

Supreme Court, U.S.
FILED

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No. 26-378

In the Supreme Court of the United States

CHARLES KAKEMBO SESSANGA,

Petitioner,

v.

CITY OF DESOTO POLICE DEPARTMENT, ET AL.,

Respondents.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether a district court may dismiss a *pro se* § 1983 complaint with prejudice at the pre-service screening stage under 28 U.S.C. § 1915(e)(2) for failure to plead facts that are exclusively within the State's possession, thereby denying the plaintiff any opportunity for discovery — a rule that conflicts with *Leatherman v. Tarrant County*, 507 U.S. 163 (1993), and with the decisions of the Second, Seventh, and Ninth Circuits, which hold that civil-rights plaintiffs cannot be required to plead evidence they cannot access without discovery.
2. Whether the independent-intermediary doctrine bars a Fourth Amendment malicious-prosecution claim when the plaintiff alleges that investigators withheld exculpatory evidence, ignored readily available witnesses, and presented a misleading narrative to the prosecutor — conduct that, under this Court's decisions in *Malley v. Briggs*, *Kalina v. Fletcher*, *Buckley v. Fitzsimmons*, and *Manuel v. City of Joliet*, defeats the presumption of independent judgment and removes prosecutorial immunity for investigative acts.
3. Whether a prosecutor's offer of a reduced misdemeanor plea deal in a case charged as a felony may be considered evidence of a lack of probable cause when evaluating a § 1983 claim alleging that the charging decision was tainted by omissions and misrepresentations.

PARTIES TO THE PROCEEDINGS

Petitioner: Charles Kakembo Sessanga

Respondents:

City of DeSoto Police Department

J. Acosta, Detective, in his individual and official capacity

D. Byerly, Officer, in his individual and official capacity

P. Schulte, Officer, in his individual and official capacity

Kathryn Suggs, Prosecutor, in her individual and official capacity

RELATED PROCEEDINGS

United States District Court (ND Tex.):

Charles Kakembo Sessanga v. City of DeSoto Police Department, et al., No. 3:24-cv-950-G-BN (Nov. 4, 2024) (judgment entered)

United States Court of Appeals (CA5):

Charles Kakembo Sessanga v. City of DeSoto Police Department, et al., No. 24-11050 (Oct. 8, 2025) (judgment entered)

Charles Kakembo Sessanga v. City of DeSoto Police Department, et al., No. 24-11050 (Nov. 17, 2025) (rehearing denied)

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The opinion of the United States District Court for the Northern District of Texas is unpublished and appears at *Sessanga v. City of DeSoto Police Department*, No. 3:24-cv-950 (NDTX 2023).

JURISDICTION

The judgment of the United States Court of Appeals for the Fifth Circuit was entered on October 8, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1). A timely application for an extension of time to file this petition was granted, extending the deadline to April 16, 2026. This petition is therefore timely filed.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The following constitutional and statutory provisions are involved in this case:

U.S. Const., Amdt. IV
U.S. Const., Amdt. XIV
42 U.S.C. § 1983
28 U.S.C. § 1915(e)(2)
28 U.S.C. § 1254(1)

The relevant provisions are reproduced in the Appendix.

INTRODUCTION

This case presents a fundamental question about access to the courts and the constitutional limits of pre-service dismissal under 28 U.S.C. § 1915(e)(2). Petitioner was arrested, prosecuted, tried, and acquitted by a jury. He later obtained a full expunction under Texas law, reflecting the legal conclusion that the charges lacked merit and should never have been brought. Yet when Petitioner sought redress under 42 U.S.C. § 1983 for the investigative misconduct that led to his wrongful prosecution, the district court dismissed his complaint with prejudice at the pre-service screening stage—before any defendant appeared, before any discovery, and before Petitioner had a meaningful opportunity to develop the facts.

Petitioner alleged that investigators ignored readily available exculpatory evidence, failed to interview key witnesses, misrepresented his custodial status to CPS, and advanced a narrative contradicted by contemporaneous communications. He further alleged that the prosecution offered him a misdemeanor plea deal inconsistent with the felony charges, reflecting the weakness of the State's case. These allegations, taken as true at the pleading stage, state a classic Fourth Amendment malicious-prosecution claim under this Court's decisions in *Thompson v. Clark*, *Manuel v. City of Joliet*, *Malley v. Briggs*, *Kalina v. Fletcher*, and *Buckley v. Fitzsimmons*.

