No. 26-371

In the Supreme Court of the United States

KARNAIL SINGH, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTION PRESENTED

Whether the district court abused its discretion by denying petitioner's untimely second motion to reconsider the denial of his petition for a writ of coram nobis alleging ineffective assistance of counsel.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 2a-17a) is reported at 174 F.4th 998. A prior opinion of the court of appeals is reported at 95 F.4th 1028. The order of the district court (Pet. App. 18a-31a) is available at 2025 WL 1324138. Prior orders of the district court are available at 2023 WL 3151097 and 2022 WL 2209369.

JURISDICTION

The judgment of the court of appeals was entered on May 5, 2026. A petition for rehearing was denied on July 27, 2026 (Pet. App. 1a). The petition for a writ of certiorari was filed on September 15, 2026. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a guilty plea in the United States District Court for the Eastern District of Michigan, petitioner

was convicted of using a fraudulently procured passport, in violation of 18 U.S.C. 1546(a). Judgment 1. The district court sentenced him to 12 months of probation. Judgment 2. Petitioner later filed a petition for a writ of coram nobis seeking to vacate his conviction, which the district court denied. 2022 WL 2209369. The district court subsequently denied petitioner's motion under Federal Rule of Civil Procedure 59(e) to alter or amend the judgment denying the coram nobis petition. 2023 WL 3151097. The court of appeals affirmed, 95 F.4th 1028, and this Court denied a petition for a writ of certiorari, 145 S. Ct. 167 (No. 23-1309).

Petitioner again moved for reconsideration of the denial of his coram nobis petition, and the district court again denied his motion. Pet. App. 18a-31a. The court of appeals affirmed. *Id.* at 2a-17a.

1. Petitioner, a native of India, entered the United States illegally decades ago. Pet. App. 3a. The government denied his application for asylum and, after petitioner failed to appear for deportation proceedings, ordered him deported in absentia. *Ibid.*; Gov't C.A. Br. 2. Petitioner nonetheless remained in the United States, and submitted a second asylum application listing a different name, birth date, place of birth, and parents. Pet. App. 3a. All of that new information was false. *Ibid.*

Petitioner then married a U.S. citizen and applied for lawful-permanent-resident status using the false information from his second asylum application. Pet. App. 3a. He falsely stated in his green-card application that he had never been denied an immigration benefit or provided false information on an immigration form. *Ibid.* Misled by those misrepresentations, the government granted him a green card. *Ibid.* Petitioner subsequently became a naturalized U.S. citizen and received a U.S. passport. *Id.* at 3a-4a. "Years later, when returning to

the United States from Canada, [petitioner] presented his unlawfully procured passport to customs officers and falsely represented that he had never used another identity." Gov't C.A. Br. 2; see Pet. App. 4a.

2. A grand jury in the Eastern District of Michigan indicted petitioner on one count of using a fraudulently obtained passport, in violation of 18 U.S.C. 1546(a), and on one count of making a false statement to federal officials, in violation of 18 U.S.C. 1001(a)(2). Indictment 1-2. Petitioner agreed to plead guilty to the passport charge, and the government agreed to dismiss the false-statement charge. Pet. App. 4a.

Petitioner's plea agreement stated that his guilty plea would "not necessarily result in immigration consequences, but, in conjunction with possible future criminal charges, * * * may affect or even foreclose his eligibility to remain in this country." D. Ct. Doc. 16, at 5 (Jan. 23, 2014) (Plea Agreement). The agreement, which petitioner signed, also represented that petitioner "ha[d] discussed these matters with his attorney" and that his plea was "in no way conditioned upon or affected by the advice he ha[d] been given regarding any potential immigration consequences of his conviction." *Id.* at 5-6.

In signing the plea agreement, petitioner "further agree[d]" that his decision to plead guilty was "wholly independent of the immigration consequences of a conviction" and that he would not "challenge his guilty plea in any later proceeding via collateral attack on any basis relating to his immigration status or lack thereof in this country." Plea Agreement 6. The agreement also specified that it constituted "the complete agreement between the parties," such that no other "oral or written promises made by the government" to petitioner "at any time before [petitioner] pleads guilty are binding." *Id.* at 7-8.

At the plea hearing, petitioner admitted that he had used a passport "knowing that it had been procured by a false statement or otherwise procured by fraud" and that he had known "when he applied for citizenship through his wife that he failed to disclose his prior application and denial of asylum claim." D. Ct. Doc. 22, at 13-14 (Jan. 23, 2014). The district court warned petitioner that "this guilty plea * * * can be used if the immigration services bring a petition to cancel your citizenship." *Id.* at 12. Petitioner said that he understood. *Ibid.*

The district court accepted petitioner's guilty plea and sentenced him to 12 months of probation. Pet. App. 4a.

