

ORIGINAL

No. 26-477

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

In The
Supreme Court of the United States

MATTHEW JAMES HOLLIS,

Petitioner,

v.

JOSHUA THOMAS PATTON, *et al.*,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

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SUPREME COURT, U.S.

QUESTIONS PRESENTED

Hollis paid the filing fee and brought civil rights and RICO claims in the Central District of California.

Over Hollis's docketed refusal of consent, a magistrate judge issued an order to show cause under 28 U.S.C. § 1404(a), then transferred the action under a different statute — 28 U.S.C. § 1406(a) — without addressing 18 U.S.C. § 1965, the RICO venue provision within the statutory range the order to show cause itself cited. The order was entered as final and the case terminated on the docket. No findings and recommendations issued.

The file reached the transferee district three business days later, inside the fourteen-day objection period; the district judge overruled the timely objections seven days after his court's jurisdiction had ended. The court of appeals denied mandamus in a single paragraph that located magistrate authority in 28 U.S.C. § 626 — a compensation statute — quoted the five-factor Bauman standard, applied no factor, and barred further filings in the same order. Eight months into the action, no Article III judge has adjudicated any claim.

The questions presented are:

1. Whether the court of appeals satisfied its supervisory mandamus obligation when it denied relief by (a) citing 28 U.S.C. § 626 — the Federal Judicial Center Director's compensation statute — instead of 28 U.S.C. § 636, the magistrate judge authority statute; (b) quoting the governing five-factor standard of *Bauman v. U.S. District Court* as restated in *In re Mersho* and applying no factor of it; and (c) foreclosing further filings before any petition for rehearing could be filed.

2. Whether Article III's requirement of de novo district judge review of a magistrate judge's dispositive ruling is satisfied when (a) the magistrate judge entered a case-transfer order without the consent 28 U.S.C. § 636(c) requires for any dispositive act; (b) the case file was physically transmitted to the transferee district three business days after the order, inside the fourteen-day objection period of Rule 72; and (c) the transferor district judge ruled on the objections only after the case had been docketed in the transferee district, rendering his review a post-divestiture act.

3. Whether a district court may enter a transfer order under 28 U.S.C. § 1406(a) — a statute

conditioned on venue being “wrong” — without addressing 18 U.S.C. § 1965, the RICO venue provision falling within the statutory range the court’s own order to show cause explicitly cited, when § 1965 independently established venue in the transferor district and the order to show cause had noticed transfer under 28 U.S.C. § 1404(a), a different statute with a different standard.

PARTIES TO THE PROCEEDING

Petitioner is Matthew James Hollis ("Hollis"), plaintiff below, appearing pro se. This petition refers to the parties by name.

Respondents are Joshua Thomas Patton, individually and in his official capacity as a California State Parks Peace Officer; Armando Quintero, in his official capacity as Director of the California Department of Parks and Recreation; the California Department of Parks and Recreation; Mark Alexander Emmons, individually and in his official capacity as Court Commissioner for the Butte County Superior Court; Stephen R. Wattenberg, individually and in his capacity as court-appointed mediator for the Butte County Superior Court; Matthew Scott Looney, individually and in his official capacity as a Riverside County Custodial Deputy; and the County of Butte.

The County of Riverside was terminated from the district court docket on June 18, 2026.

CORPORATE DISCLOSURE STATEMENT

No party is a nongovernmental corporation. Supreme Court Rule 29.6 requires no disclosure.

RELATED PROCEEDINGS

Patton v. Hollis, No. 25CV00913 (Butte Cnty. Super. Ct.) — civil harassment restraining order entered April 8, 2025; case closed May 5, 2025

Hollis v. Patton, No. 8:25-cv-02810-AB-ACCV (C.D. Cal.) — transferred and terminated April 24, 2026

Hollis v. Patton, No. 2:26-cv-01658-DJC-SCR (E.D. Cal.) — pending

In re Hollis, No. 26-2886 (9th Cir.) — petition for writ of mandamus denied June 2, 2026

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Matthew James Hollis respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

OPINIONS AND ORDERS BELOW

The Ninth Circuit's order denying mandamus (App. A) is unreported.

The order transferring the action under 28 U.S.C. § 1406(a), entered by a magistrate judge (App. B), is unreported.

The order of the district judge overruling objections to the transfer order (App. C) is unreported.

JURISDICTION

The court of appeals entered its order on June 2, 2026. The order denied the petition, denied all pending motions as moot, and stated that “[n]o further filings will be entertained in this closed case” — foreclosing by its own terms any petition for panel rehearing or rehearing en banc. No petition for rehearing was filed; the court had announced in advance that none would be entertained. The ninety-

day period of Rule 13.1 accordingly runs from the June 2, 2026 entry of the order, see Sup. Ct. R. 13.3, and this petition is filed within it. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL, STATUTORY, AND RULE PROVISIONS INVOLVED

U.S. Const. art. III, § 1 — “The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour”

28 U.S.C. § 636(b)(1)(A) — authorizing a magistrate judge to “hear and determine any pretrial matter pending before the court,” excepting eight enumerated motions, among them a motion “to involuntarily dismiss an action.”

28 U.S.C. § 636(b)(1)(B) — authorizing a magistrate judge to conduct hearings and “submit to a judge of the court proposed findings of fact and recommendations for the disposition” of the excepted motions.

28 U.S.C. § 636(c)(1) — authorizing a magistrate judge to conduct all proceedings and enter judgment “[u]pon the consent of the parties.”

28 U.S.C. § 1391(b)(1) — “A civil action may be brought in . . . a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located.”

28 U.S.C. § 1391(b)(2) — “a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated.”

28 U.S.C. § 1404(a) — “For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented.”

28 U.S.C. § 1406(a) — “The district court of a district in which is filed a case laying venue in the wrong division or district **shall dismiss**, or if it be in the interest of justice, transfer such case to any

district or division in which it could have been brought.” (emphasis added)

18 U.S.C. § 1965(a) — “Any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.”

18 U.S.C. § 1965(b) — providing in relevant part that where “it is shown that the ends of justice require that other parties residing in any other district be brought before the court, the court may cause such parties to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof.”

