No. ______

IN THE

SUPREME COURT OF THE UNITED STATES

MITCHELL VEXLER, CATHERINE VEXLER,
JIM SOLINSKI, AND GLORIA SOLINSKI,
Petitioners,

v.

DON SPENCER, IN HIS OFFICIAL CAPACITY AS
CHIEF APPRAISER OF DENTON CENTRAL
APPRAISAL DISTRICT; DENTON CENTRAL
APPRAISAL DISTRICT; AND MAVEX SHOPS
OF FLOWER MOUND, LP,
Respondents.

**ON PETITION FOR A WRIT OF CERTIORARI
TO THE COURT OF APPEALS FOR THE
SECOND DISTRICT OF TEXAS**

PETITION FOR A WRIT OF CERTIORARI

MITCHELL VEXLER
CATHERINE VEXLER
Petitioners, Pro Se
1913 Justin Road, Suite 117
Flower Mound, Texas 75028
214-725-9013 | 214-850-6999
mitch@mockingbirdprop.com
Catherine@mockingbirdprop.com

JIM SOLINSKI
GLORIA SOLINSKI
Petitioners, Pro Se
4529 Mahogany Lane
Copper Canyon, Texas
75077
210-825-2306
Jesolinski@stoneglazing.com

Designated correspondence contact: Mitchell Vexler

QUESTIONS PRESENTED

1. Whether the Due Process Clause permits a State to make an administrative remedy exclusive when the designated tribunal lacks authority to grant the prospective relief sought, leaving no state court able to adjudicate the claim.

2. Whether a federal due-process objection to a state court's final foreclosure of all available remedies is timely under 28 U.S.C. § 1257 when the objection could not become complete until the state court of last resort denied rehearing.

PARTIES TO THE PROCEEDING

Petitioners are Mitchell Vexler, Catherine Vexler, Jim Solinski, and Gloria Solinski, each an individual who was a plaintiff and appellant below. Respondents Don Spencer, in his official capacity as Chief Appraiser of the Denton Central Appraisal District, and the Denton Central Appraisal District were defendants and appellees below. Mavex Shops of Flower Mound, LP was a co-plaintiff and appellant below but does not join this petition; under Rule 12.6, it is listed as a respondent. Mavex is aligned with Petitioners on the relief requested.

RULE 29.6 STATEMENT

No Petitioner is a nongovernmental corporation. Mavex Shops of Flower Mound, LP is a party below but is not a petitioner and makes no disclosure through this filing.

STATEMENT OF RELATED PROCEEDINGS

Vexler v. Spencer, No. 23-9526-481, 481st Judicial District Court, Denton County, Texas (order granting Spencer's plea entered May 2, 2024; final judgment entered May 8, 2024; signed order denying the motion for new trial entered July 10, 2024).

Vexler v. Spencer, No. 02-24-00305-CV, Court of Appeals for the Second District of Texas (judgment entered May 1, 2025).

Vexler v. Spencer, No. 25-0615, Supreme Court of Texas (petition for review denied October 24, 2025; rehearing denied May 8, 2026).

TABLE OF CONTENTS

TABLE OF CITED AUTHORITIES

PETITION FOR A WRIT OF CERTIORARI

Petitioners respectfully petition for a writ of certiorari to review the judgment of the Court of Appeals for the Second District of Texas, left undisturbed by the Supreme Court of Texas.

OPINIONS BELOW

The memorandum opinion of the Court of Appeals for the Second District of Texas is unreported and available at 2025 WL 1271691. Pet. App. 1a-26a. The court entered judgment on May 1, 2025. Pet. App. 27a-28a. The Supreme Court of Texas denied review on October 24, 2025, and denied rehearing on May 8, 2026. Pet. App. 32a-33a.

The trial court entered an order granting Spencer's plea on May 2, 2024, a final judgment on May 8, 2024, and a signed order denying Petitioners' motion for new trial on July 10, 2024. Pet. App. 29a-31a.

JURISDICTION

The court of appeals entered judgment on May 1, 2025. The Supreme Court of Texas denied discretionary review on October 24, 2025, and denied a timely motion for rehearing on May 8, 2026. Pet. App. 32a-33a. Under Rule 13.3, the time to seek certiorari runs from the denial of rehearing. This petition is timely if filed on or before August 6, 2026. This Court's jurisdiction is invoked under 28 U.S.C. § 1257(a).