3. a. In 2018, the government brought a civil action in the Eastern District of Kentucky to denaturalize petitioner. Pet. App. 4a, 20a. Under 8 U.S.C. 1451(a), a district court may revoke the naturalization of a person whose citizenship was "illegally procured or * * * procured by concealment of a material fact or by willful misrepresentation." The government relied in that action on the factual admissions that petitioner had made in connection with his guilty plea on the charge of using a fraudulently obtained passport. Pet. App. 4a-5a.

Petitioner then filed a petition for a writ of coram nobis in the Michigan district court, seeking to vacate his conviction for using a fraudulently obtained passport. Pet. App. 5a. "A petition for a writ of *coram nobis* provides a way to collaterally attack a criminal conviction for a person * * * who is no longer 'in custody'" and thus ineligible for relief under 28 U.S.C. 2241 or 2255. *Chaidez* v. *United States*, 568 U.S. 342, 345 n.1 (2013). Petitioner claimed that "his conviction wasn't valid because he received ineffective assistance of counsel" in violation of the Sixth Amendment, based on an allegation that his attorney "incorrectly advised him that

the plea agreement would 'protect his citizenship—unless he committed another crime.'" Pet. App. 5a (brackets and citation omitted). Petitioner invoked *Padilla* v. *Kentucky*, 559 U.S. 356 (2010), in which this Court held that defense counsel's failure to advise the defendant that "his plea carries a risk of deportation" can constitute ineffective assistance. *Id.* at 374; see D. Ct. Doc. 25, at 8 (Jan. 14, 2020).

The Kentucky district court stayed the denaturalization proceeding pending the resolution of the coram nobis petition. 18-cv-85 D. Ct. Doc. 51 (Apr. 27, 2020).

b. The Michigan district court denied the coram nobis petition. 2022 WL 2209369. To succeed on a claim of ineffective assistance of counsel, a claimant must show both that the attorney's performance was constitutionally "deficient" and that he was "prejudiced" by that performance. *Strickland* v. *Washington*, 466 U.S. 668, 687 (1984). And here, the court found that "even if [petitioner's] counsel performed deficiently," petitioner's ineffective-assistance claim failed for lack of prejudice. 2022 WL 2209369, at *7; see *id.* at *8-*9.

Although petitioner asserted that he would not have pleaded guilty but for the allegedly deficient advice, the district court observed that this Court has "warned that a guilty plea should not be 'upset solely because of *post hoc* assertions from a defendant about how he would have pleaded but for his attorney's deficiencies.'" 2022 WL 2209369, at *7 (quoting *Lee* v. *United States*, 582 U.S. 357, 369 (2017)) (ellipsis omitted). And following this Court's instruction to "look to contemporaneous evidence to substantiate a defendant's expressed preferences," *ibid.* (quoting *Lee*, 582 U.S. at 369), the district court noted both that denaturalization did not depend on the fact of a criminal conviction (as opposed to the underlying conduct, which would exist irrespective of

the plea) and that there was "*no* likelihood of a favorable outcome at trial," *id.* at *9 (citation and internal quotation marks omitted).

Petitioner subsequently moved to alter or amend the court's judgment under Federal Rule of Civil Procedure 59(e). 2023 WL 3151097. The district court denied his motion. *Ibid.*

c. The court of appeals affirmed. 95 F.4th 1028. Like the Michigan district court, it found that petitioner could not satisfy the prejudice element of his ineffective-assistance claim because he could not "demonstrate a reasonable probability that, but for his counsel's advice, he would have proceeded to trial." *Id.* at 1034.

The court of appeals observed that petitioner's "appellate briefing doesn't cite any evidence contemporaneous with his plea to support [his] assertions" of overriding concern about possible citizenship consequences at the time of his plea. 95 F.4th at 1034. And it observed that "[i]n any event, the contemporaneous evidence cuts against [him]," highlighting the plea agreement's representation that "his decision to plead guilty was in 'no way conditioned upon or affected by the advice he has been given regarding any potential immigration consequences'" and the fact that "when the district court told [petitioner] the plea could affect his citizenship, [he] expressed no reservations, twice confirmed that he understood, and pled guilty anyway." *Ibid.* (citation omitted).

d. Petitioner filed a petition for a writ of certiorari seeking this Court's review of the ineffective-assistance issue. 23-1309 Pet. 6-9. The Court denied the petition. 145 S. Ct. 167.

4. In 2024, after this Court had denied certiorari and more than two years after the Michigan district court had denied petitioner's coram nobis petition, petitioner filed a second motion for reconsideration of the denial

of coram nobis relief. Pet. App. 18a. He cited the Second Circuit's decision in *Farhane* v. *United States*, 121 F.4th 353 (2024) (en banc), which had taken the view that "defense counsel has a Sixth Amendment duty to advise a naturalized citizen client that entering a guilty plea exposes him to a risk of denaturalization and deportation." *Id.* at 363; see Pet. App. 18a.