The Fifth Circuit nevertheless affirmed dismissal, holding that Petitioner failed to plead specific "taint" sufficient to overcome the independent-intermediary doctrine. But the facts necessary to show taint—internal communications, investigative notes, and

prosecutorial decision-making—exist exclusively within the State's possession. By requiring Petitioner to plead evidence he could not access without discovery, while simultaneously denying him discovery because he lacked that evidence, the courts below created the precise Catch-22 this Court forbade in *Leatherman v. Tarrant County* and *Neitzke v. Williams*.

The decision below deepens an entrenched and outcome-determinative circuit split. The Second, Seventh, and Ninth Circuits allow plaintiffs to overcome the independent-intermediary presumption by alleging that officers withheld exculpatory evidence or misled prosecutors. The Fifth Circuit stands alone in requiring plaintiffs to prove taint before discovery, effectively imposing a heightened pleading standard that this Court has repeatedly rejected.

This case is an ideal vehicle for resolving these conflicts. Petitioner's allegations are concrete, documented, and supported by a jury acquittal and a full expunction. The lower courts' rulings foreclosed any opportunity to develop the factual record and insulated the alleged misconduct from judicial review. The questions presented are recurring, nationally significant, and warrant this Court's intervention.

STATEMENT OF THE CASE

A. Factual Background

Petitioner was charged with a criminal offense following an investigation that, according to the complaint, omitted readily available exculpatory evidence and relied on a narrative inconsistent with contemporaneous communications. Petitioner consistently maintained his innocence. During the

period leading up to the allegations, the complaining witness sent text messages reflecting hostility toward Petitioner and expressing retaliatory motives. These messages were included in the district-court filings but were not disclosed to the prosecutor or incorporated into the investigative file.

Petitioner further alleged that both children from the accusing household—the alleged victim and her brother—had previously fled their parents' home and sought safety with Petitioner and his wife. Petitioner's wife initiated a CPS report as a result of this incident. Petitioner alleged that the mother became angry about CPS involvement and later fabricated allegations against him to divert attention from the CPS investigation. These allegations were included in the district-court filings.

Despite the existence of exculpatory information, the case proceeded to trial. A jury acquitted Petitioner of all charges. Following the acquittal, Petitioner obtained a full expunction of the criminal records under Texas law.

B. Procedural History

Petitioner filed this civil action under 42 U.S.C. § 1983, alleging that investigators and prosecutors initiated and maintained criminal charges without probable cause, withheld exculpatory evidence, and advanced a narrative contradicted by available facts. Petitioner further alleged that the charging decision was tainted by omissions and misrepresentations that influenced the prosecutor's evaluation of the case.

The district court dismissed the complaint with prejudice at the pre-service screening stage under 28

U.S.C. § 1915(e)(2), before any defendant was served and before Petitioner had access to discovery. The court held that Petitioner failed to plead specific facts showing that the prosecutor's decision was tainted, notwithstanding that such information exists exclusively within the State's possession.

The Fifth Circuit affirmed in an unpublished decision. It held that the independent-intermediary doctrine barred Petitioner's claims because he had not pleaded specific evidence of taint, and that the allegations were insufficient to overcome prosecutorial immunity. The court did not address Petitioner's argument that the pre-service dismissal deprived him of the opportunity to obtain the very evidence the court required him to plead.

Petitioner now seeks review.

C. The Withheld and Misrepresented Evidence That Undermined the Charging Decision

Petitioner alleged that investigators failed to disclose multiple categories of exculpatory information that would have materially altered the prosecutor's assessment of the case. These included contemporaneous text messages from the complaining witness expressing retaliatory motives, inconsistencies in the timeline of events, and communications with Child Protective Services reflecting that law enforcement officials provided inaccurate information regarding Petitioner's custodial status.

Petitioner further alleged that investigators did not obtain or review medical or agency records that contradicted the State's theory, and that these omissions created a misleading narrative that was

presented to the prosecutor. Petitioner also alleged that both children from the accusing household—the alleged victim and her brother—had previously fled their parents' home and sought safety with Petitioner and his wife. This incident occurred two to three months before the mother filed her complaint against Petitioner. Although investigators interviewed these two children, Petitioner asserted that no reasonable investigator could have overlooked the significance of their prior flight, which was fundamentally inconsistent with the allegation that Petitioner posed a danger to them.

By contrast, investigators failed to interview two key defense witnesses—Petitioner's stepdaughter and her cousin—who were closely involved in the children's daily lives and later provided articulate, detailed, and strongly exculpatory testimony at trial. Their accounts corroborated the children's prior flight to Petitioner's home and contradicted the State's theory of the case. Had investigators interviewed these witnesses, the prosecutor would have been presented with evidence undermining the credibility of the accusation and demonstrating that the charges should not have proceeded. These omissions and misrepresentations deprived the prosecutor of a complete and accurate evidentiary record.