Fed. R. Civ. P. 72(a) — “A party may serve and file objections to the order within 14 days after being served with a copy. A party may not assign as error a defect in the order not timely objected to. The district judge in the case must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law.”

Fed. R. Civ. P. 72(b) — “Within 14 days after being served with a copy of the recommended disposition, a

party may serve and file specific written objections to the proposed findings and recommendations. . . . The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to."

Fed. R. Civ. P. 55(a) — "When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by **affidavit or otherwise**, the clerk **must** enter the party's default." (emphasis added)

STATEMENT OF THE CASE

A. The predicate chain

On March 3, 2025, Hollis filed a police report concerning conduct by Joshua Thomas Patton, a California State Parks Peace Officer (Ranger). The incident card, computer-aided dispatch printout, and issuing officer identification are Exhibit A to the complaint. The report was released with the subject's identifying information redacted; the release form states the redactions protect "the privacy of involved parties" under cited Government Code sections.

Fourteen days later, on March 17, 2025, Patton filed a civil harassment restraining order petition against

Hollis in Butte County Superior Court,
No. 25CV00913, on Judicial Council Form CH-100,
signed under penalty of perjury. The petition and the
documentary sub-exhibits disproving its statements
are Exhibit B.

On April 7, 2025, a court-ordered mediation was
conducted by Stephen R. Wattenberg. The verbatim
transcript and audio recording are Exhibits C and C-
1. After Hollis summarized his account, Wattenberg
stated: "Yeah, and actually, a lot of that, that's what
the commissioner was alluding to, a lot of this stuff is
nothing that, has any place on this calendar." Ex. C,
Tr. 10:3-5. Wattenberg further stated that Patton "is
in law enforcement," that the presiding officer "is a
deputy DA or was a deputy DA," and that this was
"[n]ot totally helpful" in terms of "who he's going to
believe." Ex. C, Tr. 15:11-17. Presented with an
intake form Hollis "obviously you can't sign,"
Wattenberg stated, over Hollis's interrupted reply,
"then I'm just going to, initial this." Ex. C, Tr. 5:13-
17. The session ended with Wattenberg reporting
that Patton had withdrawn from the agreement
reached: "I took too long, and he, Basically,
backtracked." Ex. C, Tr. 31:8-9. At the same session,
Hollis stated on the record that Patton's petition

claimed Patton had “cut off contact, all contact” with him “in August of 2024,” and that, with “photo proof and multiple witnesses,” Patton “was out here in January and we spent the night at my house.” Ex. C, Tr. 14:12–16. The contested hearing proceeded the same day before Commissioner Mark Alexander Emmons. At that hearing, Patton admitted under oath, on two separate occasions, that statements in his sworn petition were false, amending his claims in the Commissioner’s presence. Compl. ¶¶ 11, 80. Among the petition’s sworn statements: that Patton had ceased contact with Hollis in August 2024, when Patton had been at Hollis’s residence in January 2025; and that the parties were friends or acquaintances — the relationship-of-parties entry of Patton’s own petition reads “Former acquaintance/friend.” — when the parties had been in a romantic relationship for approximately three years. Compl. ¶ 79; Ex. B. The order issued nonetheless: granted April 7, 2025, entered April 8, 2025, expiring April 7, 2028. The relationship entry on the face of the order itself carries the same words: “Former acquaintance/friend.” Ex. B (CH-130).

On April 30, 2025, at 11:40 p.m., Patton transmitted to Hollis a screenshot of surveillance video depicting

Hollis, with metadata confirming transmission five days before the scheduled rehearing. The screenshot and metadata are Exhibit D. Compl. ¶¶ 12, 34.

On May 5, 2025, the rehearing proceeded before the same commissioner, who stated he did not want to hear any more evidence. Compl. ¶ 87. The surveillance transmission was presented; no action was taken. Compl. ¶¶ 13, 35. The state case closed that day.

Butte County Superior Court thereafter stated in writing that no court reporter was present at either the April 7 or May 5 hearing and that no official record of the proceedings exists. Hollis's timestamped photographic and video evidence shows a fully staffed courtroom, including two court staff seated behind the bench beside the commissioner, one at the stenographic machine. The written denials, the contradicting images, and minute orders from hearings for which the court claims no record exists are Exhibits E, E-1, and E-2. Compl. ¶¶ 15–17.

B. The underlying action

On December 19, 2025, Hollis filed a civil rights complaint in the United States District Court for the Central District of California. The complaint is

supported by recordings, forensic device records, court transcripts, and sworn admissions already in the record.

The conduct documented in the complaint is a sexual assault committed by a California State Parks peace officer while Hollis was incapacitated; the installation of surveillance software on Hollis's personal electronic devices without authorization; and the procurement of a restraining order through statements the petitioner subsequently admitted, on the record, were false — an order thereafter used to suppress Hollis's reports of those crimes to law enforcement.

The complaint names seven defendants. A California State Parks peace officer, individually and in his official capacity. The Director of the California Department of Parks and Recreation, in his official capacity. The Department itself. A Butte County Superior Court commissioner who granted and maintained the restraining order after the sworn admission of falsity was before him. A court-appointed mediator of fifteen years who, on a recording in the record, stated that the presiding officer "is a deputy DA or was a deputy DA" and that

this bore on "who he's going to believe," Ex. C, Tr. 15:11-17, and who steered Hollis away from criminal referral; the recording and its transcript are Exhibits C and C-1 to the complaint and were filed in full in the district court. A Riverside County custodial deputy. And the County of Butte.

The complaint pleads claims under 42 U.S.C. §§ 1983, 1985(3), and 1986; the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968; 18 U.S.C. § 1512; and California Civil Code § 52.1.

In the eight months this case has been pending in federal court, not one of those claims has been adjudicated on the merits by an Article III judge.