Petitioners preserved throughout the state proceedings the operative remedial issue: they sought prospective relief, contested the application of Texas Tax Code § 42.09, and identified the appraisal review board's inability to issue the requested injunction. Pet. App. 34a-76a. Petitioners do not contend that the state pleading contained a freestanding Fourteenth Amendment count. Their jurisdictional submission is that the federal due-process objection arises from the state courts' completed foreclosure of that preserved claim. The timeliness of that judgment-created objection is presented directly in Question 2.

Brinkerhoff-Faris Trust & Savings Co. v. Hill held that a federal objection arising from a state court's own disposition may be timely when presented at the first available opportunity. 281 U.S. 673, 677-678 (1930). Petitioners acknowledge the demanding presentation rules applied in *Adams v. Robertson*, 520 U.S. 83 (1997), and *Webb v. Webb*, 451 U.S. 493 (1981). This petition therefore identifies both what was preserved below and what federal characterization allegedly became complete only upon finality.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment provides, in relevant part: "No State shall ... deprive any person of life, liberty, or property, without due process of law."

Texas Tax Code § 23.01(b) requires generally accepted appraisal methods and provides that, when an appraisal district uses mass-appraisal standards, those standards must comply with the Uniform Standards of Professional Appraisal Practice.

Texas Tax Code § 41.41(a) authorizes a property owner to protest an appraised value, an unequal appraisal, and other action of the chief appraiser, appraisal district, or appraisal review board that applies to and adversely affects the owner. Sections 41.01 and 41.02 define the appraisal review board's determinations and authorize it to direct corrections to appraisal records or the appraisal roll.

Texas Tax Code § 42.09(a) provides that the procedures prescribed by the Tax Code for adjudication of authorized protest grounds are exclusive and restricts a property owner from raising those grounds in a suit to arrest or prevent tax collection or obtain a refund. The pertinent provisions are reproduced at Pet. App. 77a-81a.

STATEMENT OF THE CASE

A. Petitioners sought a prospective remedy distinct from an annual valuation correction.

Petitioners own property in Denton County, Texas. Their First Amended Petition alleged that the Denton Central Appraisal District and its Chief Appraiser used appraisal procedures inconsistent with mandatory Texas law. The pleading requested several forms of relief. The claim relevant here was prospective: Petitioners requested a permanent injunction requiring DCAD and Spencer to comply with the governing mass-appraisal standards going forward. First Am. Pet. ¶ 5.06, C.R. 140; Pet. App. 34a-38a.

The state action was therefore not limited to obtaining a different value for one parcel in one tax year. Petitioners alleged continuing conduct and requested future compliance. They also alleged ultra vires conduct by Spencer. Pet. App. 37a-38a. The merits of those allegations were never adjudicated; the case ended on pleas to the jurisdiction.

B. Petitioners preserved the remedial inadequacy in the trial court.

After the trial court granted the jurisdictional pleas, Petitioners moved for reconsideration and a new trial. The Motion for Reconsideration argued that § 42.09 concerns actions already taken and provides no mechanism for forward-looking relief. Mot. for Recons. 9-10; Pet. App. 73a-74a. It explained that forcing annual protests would require Petitioners to repeat the same appraisal, protest, and litigation cycle and would allow compliance with § 23.01 to evade judicial review. Id. at 10-11; Pet. App. 74a-75a.

The motion sought reconsideration of the May 2024 jurisdictional orders and again requested relief requiring Spencer and DCAD to comply with § 23.01 and USPAP in future mass appraisals. Mot. for Recons. 1-2; Pet. App. 65a-66a. The trial court entered a signed order denying Petitioners' motion for new trial on July 10, 2024. Pet. App. 29a.

C. Petitioners preserved the distinction in the court of appeals.

The opening appellate brief made prospective relief its first issue: whether a district court has jurisdiction to require an official of a political subdivision to follow the law. Appellants' Br. 3, 8-10; Pet. App. 39a-41a. It invoked *Ex parte Young* and Texas ultra vires authorities for the distinction between retrospective monetary relief and an injunction against continuing unlawful official action. Id. at 8-10; Pet. App. 40a-41a.

The opening brief also disputed the premise that § 42.09 supplied an adequate exclusive remedy. It argued that the challenged systemic conduct could not be meaningfully presented through the statutory protest process and that exhaustion extended only to grounds the Tax Code authorized the board to decide. Appellants' Br. 16-18; Pet. App. 43a-44a.