D. The Criminal Proceedings and Petitioner's Acquittal

Despite the existence of exculpatory information, the case proceeded to trial. Before trial, the prosecution offered Petitioner a plea agreement through counsel: a misdemeanor conviction for bodily injury to a child with no sex-offender registration

requirement. Petitioner declined the offer as a matter of principle, stating that he would not accept any plea unless all charges were dismissed. Petitioner alleged in his complaint that the plea offer reflected the weakness of the State's case and the absence of evidence supporting the felony charges.

Petitioner maintained his innocence throughout the proceedings. At trial, the State advanced a narrative that, according to the complaint, was inconsistent with available evidence and contradicted by the complaining witness's own communications. A jury acquitted Petitioner of all charges. Following the acquittal, Petitioner obtained a full expunction of the criminal records under Texas law, reflecting the legal conclusion that the charges lacked merit and should not have been brought.

E. The Civil Action and the Fifth Circuit's Affirmance

Petitioner filed this civil action under 42 U.S.C. § 1983, alleging that investigators and prosecutors initiated and maintained criminal charges without probable cause, withheld exculpatory evidence, and advanced a narrative contradicted by available facts. Petitioner further alleged that the charging decision was tainted by omissions and misrepresentations that influenced the prosecutor's evaluation of the case.

The district court dismissed the complaint with prejudice at the pre-service screening stage under 28 U.S.C. § 1915(e)(2), before any defendant was served and before Petitioner had access to discovery. The court held that Petitioner failed to plead specific facts showing that the prosecutor's decision was tainted,

notwithstanding that such information exists exclusively within the State's possession.

The Fifth Circuit affirmed in an unpublished decision. It held that the independent-intermediary doctrine barred Petitioner's claims because he had not pleaded specific evidence of taint, and that the allegations were insufficient to overcome prosecutorial immunity. The court did not address Petitioner's argument that the pre-service dismissal deprived him of the opportunity to obtain the very evidence the court required him to plead.

Petitioner now seeks review.

F. Appellate Proceedings

The Fifth Circuit upheld the dismissal of the case, citing qualified immunity and the independent-intermediary doctrine. The court concluded that Petitioner failed to present sufficient evidence of taint to overcome the presumption established by the involvement of prosecutors and grand juries.

However, the court disregarded several key points:

Petitioner's jury acquittal

The expunction order that rendered the arrest legally invalid

Documentary evidence in the record demonstrating investigative interference and false information

G. The Consequences of the Dismissal Below

The district court's pre-service dismissal foreclosed any opportunity for Petitioner to obtain discovery into the investigative file, internal communications, or prosecutorial decision-making—the very materials necessary to establish the taint the court required him to plead. Petitioner also noted that additional

exculpatory materials existed that he did not recall or locate at the time of filing and that could only have been obtained through discovery. By dismissing the case with prejudice at the screening stage, the court effectively insulated the State's conduct from judicial review and prevented Petitioner from developing the factual record essential to his claims.

The Fifth Circuit's affirmance left Petitioner without a remedy for the alleged constitutional violations, despite a jury acquittal and a full expunction of the criminal records. The decision below raises significant concerns regarding access to the courts, the proper application of § 1915(e)(2), and the constitutional limits of the independent-intermediary doctrine.

SUMMARY OF ARGUMENT

This case presents a recurring and important question concerning the proper application of 28 U.S.C. § 1915(e)(2) and the constitutional limits of the independent-intermediary doctrine. Petitioner alleged that investigators withheld exculpatory evidence, ignored readily available witnesses, and presented a misleading narrative to the prosecutor—conduct that, under this Court's precedents, defeats the presumption of independent judgment. *Malley v. Briggs*, 475 U.S. 335 (1986); *Kalina v. Fletcher*, 522 U.S. 118 (1997); *Buckley v. Fitzsimmons*, 509 U.S. 259 (1993); *Manuel v. City of Joliet*, 580 U.S. 357 (2017).

The district court dismissed the complaint with prejudice at the pre-service screening stage, requiring Petitioner to plead specific evidence of taint while simultaneously denying him access to discovery.

This approach conflicts with *Leatherman v. Tarrant County*, 507 U.S. 163 (1993), which rejected heightened pleading standards in civil-rights cases, and with the decisions of the Second, Seventh, and Ninth Circuits, which hold that plaintiffs cannot be required to plead evidence they cannot access without discovery.