C. Service was completed at the statutory service point

On January 5, 2026, the state officer defendants were served at the Office of the Attorney General of California — the service point California law designates for service on state officers in their official capacities. Cal. Gov't Code § 955.4. The proofs of service identify the receiving officer by name and are

docketed. C.A. Dkt. 19, 20. (Citations to “C.A. Dkt.” are to the docket of the Central District action, No. 8:25-cv-02810; citations to “E.D. Dkt.” are to the Eastern District docket, No. 2:26-cv-01658.)

On January 20, 2026, defendants Emmons and Wattenberg were served. The docket entries recite an answer date of February 10, 2026. C.A. Dkt. 17, 18.

Neither Emmons nor Wattenberg pleaded or otherwise defended by that date. Wattenberg’s first filing of any kind came on March 19, 2026 — thirty-seven days after the answer date recited on the docket. Emmons’s counsel first appeared on April 6, 2026 — fifty-five days after the answer date recited on the docket.

On January 27, 2026 — seven days after service on the state defendants — the Office of the Attorney General appeared as counsel for those same defendants. The office that received service on their behalf then appeared to contest the sufficiency of that service. C.A. Dkt. 22, 24, 25.

D. The clerk refused a ministerial duty on a ground the Rule does not contain

On March 16, 2026, Hollis requested entry of default against Emmons and Wattenberg. C.A. Dkt. 44, 45.

On March 18, 2026, the clerk returned both requests with an identical notice: "The Clerk cannot enter the requested relief as: No declaration as required by F.R.Civ.P 55(a)." C.A. Dkt. 47, 48.

Rule 55(a) contains no such requirement. It conditions the clerk's ministerial duty on the failure to plead being "shown by affidavit **or otherwise.**" The docket itself was the "otherwise": the clerk's own entries recited the service dates and the answer dates, and the docket showed no responsive filing from either defendant. The showing Rule 55(a) requires was complete on the face of the record the clerk maintained.

Hollis filed sworn declarations the following day. C.A. Dkt. 59, 61. The clerk never entered default. The clerk never issued a second deficiency notice. The clerk never explained.

Both defendants thereafter appeared and litigated. Neither has ever moved under Rule 55(c).

E. A motion for service by the United States Marshal has been pending, unruled, since February 2026

On December 23, 2025, Hollis moved for service by the United States Marshal under Rule 4(c)(3). C.A. Dkt. 5, 6. That motion was denied on January 13, 2026. C.A. Dkt. 11.

On February 12, 2026, Hollis renewed the motion. C.A. Dkt. 33.

On March 13, 2026, Hollis filed an emergency notice advising the court that the Rule 4(m) service period was about to expire and requesting an immediate ruling on the pending motion. C.A. Dkt. 53, 56.

No court has ruled on that motion. It has now been pending, fully briefed and unadjudicated, for more than six months, across two districts and four judicial officers. The Rule 4(m) period it addressed expired while it sat.

F. The State's response tested a fee-paid complaint against the in forma pauperis screening standard

On January 27, 2026, the Office of the Attorney General filed the State's motion to dismiss. C.A. Dkt. 23. The first page of its memorandum makes three statements. It describes the action as arising out of "what appears to be a purely private dispute between himself and two ex-lovers (defendants Patton and Looney)." It attributes to the pleading a "highly delusional aspect." And it states: "The entire complaint is barred by Eleventh Amendment immunity." C.A. Dkt. 23 at 1. The first and third statements appear on the same page. A dispute in which the State is absent and a dispute from which the State is constitutionally immune are not the same dispute.

Two pages later, the memorandum supplies the standard against which the complaint is to be measured: "the court may reject 'completely baseless' allegations, including those which the court finds 'fanciful,' 'fantastic,' or 'delusional,'" citing *Denton v. Hernandez*, 504 U.S. 25, 32 (1992), and presenting

that standard as “[i]n line with the general jurisprudence on pro se litigation.” C.A. Dkt. 23 at 3.

Denton is not general pro se jurisprudence. It construes the in forma pauperis statute, 28 U.S.C. § 1915. The page the State cited says so: the authority to look behind a complaint’s factual allegations belongs to “the in forma pauperis statute, unlike Rule 12(b)(6),” which “accords judges . . . the unusual power to pierce the veil of the complaint’s factual allegations.” *Denton*, 504 U.S. at 32 (quoting *Neitzke v. Williams*, 490 U.S. 319, 327 (1989)). The power exists because in forma pauperis plaintiffs file without paying. The first entry on this docket reads: “Filing fee\$405 FEE PAID.” C.A. Dkt. 1 (Dec. 19, 2025).

Nothing in the record notes the substitution.

G. The order to show cause noticed one statute; the transfer order applied another

On January 15, 2026, Hollis filed an express declination of consent to magistrate jurisdiction. C.A. Dkt. 14. That declination was never withdrawn.

That declination was denied by order of the district judge on February 23, 2026. C.A. Dkt. 37.

Section 636(c)(2) requires that the parties be advised they are free to withhold consent “without adverse substantive consequences.” Withholding consent is not a request for relief. The order denied it as one.

On April 14, 2026, the magistrate judge issued an order to show cause. Its caption and its text framed a single question: “why this action should not be transferred to the Eastern District of California pursuant to 28 U.S.C. § 1404(a).” C.A. Dkt. 77 (emphasis added). The order recited the nine-factor convenience analysis of *Jones v. GNC Franchising, Inc.*, 211 F.3d 495, 498–99 (9th Cir. 2000) — the § 1404(a) framework — and directed Hollis to respond under it.¹

Hollis responded on April 20, 2026. C.A. Dkt. 80. The response briefed the *Jones* factors as noticed. It also expressly identified the two venue bases pleaded in the complaint — 28 U.S.C. § 1391(b)(2) and 18 U.S.C. § 1965(b) — and stated that the order to show cause had addressed neither the § 1965 basis nor the Orange County events underlying the § 1391(b)(2)

¹ The order’s supporting citations included “22 U.S.C. §§ 2241(d),” quoting the transfer provision applicable to habeas corpus applications by state prisoners. That provision is 28 U.S.C. § 2241(d), not Title 22, and this is not a habeas case.

pleading. And it argued that, because Hollis had declined consent under § 636(c), any transfer determination could issue only as findings and recommendations subject to de novo Article III review under § 636(b)(1)(B).

