

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

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In The  
Supreme Court Of The United States

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Brandon L. Fake, et al,  
*Petitioners*

*v.*

COMMONWEALTH OF PENNSYLVANIA, et.al,  
*Respondents*

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On Application To Individual Justice For  
United States Court of Appeals  
For The Third Circuit

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APPLICATION TO JUSTICE ALITO SEEKING EXTENSION FOR  
FILING PETITION FOR CERTIORARI IN THE U.S. SUPREME COURT

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Brandon L. Fake  
4840 Redwood Drive  
Sheffield Lake, OH 44054  
(303) 506-9910  
*Pro se Petitioner*

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Brandon L. Fake, pro se petitioner (“Fake”) seeks mercy of this Justice to extend the deadline for filing his Petition for Writ of certiorari in a ground-breaking case presenting issues of broad national importance. Unlike professional attorneys, Fake has limited resources and has been faced with review of an expansive complex record in this case and unresolved issues that would affect this case. There is an outstanding Motion under Federal Rule 60 filed on December 29, 2025 with the lower court and an active Petition to the Judicial Council for Judicial Misconduct.

The case to be presented to the Supreme Court of the United States involves OVERT ACTS of FRAUD UPON THE COURT as defined in *Herring v. United States of America*, 424 F.3d (2005). The named lower court judges have engaged in a conspiracy to defraud the United States Government while conducting a human trafficking enterprise by and through criminal abuses of power and OVERT ACTS of TREASON against the United States Constitution and actions taken while in the complete absence of jurisdiction. The Third Circuit Court of Appeals has denied Constitutional Due Process rights by failing to allow any appeal whatsoever to be heard in this case, none of the merits or matters in controversy have ever been heard in this case, all rights and remedies are reserved for proper adjudication.

The attached Motion under Federal Rule 60 and the subsequent Mandatory Judicial Notice has been filed with the United States District Court EDPA and if ruled upon in accordance with precedent and the United States Constitution, further action will not be necessary at this time.

### **PRAYER FOR RELIEF**

The case below presents important federal questions of national importance, Due Process violations and provides evidence of a judicial protection racket

operating to conceal fraud and judicial criminality within the Philadelphia Court of Common Pleas Domestic Relations Division. The Third Circuit judgment and opinion was filed on September 26, 2025, and Sur Petition for Rehearing on December 1, 2025. Fake prays for an extension of time to present a petition for certiorari on or before April 30, 2026.

Brandon L. Fake, Pro Se Petitioner

*Brandon L. Fake*

4840 Redwood Drive  
Sheffield Lake, OH 44054  
(303) 506-9910

*Susan B. Fake*  
SUSAN B. FAKE

**CERTIFICATE OF SERVICE**

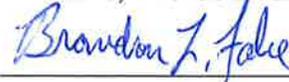
I, Brandon L. Fake certify that I served by electronic mail, a copy of the APPLICATION TO JUSTICE ALITO SEEKING EXTENSION FOR FILING PETITION FOR CERTIORARI IN THE U.S. SUPREME COURT on the following on the date listed below:

1. Thomas Paschos
2. Gregory L. Liacouras
3. William T. Josem
4. Kieran M. Casey
5. Megan L. Mallek
6. Benjamin T. Jackal
7. Kathryn Farris
8. Hannah Kogan
9. Erik J. Conrad
10. Meghan Byrnes
11. Jeremy E. Meyer
12. Kevin R. Bradford
13. Thomas Gaeta
14. Jonathan Cooper
15. Peter Gregory Vizcarrondo
16. Joshua Bernard Niemtzw
17. Catherine Baldwin

I, Brandon L. Fake do hereby declare (under 28 U.S.C. § 1746):

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Signature executed on February 17, 2026.

Brandon L. Fake, Pro Se Petitioner



4840 Redwood Drive  
Sheffield Lake, OH 44054  
(303) 506-9910

CLD-201

**NOT PRECEDENTIAL**

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 25-1798

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BRANDON L. FAKE;  
SUSAN B. FAKE

v.

COMMONWEALTH OF PENNSYLVANIA; PATRICK J. MURPHY,  
INDIVIDUALLY; WAYNE M. BENNET, INDIVIDUALLY; ANITA N.  
BOTCHWAY, INDIVIDUALLY; WILLIAM H. KETTERLINUS, INDIVIDUALLY;  
RUFUS SETH WILLIAMS; INDIVIDUALLY, GERALD ROCKS, INDIVIDUALLY;  
JOHN "JOHNNY DO" DOUGHERTY, INDIVIDUALLY; JOHN CLARK,  
INDIVIDUALLY; MARY CLARK, INDIVIDUALLY; ERIK J. CONRAD, LAW FIRM  
AND INDIVIDUALLY

Brandon L. Fake,  
Appellant

\*(Amended pursuant to Clerk's Order dated 07/25/2025)

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On Appeal from the United States District Court  
for the Eastern District of Pennsylvania  
(D.C. Civil Action No. 2:20-cv-01283)  
District Judge: Honorable Jennifer P. Wilson

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Submitted for Possible Dismissal due to a Jurisdictional Defect and Possible Summary  
Action Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6  
August 21, 2025

Before: KRAUSE, PHIPPS, and SCIRICA, Circuit Judges

(Opinion filed: September 26, 2025)

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OPINION\*

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**PER CURIAM**

Brandon Fake appeals pro se from District Court orders dismissing the plaintiffs' third amended complaint for failure to state a claim. Because the appeal presents no substantial question, we will summarily affirm the District Court's judgment.

