that on this 30 day of December 2025, a true and correct copy of the foregoing instrument was served via E-Service and electronic filing CM/ECF upon all parties of court records.

/s/ **Huong Gilmer Giaccio**