The second and third questions this petition presents were therefore raised, in writing, before the challenged order existed.

On April 24, 2026 — a Friday — the magistrate judge entered an order transferring the action. The order was not decided under § 1404(a). It applied **28 U.S.C. § 1406(a)**. C.A. Dkt. 83. The order was entered as final, marked JS-6, and the case was terminated on the transferor court's docket.

The two statutes are not interchangeable. Section 1404(a) presupposes that venue is proper and asks whether another forum is more convenient. Section 1406(a) presupposes that venue is **wrong** and directs the court to “dismiss, or if it be in the interest of justice, transfer.” They carry different predicates, different burdens, and — critically for the question presented — different consequences, because § 1406(a) makes dismissal a statutory option and § 1404(a) does not.

Hollis briefed the first. The court decided the second. Nothing filed or entered before the order identified § 1406(a) as under consideration.

H. The transfer order's own finding establishes that § 1406(a) had no work to do

As quoted by the district judge, the transfer order found that "the substantial part of the events giving rise to [Hollis's] allegations related to a civil restraining order occurred within Butte County," and that "[a]ll defendants, except one, are in Butte County or within the Eastern District." C.A. Dkt. 88 at 1-2 (quoting Transfer Order, C.A. Dkt. 83, at 3). "Applying 28 U.S.C. § 1406(a), the court determined that transferring the case to the proper venue was the appropriate remedy." *Id.* at 2.

Two of the order's own findings defeat that holding.

First, the exception swallows the conclusion. The "one" defendant is Matthew Scott Looney, a Riverside County custodial deputy. Riverside County is in the Central District of California. Under 28 U.S.C. § 1391(b)(1), where all defendants are residents of the State in which the district is located, venue lies in any district in which any defendant resides. Every defendant in this action is a California

resident. Looney resides in the Central District. Venue in the Central District was therefore proper as a matter of statutory text — established by the transfer order's own factual finding.

The Complaint also pleads claims under 18 U.S.C. §§ 1961–1968, the Racketeer Influenced and Corrupt Organizations Act. Hollis's response to the order to show cause expressly identified 18 U.S.C. § 1965(b) as an independent venue basis for those claims. The transfer order acknowledged this pleading in its opening paragraphs. However, the order then analyzed venue exclusively under 28 U.S.C. § 1391(b), without addressing or applying § 1965(b).

Second, the § 1391(b)(2) finding is stated as Hollis's own allegation — "Plaintiff alleges that the substantial part of the events ... occurred within Butte County" — though the order quoted him alleging the opposite one page earlier. C.A. Dkt. 83 at 2–3. Butte County is where Patton filed his petition. The conduct reported occurred in Orange County, within the Central District. The order resolved the prong it chose against an allegation Hollis never made. Nor did it address 18 U.S.C. § 1965, the venue provision specific to the RICO claim the complaint

pleads, though Hollis's response had expressly identified it as an independent, unaddressed basis.

Section 1406(a) applies only to “a case laying venue in the **wrong** division or district.” Venue proper under any prong of § 1391(b) defeats that predicate. The magistrate judge invoked a statute whose triggering condition the order's own finding disproved — and invoked it without notice, so Hollis had no opportunity to say so before the case was gone.

I. The fourteen-day objection period was overtaken in three business days

The transfer order was entered Friday, April 24, 2026.

Hollis hand-filed a Rule 72 objection and an urgent request to stay transmission of the file at the clerk's window on Monday, April 27, 2026 — the first business day after entry, and thirteen days before the objection period would close. Those filings were docketed as C.A. Dkt. 86 and 87.

The Eastern District of California opened its docket in this action on Wednesday, April 29, 2026 — the third business day after entry. E.D. Dkt. 84.

Under *Lou v. Belzberg*, 834 F.2d 730, 733 (9th Cir. 1987), the transferor court's jurisdiction ends when the transferee court docket the case. The Central District's jurisdiction therefore ended on April 29, 2026, with Hollis's timely objection pending and unruled.

On May 6, 2026 — seven days after that jurisdiction ended — the district judge issued an order overruling the objection. C.A. Dkt. 88. That order held, verbatim:

"A transfer of venue under § 1406(a) is a non-dispositive matter properly resolved by a magistrate judge and does not require the consent of the parties."

And:

"Plaintiff's request for 'Article III review' does not entitle him to de novo consideration of the transfer decision. Rather, review is limited to the standard set forth in Rule 72(a), which has been satisfied here."

The order grounded the magistrate judge's authority in C.D. Cal. General Order 05-07, which refers pro se § 1983 cases to magistrate judges for pretrial purposes and — by the order's own description — "authorizes magistrate judges to perform all duties and functions **prescribed by 28 U.S.C. § 636.**" C.A.

Dkt. 88 at 2 (emphasis added). A general order that extends only as far as § 636 cannot answer whether § 636 was exceeded. The order's reasoning — magistrate judges may determine nondispositive matters, therefore this transfer was nondispositive — assumes the only conclusion in dispute. The same order denied Hollis's request to stay transmission of the case file: "DENIED as MOOT." The request was mooted by the transmission it had been filed to prevent.

That is the holding for which this Court's review is sought. It was entered by a court that, seven days earlier, had lost the power to enter it.

J. The Ninth Circuit denied mandamus without applying the governing standard

Hollis petitioned the Ninth Circuit for a writ of mandamus. The petition briefed each factor of *Bauman v. U.S. District Court*, 557 F.2d 650, 654–55 (9th Cir. 1977), by name and by factor, and cited *In re Cement Antitrust Litigation*, 688 F.2d 1297, 1301 (9th Cir. 1982).

On June 2, 2026, a panel of Circuit Judges Friedland, R. Nelson, and Bade denied the petition.