In March 2020, Brandon and Susan Fake filed a pro se complaint against forty-five defendants. Plaintiffs alleged a RICO conspiracy in the Philadelphia Court of Common Pleas in connection with divorce, support, and custody proceedings between Fake and his ex-wife that began in 2004.<sup>1</sup> They also alleged defendants had violated other federal and state constitutional and statutory protections, including 42 U.S.C. § 1983. In December 2020, the District Court dismissed the complaint against multiple defendants for failure to state a claim but allowed plaintiffs to file an amended complaint as to all defendants.

In 2023, the District Court dismissed plaintiffs' amended complaint with prejudice as to all claims against the Commonwealth of Pennsylvania,<sup>2</sup> Brian Zarallo in his official

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\* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

<sup>1</sup> Fake has initiated other federal complaints against some of the same defendants.

<sup>2</sup> Dismissing these claims also terminated the Pennsylvania Office of Attorney General,

and individual capacity, the Pennsylvania Courts, all named Pennsylvania Judges in their official and individual capacities,<sup>3</sup> Robert Graci, Martha Gale, the City of Philadelphia, the District Attorney's Office of Philadelphia, Rufus Williams in his official capacity, Sarah Katz, Karen Ulmer, Russell Manning, and Federal Judge Gerald Pappert.<sup>4</sup> It also dismissed with prejudice all claims against Erik Conrad, apart from plaintiffs' asserted RICO claim. The District Court dismissed without prejudice plaintiffs' claims asserted against the remaining defendants and allowed plaintiffs to file a second amended complaint. The District Court struck plaintiffs' second amended complaint from the record for failing to comply with the prior orders of dismissals and allowed plaintiffs to file a third amended complaint.

Plaintiffs filed their third amended complaint in June 2024. In March 2025, the District Court dismissed plaintiffs' claims against all remaining defendants for failure to state a claim. Brandon Fake appealed.

## II.

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Attorney General Joshua D. Shapiro, and Governor Thomas W. Wolf as parties.

<sup>3</sup> Dismissing these claims also terminated the Judicial Conduct Board of Pennsylvania as a party.

<sup>4</sup> The District Court terminated Defendants James Kenney and Lawrence S. Krasner as parties because plaintiffs' amended complaint had failed to name them as defendants or assert any claims against them.

We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo dismissals based on sovereign immunity, judicial immunity, and failure to state a claim. Geness v. Admin. Off. of Pa. Cts., 974 F.3d 263, 269 (3d Cir. 2020); Gallas v. Supreme Court of Pa., 211 F.3d 760, 768 (3d Cir. 2000); Bah v. United States, 91 F.4th 116, 119 (3d Cir. 2024). We may summarily affirm if the appeal does not present a substantial question. See 3d Cir. L.A.R. 27.4.

### III.

After a de novo review of the record, we are satisfied that plaintiffs' claims against all defendants fail, largely for the reasons provided by the District Court.

#### A.

The District Court properly found that sovereign immunity barred any claims against the Commonwealth of Pennsylvania, Brian Zarallo in his official capacity, the Pennsylvania Courts, and the Pennsylvania State Judges in their official capacities. The Eleventh Amendment “make[s] states generally immune from suit by private parties in federal court [and] [t]his immunity extends to state agencies and departments.” MCI Telecomm. Corp. v. Bell Atl.-Pa., 271 F.3d 491, 503 (3d Cir. 2001) (cleaned up). Plaintiffs allege that these defendants have waived their sovereign immunity and consented to being sued in federal court. However, plaintiffs have cited no documents showing that these defendants waived immunity, and Pennsylvania has expressly not waived its Eleventh Amendment immunity in federal courts. 42 Pa. Cons. Stat. Ann. §

8521(b). This immunity therefore bars plaintiffs' claims against these defendants in any official capacity.<sup>5</sup>

B.

The District Court properly found that Federal Judge Pappert and the Pennsylvania State Judges, as sued in their individual capacities, were entitled to judicial immunity. Judicial officers performing regular duties have “absolute immunity from suit.” Azubuko v. Royal, 443 F.3d 302, 303 (3d Cir. 2006) (per curiam). Judges are “deprived of immunity” only when their actions are taken “in the clear absence of all jurisdiction.” Id. (cleaned up). Plaintiffs' allegations all relate to actions taken by the Federal and State Judges in their capacities as judges. See id. And contrary to Fake's assertions on appeal, the Pennsylvania Supreme Court has not waived judicial immunity for these defendants, nor did any of the Judges act “in the clear absence of all jurisdiction.” Id.