The district court denied the motion. Pet. App. 18a-31a. The court found the motion untimely because Rule 59(e) motions "must be filed no later than 28 days after the entry of the judgment," a deadline that cannot be extended. Fed. R. Civ. P. 59(e); see Fed. R. Civ. P. 6(b)(2); Pet. App. 23a-25a. And the court also reasoned that *Farhane* did not support "a different result" on petitioner's ineffective-assistance claim because that decision concerned "what constitutes deficient performance by defense counsel advising naturalized citizens," whereas the court "and the Sixth Circuit" had previously rejected petitioner's claim for lack of prejudice. Pet. App. 26a-27a; cf. *Farhane*, 121 F.4th at 376 (declining to address prejudice).

5. The court of appeals affirmed. Pet. App. 2a-17a. Although it accepted that "a clear error of law" would allow for reconsideration, *id.* at 6a n.1 (citation omitted), it found no such error, because the Sixth Amendment does not obligate criminal defense counsel "to advise a defendant that a guilty plea may carry a risk of denaturalization." *Id.* at 15a; see *id.* at 6a n.1. The court explained, among other things, that unlike the deportation of an alien at issue in this Court's decision in *Padilla*, denaturalization "isn't an automatic consequence of a criminal conviction" and "doesn't depend on whether the individual was convicted of a crime." *Id.* at 11a.

Judge Griffin concurred in the judgment. Pet. App. 15a-17a. He reasoned that the majority's constitutional

analysis was "not necessary" because the Second Circuit's decision in *Farhane* was not "an intervening change in controlling law" and petitioner in any event had "fail[ed] to demonstrate prejudice" from any deficient performance by his counsel. *Id.* at 16a-17a.

ARGUMENT

Petitioner contends (Pet. 16-20) that the Sixth Amendment obligates defense counsel to advise a defendant that a guilty plea carries a risk of denaturalization. That contention is incorrect, and this case is an unsuitable vehicle in which to consider the issue—including because it did not bear on the district court's denial of petitioner's second motion to reconsider the denial of his petition for a writ of coram nobis. No further review is warranted.

1. The court of appeals' decision was correct on several grounds. See *United States* v. *New York Tel. Co.*, 434 U.S. 159, 166 n.8 (1977) ("[A] prevailing party may defend a judgment on any ground which the law and the record permit that would not expand the relief it has been granted.").

First, petitioner's motion to alter or amend the judgment under Federal Rule of Civil Procedure 59(e) was untimely, see Gov't C.A. Br. 8-9, assuming that Rule 59(e) is even available in this context, but see *United States* v. *Morgan*, 346 U.S. 502, 505 n.4 (1954) (explaining that coram nobis "is a step in the criminal case and not, like habeas corpus where relief is sought in a separate case and record, the beginning of a separate civil proceeding"); cf. Fed. R. Civ. P. 60(e) (abolishing "writs of coram nobis" in civil cases). The district court denied petitioner's coram nobis petition on June 19, 2022. D. Ct. Doc. 35. A Rule 59(e) motion "must be filed no later than 28 days after the entry of the judgment," Fed. R.

Civ. P. 59(e), "with no possibility of an extension," *Banister* v. *Davis*, 590 U.S. 504, 507-508 (2020); see Fed. R. Civ. P. 6(b)(2). Petitioner did not file the Rule 59(e) motion at issue here until December 31, 2024, more than two years after the entry of judgment. Pet. App. 18a. The court therefore correctly denied the motion as untimely. *Id.* at 23a.

Second, petitioner would not have warranted relief under Rule 59(e) even if his motion had been timely. See Gov't C.A. Br. 9-12. "[R]econsideration of a judgment after its entry is an extraordinary remedy which should be used sparingly." 11 Charles Alan Wright et al., *Federal Practice and Procedure* § 2810.1 (3d ed. 2012). Reconsideration under Rule 59(e) would be particularly extraordinary where the underlying judgment denied a writ of coram nobis, a writ that is available only in rare cases, to correct errors "of the most fundamental character." *Morgan*, 346 U.S. at 512; see *id.* at 510-511; *United States* v. *Denedo*, 556 U.S. 904, 911 (2009).