The order is two pages. Its analysis is a single paragraph, reproduced here in full:

Petitioner has not demonstrated a clear and indisputable right to the extraordinary remedy of mandamus. *See In re Mersho*, 6 F.4th 891, 897 (9th Cir. 2021) (“To determine whether a writ of mandamus should be granted, we weigh the five factors outlined in *Bauman v. United States District Court*.”); *Bauman v. U.S. Dist. Court*, 557 F.2d 650 (9th Cir. 1977); *see also In re U.S. Dep’t of Educ.*, 25 F.4th 692, 698-99 (9th Cir. 2022) (magistrate judge has authority under 28 U.S.C. § 626 to enter nondispositive transfer order). The petition is denied. App. A at 1.

Three features of that paragraph are apparent on its face.

First, the order quotes the governing standard and does not apply it. The parenthetical to *Mersho* states that the court “weigh[s] the five factors outlined in *Bauman*.” The order then weighs none of them. It does not name a factor, resolve a factor, or indicate which factor Hollis failed to satisfy. The standard is recited and then left unused.

Second, the order identifies the source of magistrate judge authority as 28 U.S.C. § 626. Section 626 is

captioned "Compensation of the Director and Deputy Director." It appears in Chapter 42 of Title 28, which establishes the Federal Judicial Center, and it provides that the Director's compensation shall equal that of the Director of the Administrative Office of the United States Courts. It does not mention magistrate judges. The authority of magistrate judges is conferred by 28 U.S.C. § 636, in Chapter 43, captioned "Jurisdiction, powers, and temporary assignment." On a petition whose sole question was the scope of a magistrate judge's authority, the order named a statute that governs a salary.

Third, the parenthetical attributes to *In re U.S. Department of Education* a citation that opinion does not contain. That case granted mandamus to quash a deposition subpoena directed at a former Secretary of Education. 25 F.4th at 705–06. Its transfer discussion — Part I of the opinion, at 698–99 — states: "The limits of a magistrate judge's jurisdiction are established in 28 U.S.C. § 636," and cites § 636(b) (1)(A) throughout the passage. Section 626 appears nowhere in it. The citation to a salary statute originated in the order below. And the matter transferred in that case was a motion to quash a nonparty deposition subpoena, moved to the district

already presiding over the underlying action, on a referral to which no party had objected — not a civil action moved out of its chosen forum under § 1406(a) over a docketed declination of consent. The distinctions are taken up at Reasons I.D.

The order's second page states, in its entirety: "All pending motions are denied as moot. No further filings will be entertained in this closed case. DENIED." App. A at 2. The sentence foreclosing further filings issued in the same order as the denial, before any petition for rehearing could be filed.

K. What has happened since

The transferee court has not adjudicated the merits of any claim. It has scheduled a single hearing at which every pending motion — including motions fully briefed and submitted in the Central District more than four months earlier — will be heard together, with new briefing.

Two defendants in unresolved default under Rule 55(a) are among those participating.

The motion for service by the United States Marshal remains unruléd.

Since the Eastern District docketed this action on April 29, 2026, that court has returned no conformed copy of any filing Hollis has submitted, while denying Hollis electronic-filing privileges and leaving mail as the sole available filing method. The court's own outbound service notations — "SERVICE BY MAIL" entries on its docket — confirm the mail channel operates in one direction.

REASONS FOR GRANTING THE PETITION

I. Whether a § 1406(a) transfer is dispositive is a recurring, outcome-determinative question of magistrate authority that this Court has never resolved

A. The statutory text points one way and the courts below went the other.

Section 636(b)(1)(A) permits a magistrate judge to "hear and determine any pretrial matter," then removes eight motions from that grant. The last of the eight is a motion "to involuntarily dismiss an action."

Section 1406(a) is a statute of two remedies. Confronted with venue in the wrong district, the court "**shall dismiss**, or if it be in the interest of

justice, transfer.” Dismissal is the default; transfer is the discretionary alternative. A ruling under § 1406(a) is therefore a ruling on a matter that § 636(b)(1)(A) expressly withholds from a magistrate judge’s determination authority — because the statute the magistrate judge is applying makes involuntary dismissal its first-listed remedy.

The order below held the opposite in a single sentence, with no analysis of § 636(b)(1)(A)’s text and no reference to § 1406(a)’s dismissal remedy. It rested instead on a district-court general order — C.D. Cal. General Order 05-07 — allocating pretrial matters to magistrate judges.

That sentence reads: “A transfer of venue under § 1406(a) is a non-dispositive matter properly resolved by a magistrate judge and does not require the consent of the parties.” App. C. And in the same order: “Plaintiff’s request for ‘Article III review’ does not entitle him to de novo consideration of the transfer decision. Rather, review is limited to the standard set forth in Rule 72(a), which has been satisfied here.” *Id.* The first sentence contains no qualifier. It is not limited to these facts, these parties, or this posture. It states a categorical

proposition about the allocation of judicial power between Article III judges and magistrate judges, and it states it for every § 1406(a) transfer in the district — a standing reallocation of the authority Congress assigned in 28 U.S.C. § 636(b)(1)(A).

A local general order cannot enlarge the categories Congress specified in § 636(b)(1)(A), and General Order 05-07 does not claim to. Its grant of authority is coextensive with the statute by its own terms: magistrate judges “are authorized to perform all of the duties and functions prescribed and authorized by 28 U.S.C. § 636.” C.D. Cal. Gen. Order 05-07, at 1. An order whose authorization runs only as far as § 636 has nothing to add to the § 636(b)(1)(A) question. It restates it.

The general order’s text confirms the rest. The referral provision on which the court below relied assigns “[p]ro se §1983 and Bivens cases for pretrial purposes.” *Id.* at 2. The word “venue” appears nowhere in the general order. And where the general order reaches dispositive matters, it presupposes the statutory answer: “[p]otentially dispositive motions listed in 28 U.S.C. § 636(b)(1)(A)” proceed in pro se civil rights cases by assignment “for a report and

recommendation,” drawn from “a district-wide Report and Recommendation Assignment Wheel,” with the reference “vacated automatically” and the case “returned to the assigned District Judge” if the plaintiff secures counsel. *Id.* at 7–8.

Recommendation, not determination. Every structural feature of the district’s own general order assumes an Article III judge remains the decisionmaker on dispositive matters. The general order allocates work among judicial officers. Whether a case-terminating order is dispositive is a question of federal statute and Article III. It is not a question of district docket administration.