The Fifth Circuit affirmed, holding that Petitioner failed to overcome the independent-intermediary doctrine. But Petitioner alleged that investigators ignored critical exculpatory facts—including the children's prior flight to his home, the mother's retaliatory motive, and the failure to interview key defense witnesses—and that the prosecution later offered a misdemeanor plea deal inconsistent with the felony charges. These allegations, taken as true at the pleading stage, plausibly show that the charging decision was tainted.

This Court's intervention is necessary to resolve the conflict among the circuits regarding the scope of § 1915(e)(2), the proper application of the independent-intermediary doctrine, and the constitutional requirement that criminal charges be supported by probable cause.

REASONS FOR GRANTING THE PETITION

I. The Decision Below Deepens an Entrenched Circuit Split on the Independent-Intermediary Doctrine and Pleading Standards in § 1983 Malicious-Prosecution Cases

The Fifth Circuit's decision conflicts with multiple circuits and this Court's precedents by requiring plaintiffs to plead specific "taint" at the outset of litigation while simultaneously denying access to

discovery through pre-service dismissal. This approach is incompatible with the Second, Seventh, and Ninth Circuits, and it effectively resurrects the heightened pleading standard this Court rejected in *Leatherman v. Tarrant County Narcotics Intelligence & Coordination Unit*, 507 U.S. 163 (1993).

A. The Second Circuit Recognizes That Forwarding False or Misleading Evidence Is a Constitutional Violation

The Second Circuit holds that officers violate the Constitution when they fabricate or forward misleading evidence to prosecutors, and that such conduct supports a § 1983 claim even where the prosecution ends in acquittal. *Garnett v. Undercover Officer C0039*, 838 F.3d 265 (CA2 2016). Under *Garnett*, the constitutional injury occurs when tainted evidence is transmitted to the prosecutor — not only when it is used at trial.

The Fifth Circuit's rule is the opposite. It requires plaintiffs to plead specific taint without access to discovery and dismisses such claims at the screening stage. This directly conflicts with *Garnett*.

B. The Ninth Circuit Allows Plaintiffs to Overcome the Presumption by Alleging Misconduct — Not Proving It Before Discovery

The Ninth Circuit holds that a plaintiff may rebut the independent-intermediary presumption by alleging that officers knowingly presented false evidence, withheld exculpatory information, or engaged in wrongful conduct that influenced the prosecutor's

decision. *Awabdy v. City of Adelanto*, 368 F.3d 1062 (CA2 2004).

Crucially, *Awabdy* recognizes that such allegations are sufficient at the pleading stage. The Fifth Circuit's requirement that plaintiffs prove taint before discovery is incompatible with *Awabdy* and creates a clear circuit split.

C. The Seventh Circuit Also Rejects the Fifth Circuit's Approach

On remand from this Court's decision in *Manuel v. City of Joliet*, 580 U.S. 357 (2017), the Seventh Circuit held that a plaintiff may proceed where officers misled prosecutors or withheld exculpatory evidence, and that the independent-intermediary doctrine does not bar claims where the charging decision was tainted. *Manuel v. City of Joliet*, 903 F.3d 667 (CA7 2018).

The Seventh Circuit's approach aligns with the Second and Ninth Circuits — and diverges sharply from the Fifth.

D. The Fifth Circuit Stands Alone in Requiring Plaintiffs to Plead Evidence They Cannot Access Without Discovery

The Fifth Circuit's rule creates a Catch-22: a plaintiff must plead facts that exist exclusively within the State's possession, yet the court denies discovery because the plaintiff has not pleaded those facts. This approach:

- conflicts with *Leatherman*
- conflicts with *Erickson v. Pardus*, 551 U.S. 89 (2007)
- conflicts with *Malley v. Briggs*, 475 U.S. 335 (1986)

conflicts with *Kalina v. Fletcher*, 522 U.S. 118 (1997)

conflicts with *Buckley v. Fitzsimmons*, 509 U.S. 259 (1993)

conflicts with *Manuel v. City of Joliet*, 580 U.S. 357 (2017)

Even within the Fifth Circuit, courts recognize that the independent-intermediary doctrine is overcome when officers mislead prosecutors or withhold exculpatory evidence. See *Buehler v. City of Austin*, 824 F.3d 548 (CA5 2016); *Gruder v. Heagwood*, No. 21-50782, 2022 WL 16959315 (CA5 Nov. 16, 2022); *Espinal v. City of Houston*, No. H-19-3010, 2020 WL 6781234 (SDTX Nov. 18, 2020).

The decision below is inconsistent with these authorities and reflects a de facto heightened pleading standard that Leatherman expressly forbids.