The reply brief sharpened the point. It explained that Petitioners alleged continuing conduct and sought prospective relief; that annual review of past action was not redundant of an injunction governing future conduct; and that, even if exclusivity applied to ordinary valuation disputes, it could not bar prospective ultra vires relief. Reply Br. 12-18; Pet. App. 45a-48a. Without prospective adjudication, the reply explained, owners would remain in a repeated cycle of appraisal, protest, expense, and litigation. Id. at 15-18; Pet. App. 46a-48a.

D. The court of appeals treated the annual process as exclusive.

The court of appeals affirmed. It held that § 41.41(a) was broad enough to encompass complaints about alleged noncompliance with the mass-appraisal requirements and that § 42.09 therefore supplied Petitioners' exclusive remedy. Pet. App. 12a-15a. It applied that holding to the requested prospective injunction, reasoning that Texas had abolished prior common-law remedies used to prevent unconstitutional taxation and that the trial court lacked jurisdiction over declaratory and injunctive relief outside the Tax Code. Pet. App. 16a-18a.

The opinion recognized that Petitioners requested future compliance with the governing standards. Pet. App. 16a-17a. But it identified no authority empowering an appraisal review board to issue that injunction. It treated the availability of annual protest grounds as sufficient to foreclose the separate judicial remedy.

The opinion also stated that Petitioners did not challenge on appeal the dismissal of the takings claim pleaded under Article I, § 17 of the Texas Constitution. Pet. App. 9a. This petition does not seek review of that disposition and does not depend on a claim under 42 U.S.C. § 1983, which was not pleaded in the state action.

E. Petitioners presented remedial incapacity and futility to the Supreme Court of Texas.

After panel and en banc rehearing were denied, Petitioners sought review in the Supreme Court of Texas. The Petition for Review framed its principal issue as whether agency exhaustion may bar an ultra vires suit when the agency cannot grant the relief requested. Pet. for Review 12; Pet. App. 49a-50a. It relied on *Hensley v. State Commission on Judicial Conduct*, 692 S.W.3d 184 (Tex. 2024), which held that exhaustion is unnecessary when an administrative path cannot moot or fully resolve the claim.

The Petition for Review identified the precise remedial mismatch. Even assuming an appraisal review board could correct a past assessment, Petitioners argued that it had no authority to declare an entire countywide methodology unlawful, enjoin appraisal-district personnel, or require future appraisals to comply with law. Pet. for Review 16-18; Pet. App. 53a-55a. Its statutory power was limited to determinations and corrections concerning appraisal records and rolls. Id. Thus, Petitioners argued, making that process exclusive would require a futile procedure incapable of preventing repetition.

After review was denied, Petitioners' rehearing motion again argued that an apparently exclusive remedy is not exclusive when the administrative body lacks authority to grant the requested relief. Mot. for Reh'g 7-11; Pet. App. 56a-60a. Their combined reply repeated that a tribunal lacking power to provide the requested remedy cannot furnish a meaningful exclusive remedy. Combined Reply 3, 8-9; Pet. App. 61a-64a.

F. The record locations and federal-question presentation are disclosed directly.

For purposes of Rule 14.1(g)(i), the preserved premises appear in the First Amended Petition at paragraph 5.06 and C.R. 140; the Motion for Reconsideration at pages 1-2 and 9-11; the opening appellate brief at pages 3, 8-10, and 16-18; the reply brief at pages 12-18; the Petition for Review at pages 12-18; the rehearing motion at pages 7-11; and the combined reply at pages 3 and 8-9. The Court of Appeals passed on the remedial issue at Pet. App. 12a-18a, and the Supreme Court of Texas denied review and rehearing at Pet. App. 32a-33a.

Petitioners do not assert that the words "Fourteenth Amendment" or "federal due process" were used to label a separate count at each stage. The state courts were instead asked, repeatedly and specifically, whether a remedy could be exclusive when the designated tribunal could not grant the injunction sought. Question 2 asks whether the federal constitutional objection to the completed state-court foreclosure is reviewable when its final element did not occur until the State's last available tribunal denied rehearing.

G. The final denial completed the alleged foreclosure.

Before the state appellate process ended, the Court of Appeals or the Supreme Court of Texas could have reversed, applied *Hensley*, or remanded for adjudication. The Supreme Court of Texas denied rehearing on May 8, 2026, without opinion. Pet. App. 32a-33a. At that point, the state system had finally directed Petitioners to a tribunal that could not grant the injunction while closing the courts that could consider it.

The question is not whether Petitioners should receive a particular appraisal or refund. It is whether due process permits a State to make a procedure exclusive after the record repeatedly demonstrates that the designated tribunal lacks authority to grant the preserved prospective relief.