B. The practical consequence is not the label. It is the review.

The distinction the courts below drew is not academic. It determines whether an Article III judge looks at the ruling at all, and how.

If a § 1406(a) transfer is nondispositive, Rule 72(a) applies: the magistrate judge enters a final order, and a district judge may set it aside only if it is clearly erroneous or contrary to law. If it is dispositive, § 636(b)(1)(B) applies: the magistrate judge may only recommend, the district judge must

review de novo, and no order issues until the Article III judge signs one.

In this case that difference was total. Under the rule applied below, the magistrate judge's order took effect immediately, the file moved, and the district judge's involvement was reduced to a deferential after-the-fact review conducted after his court's jurisdiction had ended. Under the rule the statute supplies, the case would still be in the Central District, and an Article III judge would have decided the question in the first instance, de novo.

This Court has repeatedly held that the constitutionality of the magistrate system rests on the district judge's retention of "the ultimate decision." *Peretz v. United States*, 501 U.S. 923, 937 (1991); see also *Gomez v. United States*, 490 U.S. 858, 870 (1989); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). The Ninth Circuit has held that a magistrate judge exceeds § 636(b)(1)(A) when the order entered is dispositive in effect. *Estate of Connors v. O'Connor*, 6 F.3d 656, 658 (9th Cir. 1993).

An order that terminates the action on the court's docket, moves the file beyond the court's jurisdiction,

and is reviewable only for clear error does not leave the ultimate decision with the Article III judge. It leaves him deferential review of an accomplished act.

C. The question recurs constantly and is decided inconsistently.

Venue transfers are among the most common orders in federal civil litigation, and the overwhelming majority are entered by magistrate judges on referral. Whether those orders require Article III adjudication is a question that arises in every district in the country, and the answer determines the standard of review in every one of them.

A rule that is wrong and rarely invoked produces occasional injustice. A rule that is wrong and invoked constantly produces a structural defect that never reaches this Court, because the party it injures has been moved to another district and told to start over. The very effect of the rule — transfer — disperses the objection and moots the appeal. That is why the question has escaped review, not because it is unimportant.

No court of appeals has held that a § 1406(a) transfer is dispositive, and Hollis will not represent otherwise. There is no mature circuit split on

transfer orders to report. What the circuits present is something less common and less capable of self-correction: a functional test applied uniformly in one context, a lone contrary holding in the neighboring context, and a statutory text no court has confronted.

Begin with the text. Section 636(b)(1)(A) authorizes a district judge to designate a magistrate judge “to hear and determine any pretrial matter pending before the court,” excepting eight enumerated motions — among them a motion “to involuntarily dismiss an action.” Section 1406(a) provides that a district court presented with a case “laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” Dismissal is not an incidental possibility of a § 1406(a) ruling; it is the remedy the statute lists first, displaced only by an affirmative interest-of-justice finding. A magistrate judge who takes up a § 1406(a) matter therefore takes up, in every case, whether an action shall be involuntarily dismissed — the matter § 636(b)(1)(A) excepts by name. And the exception attaches to the matter, not to the remedy selected: a magistrate judge does not acquire authority over a summary judgment motion by

same. *Williams v. Beemiller, Inc.*, 527 F.3d 259, 264–66 (2d Cir. 2008); *Davidson v. Georgia-Pacific, L.L.C.*, 819 F.3d 758, 763–64 (5th Cir. 2016); *Flam v. Flam*, 788 F.3d 1043, 1046 (9th Cir. 2015); *First Union Mortgage Corp. v. Smith*, 229 F.3d 992, 995–96 (10th Cir. 2000).

A remand order dismisses nothing. No claim is adjudicated and no defense foreclosed; the case continues — in another forum. Six circuits nonetheless hold the matter dispositive, because what it disposes of is the litigant’s chosen federal forum. A non-consented § 1406(a) transfer does precisely that to the plaintiff’s chosen forum, and does it under a statute whose first-listed remedy is dismissal of the action. If the remand cases are right, the order below was entered without authority. If the order below is right, six circuits have been wrong about remand for a quarter century. Both cannot stand.

The lone contrary holding is *In re United States Department of Education*, 25 F.4th 692, 698–99 (9th Cir. 2022), which held nondispositive a transfer — of a subpoena motion, in the posture Section I.D describes — because it “merely transferred the action

denying it. The classification is fixed when the matter is referred, not after the outcome is known. No court of appeals has addressed this argument. It is a question of first impression on the text of two statutes this Court has never construed together.

The functional principle, by contrast, is settled — six circuits deep — in a context Congress likewise never listed: remand. Section 636(b)(1)(A) does not mention remand orders. Yet every court of appeals to consider the question has held that a magistrate judge may not finally order remand, because remand is the functional equivalent of an excepted dispositive matter. The Sixth Circuit stated the test: courts “apply a functional equivalency test to see if a particular motion has the same practical effect as a recognized dispositive motion,” and under it “remand motions are dispositive and, as such, can only be entered by district courts.” *Vogel v. U.S. Office Products Co.*, 258 F.3d 509, 517 (6th Cir. 2001). The Third Circuit explained why: a remand order “preclusively determines the important point that there will not be a federal forum available to entertain a particular dispute.” *In re U.S. Healthcare*, 159 F.3d 142, 145 (3d Cir. 1998). The Second, Fifth, Ninth, and Tenth Circuits hold the

to another federal court and did not affect the viability of a claim or defense or the federal appellate courts' ability to correct errors." The Ninth Circuit is thus committed to both propositions at once: an order returning a case to state court is dispositive because it forecloses the chosen federal forum, *Flam*, 788 F.3d at 1046, while an order removing a civil action from the plaintiff's chosen federal forum is not. The inconsistency is internal to a single circuit, acknowledged by no court, and outcome-determinative here.