C.

The District Court properly found that plaintiffs failed to assert any custom or policy which would create an actionable claim against the City of Philadelphia under Monell v. Dep't of Soc. Serv., 436 U.S. 658, 694 (1978), and that the Philadelphia District Attorney's Office is not a separate entity that can be sued under § 1983. See Reitz v. Cnty. Of Bucks, 125 F.3d 139, 148 (3d Cir. 1997).

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<sup>5</sup> Plaintiffs have failed to state any plausible claim against these state defendants that would not be covered by sovereign immunity.

D.

The District Court also correctly found that Katz, Ulmer, and Manning could not be found to be state actors based on the facts as alleged by plaintiffs. To state a claim under § 1983, plaintiffs must establish the individual sued was a state actor. Kach v. Hose, 589 F.3d 626, 646 (3d Cir. 2009). We have found individuals to be state actors when they are a state official, they have acted with state officials, or their “conduct is, by its nature, chargeable to the state.” Angelico v. Lehigh Valley Hosp., Inc., 184 F.3d 268, 277 (3d Cir. 1999). Attorneys are not considered state actors “solely on the basis of their position as officers of the court.” Id. The District Court also correctly dismissed any remaining claims against these defendants as plaintiffs failed to state any plausible claims.

E.

Finally, the District Court properly found that plaintiffs failed to allege sufficient facts to state any claim against the remaining defendants. Under the Twombly-Iqbal standard, a pleading “must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (cleaned up.). Although pro se pleadings must be held to “less stringent standards than formal pleadings drafted by lawyers,” Haines v. Kerner, 404 U.S. 519, 520 (1972), “pro se litigants still must allege sufficient facts in their complaints to support a claim.” Mala v. Crown Bay Marina, Inc., 704 F.3d 239, 245 (3d Cir. 2013). Plaintiffs failed to plead

facts that would satisfy the elements of their asserted claim; in particular, their allegations of participation in a RICO conspiracy and fraud. And even when allowed to amend their complaint multiple times, plaintiffs failed to cure the defects raised by the District Court.

III.

For the foregoing reasons, we will summarily affirm the District Court's judgment as to all parties. See 3d Cir. L.A.R. 27.4(a). The pending motions are denied.

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 25-1798

---

BRANDON L. FAKE; SUSAN B. FAKE

v.

COMMONWEALTH OF PENNSYLVANIA; PATRICK J. MURPHY,  
INDIVIDUALLY; WAYNE M. BENNETT, INDIVIDUALLY; ANITA N.  
BOTCHWAY, INDIVIDUALLY; WILLIAM H. KETTERLINUS, INDIVIDUALLY;  
RUFUS SETH WILLIAMS, INDIVIDUALLY; GERALD ROCKS, INDIVIDUALLY;  
JOHN "JOHNNY DOC" DOUGHERTY, INDIVIDUALLY; JOHN CLARK,  
INDIVIDUALLY; MARY CLARK, INDIVIDUALLY; ERIK J. CONRAD, LAW FIRM  
AND INDIVIDUALLY

Brandon L. Fake,  
Appellant

\*(Amended pursuant to Clerks Order dated 07/25/2025)

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(D.C. Civ. No. 2:20-cv-01283)

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SUR PETITION FOR REHEARING

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Present: CHAGARES, Chief Judge, HARDIMAN, KRAUSE, RESTREPO, BIBAS,  
PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES, CHUNG,  
BOVE, and SCIRICA\*, Circuit Judges

The petition for rehearing filed by appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other

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\* As to panel rehearing only.

available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,

s/Anthony J. Scirica  
Circuit Judge

Date: December 1, 2025  
Lmr/cc: Brandon L. Fake  
All Counsel of Record

## CERTIFICATE OF SERVICE

Plaintiff, Brandon L. Fake, hereby certifies that he has served this Mandatory Judicial Notice, via the Courts ECF webpage and USPS Mail to the Office of the Circuit Executive and has served a true and correct copy via email to the following counsel of record on February 17, 2026.

Thomas Paschos  
Gregory L. Liacouras  
William T. Josem  
Kieran M. Casey  
Megan L. Mallek  
Benjamin T. Jackal  
Kathryn Faris  
Hannah Kogan  
Erik J. Conrad  
Meghan Byrnes  
Jeremy E. Meyer  
Kevin R. Bradford  
Thomas Gaeta  
Jonathan Cooper  
Peter Gregory Vizcarrondo  
Joshua Bernard Niemtow

Date: February 17, 2026

s/Brandon L. Fake

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