REASONS FOR GRANTING THE PETITION

I. THE COMPLETED FORECLOSURE *CONFLICTS WITH BRINKERHOFF-FARIS* AND THE REQUIREMENT OF A REAL OPPORTUNITY TO BE HEARD.

Brinkerhoff-Faris arose from a state property-tax dispute. Missouri law had previously recognized an equitable remedy to challenge an allegedly discriminatory assessment. The state court later held that the taxpayer should instead have pursued an administrative remedy that had not been available under the law then prevailing. By the time the court announced that requirement, the administrative path was closed. This Court held that the State could not withdraw all existing remedies without providing a real opportunity to be heard. 281 U.S. at 678-682.

The constitutional defect was not merely an erroneous interpretation of state law. It was the state judiciary's use of procedure to extinguish the available path to adjudication. Due process reaches judicial action. Id. at 679-680. When a State controls the avenue through which a claim may be heard, it must provide a meaningful opportunity rather than a formal route incapable of resolving the claim. See *Boddie v. Connecticut*, 401 U.S. 371, 377-380 (1971); *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 429-437 (1982).

The same structural defect is alleged here. Texas law authorizes an appraisal review board to decide protests and direct corrections to appraisal records or rolls. Petitioners did not deny that such a board may decide ordinary valuation disputes. They demonstrated, however, that the board could not issue a prospective injunction governing future appraisal methodology. Pet. App. 45a-60a. The state courts nevertheless treated the annual process as exclusive and dismissed the action requesting that injunction. Pet. App. 12a-18a.

A remedy is not meaningful merely because it shares a subject matter with the claim. Correcting one parcel for one year does not adjudicate whether an official may continue a challenged methodology in later years. Nor does the theoretical availability of de novo review of an appraisal order answer the problem when the administrative body cannot enter the prospective order sought and the State treats claims outside the annual order as jurisdictionally barred.

Hensley underscores the remedial mismatch as a matter of Texas law. There, the Supreme Court of Texas explained that exhaustion is not required when an administrative remedy cannot moot the claim. 692 S.W.3d at 193-198. Petitioners placed *Hensley* and the board's limited authority before the Texas courts. Yet the prospective claim was never adjudicated. The final result is the procedural dead end *Brinkerhoff-Faris* condemns: one forum is treated as exclusive but lacks the requested power, while the forum with equitable authority is closed because the powerless forum is deemed exclusive.

This Court need not decide whether Petitioners will prove an unlawful appraisal method or satisfy the equitable standards for an injunction. It need decide only whether a State may prevent any tribunal from reaching those questions. A remand would restore adjudication without predetermining the merits.

II. THE FEDERAL OBJECTION PRESENTS A SUBSTANTIAL FIRST-OPPORTUNITY QUESTION UNDER SECTION 1257.

Section 1257 ordinarily requires that a federal right be specially set up or claimed in the state courts with sufficient clarity and at the proper time. *Adams*, 520 U.S. at 86-92; *Webb*, 451 U.S. at 496-501. That rule gives state courts an opportunity to address federal questions and prevents litigants from recasting state-law disputes after judgment. Petitioners identify that jurisdictional issue candidly rather than assuming it away.

Brinkerhoff-Faris recognizes a narrow first-opportunity principle. There, the federal due-process objection arose from the state supreme court's own decision eliminating the previously available remedy. The taxpayer raised the objection at the first opportunity, on rehearing, and this Court held it timely even though rehearing was denied without opinion. 281 U.S. at 677-678. *Reece v. Georgia* likewise recognizes that a federal objection is not forfeited when state procedure supplies no earlier meaningful opportunity to raise it. 350 U.S. 85, 89-90 (1955).

Here, Petitioners did not wait until certiorari to identify the operative remedial defect. At each appellate level they preserved the premises: the claim was prospective; annual review could not grant the injunction; exhaustion would be futile; and treating the process as exclusive would prevent adjudication. Pet. App. 39a-76a. The Court of Appeals rejected the position, but further state review remained possible. Petitioners therefore sought review and rehearing from the Supreme Court of Texas.

Petitioners submit that the alleged federal injury did not become complete until that court denied rehearing. Before May 8, 2026, a state tribunal still could have reopened the case and supplied the adjudicative forum requested. After the denial, none remained. The present objection is therefore not a new factual theory about appraisal. It is the federal characterization of the state process after that process finally foreclosed all adjudication.