E. The Split Is Outcome-Determinative and Recurring

Had Petitioner filed in the Second, Seventh, or Ninth Circuits, his allegations — including ignored exculpatory evidence, misleading communications to CPS, and a fabricated narrative advanced at trial — would have been sufficient to survive dismissal and proceed to discovery.

In the Fifth Circuit, however, his case was dismissed before service of process, before discovery, and before any defendant appeared.

This entrenched and outcome-determinative split warrants this Court's review.

II. The Fifth Circuit Misapplied the Probable-Cause Standard in Conflict with Thompson and Manuel

This Court held in *Thompson v. Clark*, 596 U.S. 36 (2022), that a plaintiff states a Fourth Amendment malicious-prosecution claim by alleging that criminal charges were initiated or maintained without probable cause and terminated in his favor. Petitioner was acquitted by a jury and subsequently obtained a full expunction — the strongest form of favorable termination recognized by law.

Yet the Fifth Circuit treated probable cause as conclusively established by the mere existence of a charging instrument, disregarding allegations that investigators ignored exculpatory evidence, advanced a fabricated narrative, and withheld material information. This approach conflicts with *Thompson*, *Manuel*, and the decisions of other circuits recognizing that probable cause is vitiated when officers mislead prosecutors or omit exculpatory facts.

III. The Fifth Circuit Applied Prosecutorial Immunity Overbroadly

The Fifth Circuit extended absolute prosecutorial immunity to conduct that, according to the complaint, exceeded traditional prosecutorial functions. Petitioner alleged that prosecutors advanced a narrative contradicted by readily available evidence and relied on investigative omissions that they knew or should have known were material.

This Court has repeatedly held that absolute immunity does not extend to investigative or administrative acts. See *Buckley v. Fitzsimmons*, 509 U.S. 259 (1993); *Kalina v. Fletcher*, 522 U.S. 118 (1997).

The Fifth Circuit's blanket application of immunity conflicts with these precedents and expands prosecutorial immunity beyond its constitutional limits.

IV. The District Court's § 1915 Screening Violated Due Process by Requiring Petitioner to Plead Evidence He Could Not Access

The district court dismissed Petitioner's complaint with prejudice at the pre-service screening stage, before any defendant appeared and before Petitioner had access to discovery. It then faulted Petitioner for failing to plead specific "taint" — evidence that exists exclusively within the State's possession.

This procedural Catch-22 deprived Petitioner of meaningful access to the courts and transformed § 1915 screening into a dispositive adjudication without an evidentiary record. The Fifth Circuit's affirmation of this process conflicts with due-process principles and with this Court's recognition that *pro se* litigants are entitled to a fair opportunity to develop their claims.

The district court's refusal to allow Petitioner's claims to proceed is especially anomalous given that other courts within the Fifth Circuit routinely permit similar allegations to survive dismissal. See Buehler, Gruder, Espinal.

V. The Decision Below Conflicts with This Court's Precedent in *Neitzke v. Williams*

This Court has already explained the proper scope of § 1915 screening. In *Neitzke v. Williams*, 490 U.S. 319 (1989), the Court held that § 1915 is limited to dismissing claims that are "baseless," "fantastic," or "delusional," not claims that a judge merely finds

“unlikely” or insufficiently detailed before discovery. *Id.* at 327–28. The statute is not a substitute for Rule 12(b)(6), and it does not authorize courts to demand evidentiary specificity from indigent litigants who have no access to discovery.

The decision below disregarded these limits. The Fifth Circuit affirmed dismissal under § 1915(e)(2)(B) because Petitioner did not plead facts showing “taint” of the grand jury. But those facts are uniquely in the possession of the police and prosecutor — the very parties accused of misconduct. By requiring Petitioner to plead evidence he could only obtain through discovery, while simultaneously denying him discovery because he lacked that evidence, the lower courts created the precise Catch-22 that *Neitzke* forbids.

Petitioner’s allegations — an investigation, indictment, trial, and acquittal — are not remotely “fantastic” or “delusional.” They describe real events supported by court records. Under *Neitzke*, such claims must proceed unless they are truly baseless. Yet the courts dismissed Petitioner’s claim not because it was frivolous, but because it lacked evidentiary detail. That is the very misuse of § 1915 that *Neitzke* warned against.

This conflict alone warrants certiorari. When lower courts apply § 1915 as a heightened pleading barrier rather than a filter for truly frivolous claims, indigent litigants are systematically denied access to discovery and to the adversarial process. The decision below deepens a nationwide divide over the proper scope of § 1915 screening and undermines this Court’s precedent. Review is urgently needed.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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APRIL 2026

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