Nor has any court that speaks of "transfer orders" as one category confronted the difference between the two transfer statutes. A § 1404(a) transfer presupposes venue proper in the transferor court and moves the case for convenience; both fora are lawful; no venue right is extinguished. A § 1406(a) transfer rests on a finding that the plaintiff's forum was never lawfully available — a finding that, where erroneous, extinguishes venue rights Congress conferred. Here those rights were conferred by 18 U.S.C. § 1965. The order below made the § 1406(a) finding without addressing the statute that defeated it, and no Article III court has reviewed either step. Only this Court can decide whether the functional-equivalence

rule six circuits apply to remand governs § 636(b)(1) (A) generally, and whether § 1406(a) matters are excepted by the statute's own text.

D. This case is a clean vehicle.

The record presents the question without complication. Consent was expressly declined on the docket on January 15, 2026, and never withdrawn. No findings and recommendations issued. The Article III judge's only involvement came seven days after his court lost jurisdiction. The order below states its holding in one unqualified sentence, quoted above, requiring no inference about what the court decided. And the ruling was outcome-determinative: it moved a case out of a district where venue was proper on the order's own factual finding. There is no alternative ground on which the judgment below rests. The question is presented squarely and was decided squarely.

In re United States Department of Education, 25 F.4th 692 (9th Cir. 2022), is contrary authority within the Ninth Circuit and must be addressed. It is also the only authority the panel below relied on for the merits proposition it announced, and so it cannot be left to a footnote.

The full opinion establishes the posture. Plaintiffs in a class action pending in the Northern District of California served a Rule 45 deposition subpoena on the former Secretary, a nonparty. She moved to quash in the Southern District of Florida, the district of compliance. The Florida court “referred the matter to a magistrate judge, and no party objected.” 25 F.4th at 696. The magistrate judge then transferred the motion to quash — the motion, not any party’s civil action — to the Northern District of California, the court already presiding over the underlying case. *Id.* The Ninth Circuit held that transfer order nondispositive because it “merely transferred the action to another federal court and did not affect the viability of a claim or defense or the federal appellate courts’ ability to correct errors.” *Id.* at 698. It granted mandamus on the question it found meritorious, quashing the subpoena, *id.* at 705–06, after setting out the five *Bauman* factors at 697–98.

Three differences separate that holding from this case. Each appears on the face of the opinion.

First, the matter transferred. *DeVos* moved an ancillary discovery motion toward the litigation’s center of gravity — into the court already hosting the

main action, with the main action untouched and no party's chosen forum disturbed. The order here moved the entire civil action out of the forum Hollis chose, under a statute whose operative finding is that his forum was "wrong."

Second, the consent posture. In *DeVos*, no party objected to the referral, and no objection to the transfer was on file when the case moved. Here, Hollis declined magistrate jurisdiction by named, signed filing on January 15, 2026 — C.A. Dkt. 14 — before opposing counsel had appeared and three months before the order. The district court denied the declination. C.A. Dkt. 37 (Feb. 23, 2026). *DeVos* says nothing about a magistrate judge's authority over a party whose refusal of that authority was on the docket before the order existed and had been overruled as though a statutory condition were a request.

Third, the statute. Section 1406(a) appears nowhere in *DeVos*. No court in that case found venue "wrong"; no dismissal of any action was on the statutory table; the involuntary-dismissal exception of § 636(b)(1)(A) was never implicated. The panel had no occasion to decide — and did not decide —

whether a matter whose first-listed statutory remedy is dismissal of the action may be finally determined by a magistrate judge.

Even *DeVos*'s own test, applied to this record, comes out the other way. The *DeVos* transfer left every claim and defense intact and appellate correction unimpaired. The order here extinguished the venue rights conferred by 18 U.S.C. § 1965 without adjudicating them, and the file's movement defeated district-judge review in fact — the sequence Section II sets out.

One further feature of the opinion bears on the order below. *DeVos* denied the transfer petition only after examining it: the court analyzed the magistrate judge's jurisdiction, applied the *Flam* test, and addressed the *Bauman* factors before declining the writ. 25 F.4th at 698–99. Hollis's transfer petition — presenting a stronger objection, preserved earlier, under a different statute — was denied in one paragraph that quoted the same factors and applied none of them.

II. The Rule 72 objection period cannot function as process when the file leaves before it runs

A. The objection period ran fourteen days. The court acted in three.

Rule 72(a) gives a party fourteen days to object. The Rule presupposes that the objection can be resolved by the district judge while resolution remains possible.

Here the order issued on a Friday. Hollis objected on Monday — the first business day available, and thirteen days early. The file left the district on Wednesday. Under *Lou*, 834 F.2d at 733, the Central District's jurisdiction ended when the Eastern District docketed the case on April 29.

Hollis did not miss the objection period. Hollis filed within it, at the earliest possible moment, and the case was transferred anyway.

The mechanism is not novel; it appears in *DeVos* itself. There the file moved before any Rule 72 objection had been filed, and the transferor court declined to stay the transfer because, in the opinion's words, "the case had already been transferred" — but

that court then applied the Rule 72(a) standard on the record and stated that the same result would follow, rendering the procedural loss harmless. 25 F.4th at 696. Both halves distinguish this case. Hollis's objections were on the docket two days before the clerk transmitted the file, and no court has ever conducted the review that made the loss in *DeVos* harmless. The May 6 order issued from a court that had lost jurisdiction, and the § 1965 question the objections raised has been reviewed by no one.

B. The Article III ruling came after the Article III court's power to rule had ended.

The order overruling Hollis's objection issued May 6 — seven days after April 29. Under the circuit's own rule, the court that entered it no longer had jurisdiction over the case.

Rule 72(a) directs that the district judge "must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law." Section 636(b)(1)(B) directs de novo determination. If the transfer was nondispositive, the first duty attached. If it was dispositive, the second did. No category exists in which neither applies.

The only Article III consideration this transfer ever received was given by a court that had already lost jurisdiction over the case, could not have granted relief, and could not have recalled the file.

That outcome was produced by the rule applied below, not by any individual officer's conduct.

Classify a case-terminating transfer as nondispositive and the same sequence follows in every case: the order takes immediate effect, the file may move at once, and Article III review, where it occurs at all, occurs after jurisdiction has ended.