Adams and *Webb* remain serious counterarguments, but they are distinguishable in the respect Question 2 asks the Court to decide. Those cases involved federal rights that could have been presented before the state judgments became final but were not fairly identified. Petitioners here continuously presented the remedial incapacity and the threatened non-adjudication; only the completed constitutional consequence depended on the final denial. Whether § 1257 permits review in that circumstance is an important threshold question warranting this Court's consideration.

A State should not be able to insulate a completed deprivation from review merely because the last necessary act is an unreasoned denial entered after no further state procedure remains. *Brinkerhoff*-Faris supplies the governing principle; this case asks the Court to define its application to a final foreclosure completed by denial of discretionary review and rehearing.

III. THE QUESTION IS IMPORTANT, RECURRING, AND EXTENDS BEYOND PROPERTY TAXATION.

States commonly channel disputes through specialized administrative bodies. Those systems serve legitimate purposes, including factual development, consistency, expertise, and efficient correction of individual decisions. The constitutional problem arises when a State combines exclusivity with remedial incapacity and uses that combination to foreclose every judicial forum.

The pattern is readily replicable. A State may designate an administrative body as the exclusive forum, limit that body to correcting individual past orders, and bar courts from considering prospective challenges outside the administrative process. If due process is satisfied by the bare existence of that limited process, continuing official conduct may become effectively insulated from adjudication even though no tribunal can issue the relief sought.

That problem can arise in licensing, public benefits, professional discipline, land use, education, election administration, and other fields in which transaction-specific review cannot remedy a continuing policy or method. Review is warranted to clarify that exclusivity and exhaustion depend on the availability of a remedy capable of resolving the claim, not merely on a procedural path bearing the same general subject matter.

The decision below is a suitable vehicle because Petitioners repeatedly identified the remedial mismatch in the state record. The Court can address the constitutional boundary without disrupting ordinary appraisal protests or deciding the validity of Texas' annual review system as a whole.

IV. THIS CASE IS A FOCUSED VEHICLE FOR REVIEW OF THE NON-ADJUDICATION QUESTION.

First, the relevant issue is legal. Respondents' pleas challenged the pleadings, and the court of appeals reviewed jurisdiction de novo while construing the allegations under Texas standards. Pet. App. 7a-9a. Whether the State may make an administratively unavailable remedy exclusive does not require this Court to resolve disputed appraisal facts.

Second, Petitioners seek a limited disposition. They do not ask this Court to fix property values, order refunds, decide the Texas constitutional delegation challenge, or revive the takings claim that the court of appeals identified as abandoned. They request vacatur and remand so that a court with equitable authority may adjudicate the preserved prospective claim under the proper constitutional standard.

Third, the record demonstrates preservation of the remedial issue with unusual clarity. The trial postjudgment motion, opening brief, reply, Petition for Review, rehearing motion, and combined reply all distinguish the board's parcel-specific authority from the prospective injunction requested. Pet. App. 39a-76a. The issue was neither hidden nor incidental.

Fourth, the absence of a reasoned Supreme Court of Texas opinion does not obscure the operative state holding. The Court of Appeals opinion supplies the exclusivity rationale. Pet. App. 12a-18a. The certified Supreme Court of Texas orders supply finality. Pet. App. 32a-33a. The filings presented to that court establish the precise remedial objection it was asked to correct.

Finally, the three signed trial-court orders reproduced at Pet. App. 29a-31a are required appendix materials under Rule 14.1(i), not a gap in the preservation theory. They establish the May 2 dismissal of the claims against Spencer, the May 8 final judgment dismissing the remaining claims, and the July 10 denial of the motion for new trial.

CONCLUSION

The petition for a writ of certiorari should be granted. The Court should vacate the judgment below and remand for further proceedings consistent with the Due Process Clause. In the alternative, the Court should grant review to resolve the Questions Presented.

Respectfully submitted,

____

MITCHELL VEXLER, Petitioner, Pro Se
1913 Justin Road, Suite 117, Flower Mound, TX 75028
214-725-9013 | mitch@mockingbirdprop.com

____

CATHERINE VEXLER, Petitioner, Pro Se
1913 Justin Road, Suite 117, Flower Mound, TX 75028
214-850-6999 | Catherine@mockingbirdprop.com

____

JIM SOLINSKI, Petitioner, Pro Se
4529 Mahogany Lane, Copper Canyon, TX 75077
210-825-2306 | Jesolinski@stoneglazing.com

____

GLORIA SOLINSKI, Petitioner, Pro Se
4529 Mahogany Lane, Copper Canyon, TX 75077
210-825-2306 | Jesolinski@stoneglazing.com

Designated correspondence contact: Mitchell Vexler

Dated: July 29, 2026