The petition makes no effort to satisfy the high standard for Rule 59(e) relief, such as by showing "an 'intervening change in controlling law' [or] 'newly discovered or previously unavailable evidence.'" *Banister*, 590 U.S. at 508 n.2 (citation omitted); see Pet. App. 23a. An out-of-circuit decision like *Farhane* v. *United States*, 121 F.4th 353 (2d Cir. 2024) (en banc), cannot be an "intervening change in *controlling* law," *Banister*, 590 U.S. at 508 n.2 (emphasis added; citation omitted), warranting reconsideration of the denial of coram nobis. See Pet. App. 16a (Griffin, J., concurring in the judgment). The petition for a writ of certiorari does not cite Rule 59(e), let alone directly address the procedural posture of the case.

Third, while petitioner contends (Pet. 16-20) that the denial of reconsideration was erroneous under *Padilla*

v. *Kentucky*, 559 U.S. 356 (2010), the court of appeals correctly determined that *Padilla* does not establish a "clear error of law" that might support relief under Rule 59(e), much less in the sharply restricted coram nobis context. Pet. App. 6a n.1 (citation omitted); see *id.* at 6a-15a. *Padilla* held that the Sixth Amendment requires defense counsel to "inform her client whether his plea carries a risk of *deportation*," because federal law has long "enmeshed criminal convictions and the penalty of deportation" and deportation is now "nearly an automatic result" for aliens convicted of numerous criminal offenses. 559 U.S. at 365-366, 374 (emphasis added). As the court of appeals recognized, that rationale does not extend to denaturalization. Pet. App. 10a-15a.

As the court of appeals explained, deportation depends on the defendant's primary *conduct*, not the fact of his *conviction*—he can be denaturalized and deported irrespective of whether he has a conviction on his record. See Pet. App. 11a-12a (citing immigration laws and regulations). Indeed, the naturalization complaint in petitioner's own case "didn't depend at all on whether [he] was convicted of a crime." *Id.* at 12a (emphasis omitted). Furthermore, deportation is not a "nearly automatic" consequence of a criminal conviction, but instead a separate proceeding that the government "retains significant discretion over whether to institute." *Id.* at 10a. Such proceedings have historically been infrequent, see *id.* at 11a, and petitioner cites no evidence that they were common in 2014, when he entered his guilty plea.

Fourth, Rule 59(e) relief would have been unwarranted even if petitioner's expansive understanding of *Padilla* were correct. *Padilla* and *Farhane* addressed the deficient-performance element of the ineffective-assistance standard, not the prejudice element. See *Pa-*

dilla, 559 U.S. at 374; *Farhane*, 121 F.4th at 376. In denying a writ of coram nobis, however, the district court assumed deficient performance and found that petitioner's Sixth Amendment claim failed for lack of prejudice. 2022 WL 2209369, at *6-*9. The court of appeals affirmed that decision, 95 F.4th 1028, 1033-1034, and this Court denied certiorari, 145 S. Ct. 167.

The district court's denial of a writ of coram nobis on that basis is therefore final, and issue-preclusion principles would bar relitigation of the matter. See *Amcast Indus. Corp.* v. *Detrex Corp.*, 45 F.3d 155, 158 (7th Cir.) (Posner, J.) (denial of certiorari to review a final judgment "marks the end of the appellate process" and "establishes finality in a strong sense"), cert. denied, 515 U.S. 1103 (1995); Gov't C.A. Br. 13. And at all events, the court's finding of a lack of prejudice was correct. See Gov't C.A. Br. 12-13. Petitioner cannot show that defense counsel's alleged failure to advise him of the risk of denaturalization prejudiced him where, among other things, the court warned petitioner at his plea hearing that his guilty plea could "be used if the immigration services bring a petition to cancel [his] citizenship," and petitioner said he understood and proceeded with his plea anyway. D. Ct. Doc. 22, at 12; see pp. 3-4, *supra*.

2. Petitioner asserts (Pet. 9-13) a conflict between the decision below and *Farhane*. But *Farhane* arose on a 28 U.S.C. 2255 motion, 121 F.4th at 359, not a motion to reconsider the denial of a writ of coram nobis, meaning that the Second Circuit did not apply the "clear error of law" standard that the court of appeals applied here, Pet. App. 6a n.1; see Pet. 16. And to the extent the decision below and *Farhane* disagree, this case is an unsuitable vehicle to resolve any such disagreement.

Even assuming that prevailing on the question presented—which concerns only deficient performance—would alone be sufficient to entitle petitioner to a writ of coram nobis that would vacate his criminal conviction, petitioner would remain subject to denaturalization under 8 U.S.C. 1451(a). As noted above, such denaturalization does not require a criminal conviction. See Pet. App. 11a-12a; see also 2022 WL 2209369, at *7 (district court describing as "strong" the evidence that petitioner procured his passport by fraud). This Court does not grant a writ of certiorari to "decide abstract questions of law * * * which, if decided either way, affect no right" of the parties. *Supervisors* v. *Stanley*, 105 U.S. 305, 311 (1882).

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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