C. The interaction of these rules is a question of general importance.

Every district in the country operates under Rule 72 and under some version of a jurisdiction-terminates-on-docketing rule. Nothing in Rule 72, in § 636, or in this Court's precedent tells a district court whether it must hold the file until objections are resolved, or may transmit it immediately and leave the objecting party to litigate in a forum chosen by an order no Article III judge has reviewed.

The answer should be that a court may not extinguish its own jurisdiction over a case while a timely objection to a case-terminating order is

pending before it. That rule follows from *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) — process must be afforded “at a meaningful time and in a meaningful manner.” An objection period that transmission of the file can terminate before it runs is neither.

D. The notice defect compounds it.

The process failure here is not only temporal. The order to show cause noticed § 1404(a). The order decided § 1406(a). Those statutes ask different questions, place the burden differently, and carry different remedies. Hollis briefed convenience. The court ruled on propriety. Hollis had no opportunity to argue what the order actually turned on — including the argument, dispositive on the order’s own findings, that § 1391(b)(1) made venue proper where it was.

A party cannot object meaningfully to a ruling on a theory of which he was never given notice, within a period the court can end in three days, before a judge who will lose jurisdiction before he rules.

III. The court of appeals' disposition warrants this Court's supervisory power under Rule 10(a)

Rule 10(a) provides for review where a lower court "has so far departed from the accepted and usual course of judicial proceedings . . . as to call for an exercise of this Court's supervisory power."

Three features of the June 2 order meet that standard together.

First, the order recited the governing standard and did not apply it. The order's own parenthetical states that the court "weigh[s] the five factors outlined in *Bauman*." App. A at 1. It then weighs none. Hollis's petition briefed each factor by name. The order named no factor and resolved no factor. This was not a case in which the standard was overlooked because it went unraised, nor one in which the court applied the standard and reached a contrary result. The court quoted the test in the same sentence in which it declined to use it.

Second, the order identified the source of magistrate judge authority as 28 U.S.C. § 626. That section is captioned "Compensation of the Director and Deputy

Director” and sits in Chapter 42, which establishes the Federal Judicial Center. Magistrate judge authority is conferred by § 636, in Chapter 43. The two provisions are in different chapters, enacted for different purposes, and share no subject matter. On a petition whose sole question was the scope of a magistrate judge’s authority, the order located that authority in a salary provision.

Third, the same order foreclosed further filings: “No further filings will be entertained in this closed case.” App. A at 2. That sentence issued simultaneously with the denial. There was accordingly no avenue in which to seek correction of an error apparent on the order’s face. The mistake and the bar to raising it arrived in the same document.

Any one of these might be absorbed as the cost of a busy docket. Together, on a petition raising a structural Article III question, they describe a proceeding in which the governing law was not applied and could not be brought to the court’s attention. That is what supervisory review is for.

IV. The structural defect was not harmless, and the record shows it

Respondents will urge that transfer between districts is a matter of housekeeping and that the merits await in the Eastern District.

The docket is set out above.

This case has been in federal court since December 19, 2025. In eight months no claim has been adjudicated on the merits. A motion for service by the United States Marshal, renewed in February 2026 and accompanied by an emergency notice that the Rule 4(m) period was expiring, has never been ruled on by any court. Two defendants who never pleaded or otherwise defended within the time the docket itself recites are litigating without an entry of default, because the clerk declined a duty Rule 55(a) makes mandatory on a ground the Rule does not contain. Motions fully briefed and submitted in April are now set for rebriefing in September before the same category of judicial officer whose authority is the subject of this petition.

Section 1406(a) permits transfer, rather than dismissal, only "if it be in the interest of justice." By transferring instead of dismissing, the order

necessarily made that finding. It is worth stating what the interest of justice had produced in the same case by the day the finding issued. A motion asking the court to bring the defendants before it — the literal function of Rule 4(c)(3) — had been sitting unruled for ten weeks; it sits unruled still, six months on. Two defendants who did not respond — one thirty-seven days past the Rule 12(a)(1) deadline, one fifty-five — were litigating freely: no default entered against either, the clerk having declined the ministerial entry; no motion under Rule 55(c) ever filed by either, because there was no entry to set aside; no showing of good cause for the silence ever made, or asked for. The plaintiff who paid the filing fee could not obtain the court's help serving a deputy at the county jail. The defendants who never answered on time required no help at all. That is the record on which the interest of justice was found to require moving the case four hundred miles from the plaintiff.

None of that is what this petition asks the Court to fix. Each is a matter for the district court, and each is being pursued there.

The record is set out for a narrower purpose. When the Article III safeguard in § 636 is removed from a case, the consequence is not theoretical. This record shows what a case looks like after the safeguard is gone: eight months, no merits, no ruling on service, no entry of default, and no Article III judge who has ever reviewed anything in it de novo.

The question presented is whether Congress and Article III permit that. The answer given below was yes, in a single sentence, by a court without jurisdiction to give it.

Certiorari does not review facts, and this petition does not ask the Court to. It asks the Court to review a judgment — the June 2 order — whose defects are visible within its four corners, and whose effect was to place every ruling beneath it beyond Article III review. The record recited above is set out to show that effect: eight months across two districts and five judicial officers without adjudication of any claim on the merits; a fee-paid complaint answered with the screening vocabulary of 28 U.S.C. § 1915; defaults unentered against defendants who never moved under Rule 55(c); a dispositive transfer entered by a magistrate judge over a standing declination;

objections mooted by the transmission they sought to stay; and appellate review declined under the wrong statute with no standard applied.

CONCLUSION

The petition for a writ of certiorari should be granted, the judgment of the court of appeals vacated, and the case remanded so that the question presented below — whether a magistrate judge may finally determine a § 1406(a) transfer without consent, findings and recommendations, or de novo Article III review — is decided under the standard the June 2 order quoted and did not apply. Because no Article III judge has ever adjudicated venue in this action, venue should be determined in the first instance by one — the decisionmaker to whom § 636(b)(1)(B) and Rule 72(b) entitled Hollis before the order took effect. At a minimum, the Court should grant the petition, vacate the judgment, and remand for application of the *Bauman* factors.

Respectfully submitted,

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