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SUPREME COURT, U.S.

No. 26-5074

IN THE
SUPREME COURT OF THE UNITED STATES

SURGRET URANIA DOSS,
Petitioner,

v.

GREGORY P. HOLDER, et al.,
Respondents.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Eleventh Circuit

PETITION FOR REHEARING OF THE ORDER DENYING CERTIORARI

(Supreme Court Rule 44.2)

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SUPREME COURT, U.S.

PETITION FOR REHEARING

Petitioner Surgret Urania Doss, an Honorably Discharged, Service-Connected Disabled United States Army Veteran appearing pro se, petitions under Supreme Court Rule 44.2 for rehearing of this Court's October 5, 2026 order denying the petition for a writ of certiorari. This petition is confined to Question III, the judicial immunity question, and rests on decisions of the courts of appeals that were not before this Court when it acted and were not cited by any party: *Till v. King*, Nos. 25-1558/1614 (6th Cir. Aug. 21, 2026) (recommended for publication), decided after the petition was filed and after the time for any response had run, which adopts the Eighth Circuit's judicial immunity analysis in *Rockett ex rel. K.R. v. Eighmy*, 71 F.4th 665 (8th Cir. 2023); and *Rockett v. Eighmy*, No. 25-1664 (8th Cir. Oct. 13, 2026), decided eight days after the denial, which affirmed the judgment against that judge on the same reasoning. Petitioner does not claim that these decisions bind the Eleventh Circuit or that they create a square conflict. He claims something narrower: that they apply the two-factor inquiry of *Stump v. Sparkman* to the act a judge performed rather than to the purpose he gave for it, and that measured that way the decision below, which held immune a judge who researched Petitioner's property records, concluded he had committed a crime, and sent the police after him before any hearing and in a case to which Petitioner had been refused entry as a party, cannot be squared with how the functional test is now being applied.

I. THE ORDER, THE RECORD, AND WHAT RULE 44.2 REQUIRES

What the Order is. The petition for a writ of certiorari was filed July 6, 2026, and docketed July 13, 2026. Respondent Holder waived response on July 21, 2026. The petition was distributed for the Conference of September 28, 2026, and on October 5, 2026, this Court entered an order denying it. This petition is filed within 25 days of that order. No prior petition for rehearing has been filed.

What the record shows. The Eleventh Circuit, in an unpublished per curiam opinion of February 20, 2026 (Pet. App. A), affirmed the dismissal of all claims against Judge Holder on absolute judicial immunity. The panel applied a two-step inquiry drawn from *Stevens v. Osuna*, 877 F.3d 1293 (11th Cir. 2017), asking first whether the judge "acted within his judicial capacity," which turns on "(1) whether the act is one normally performed by judges, and (2) whether the complaining party was dealing with the judge in his judicial capacity," and second whether he acted within the scope of his jurisdiction. Pet. App. A at 7. It then held:

> "Judge Holder reviewed Doss's application for indigency status in connection with the case over which he was presiding and took reasonable action to preserve the integrity of the proceeding—an act normally performed by judges as part of managing cases before them. *See, e.g., Mullane v. Moreno*, No. 21-13468, 2025 WL 1386666, at *8 (11th Cir. May 14, 2025) (noting the 'important function' of judges in maintaining the integrity of the judicial branch by reporting suspected misconduct). And Doss's interactions with Judge Holder arose solely from Judge Holder's role as the presiding judge."

Pet. App. A at 7. The acts for which Holder was sued are fixed in the record and were set out in the petition. On February 9, 2017, Holder contacted Tampa Police Detective Michael Victor, having, in the detective's words, independently researched the county property appraiser's records and requested that the matter "be investigated by law enforcement." Pet. 18. He exchanged communications with Victor directing the investigation. Pet. 4, 18. Eighteen days later, at a case management conference on February 27, 2017, Holder announced from the bench that he had "referred this matter to the Tampa Police Department" and that "Detective Michael Victor is actively investigating this case," Pet. App. H, Tr. 6:17-22, and described the hearing's purpose as being "to at least investigate some of these allegations," Pet. App. H, Tr. 9:20-22. Holder had denied Petitioner intervenor status and acknowledged on the record that Petitioner had "not yet been granted intervenor status by this Court." Pet. App. H, Tr. 4:3-4. No order, docket entry, finding, or sanction concerning the indigency application was ever entered in the foreclosure

action. The only official instrument that followed was a one-count Information filed by the State Attorney four months later, on June 16, 2017, in a different case, No. 2017-CF-9089, which a different judge dismissed as a matter of law on January 29, 2018. Pet. 4-5; Pet. App. E, F.

What the law requires. Rule 44.2 limits a petition for rehearing of an order denying certiorari to "intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented." A published decision of a court of appeals issued after the petition was filed, applying the governing test in a way the decision below did not, is a substantial ground not previously presented. *Till* is such a decision. The Eighth Circuit's October 13, 2026 decision in *Rockett*, which postdates the denial, is an intervening circumstance in the chronological sense; Petitioner acknowledges that its judicial immunity analysis rests on the Eighth Circuit's 2023 decision in the same case, which was available but not cited when the petition was filed, and he presents that 2023 decision as a ground not previously presented. Petitioner presents nothing else. He does not reargue Questions I or II, does not re-present the *Forrester* and *Malley* authorities the Court has already considered, and does not ask the Court to revisit anything it has already weighed.

II. GROUNDS FOR REHEARING

A. Till Is a Substantial Ground Not Previously Presented; Rockett Is an Intervening Decision That Reaffirms the Analysis Till Adopted.

Rockett v. Eighmy, No. 25-1664 (8th Cir. Oct. 13, 2026) (Stras, J., joined by Shepherd and Kelly, JJ.), was decided eight days after this Court denied certiorari. The Eighth Circuit affirmed a Fourth Amendment verdict against a Missouri circuit judge who, after a custody hearing had ended, personally escorted two children who were not parties to the case to holding cells and had them locked up for refusing to leave with their mother. The court held that the judge was not entitled to qualified immunity because, among other reasons, "the children were neither parties to

the custody case nor present inside the courtroom," so no contempt power could have justified the detention. Slip op. at 9. The court dismissed the judge's renewed judicial immunity argument as unpreserved after trial, slip op. at 4-5, and in doing so restated the basis of its earlier published holding in the same case, *Rockett ex rel. K.R. v. Eighmy*, 71 F.4th 665, 670-73 (8th Cir. 2023): the children were beyond the judge's contempt power and "judges do not do double duty as jailers." Slip op. at 3. Petitioner states candidly that the 2023 decision was available when the petition was filed and was not cited. It is nonetheless a substantial ground not previously presented, and the October 13 decision confirming that the conduct it described violated clearly established law is the intervening circumstance that brings it here.

Till v. King, Nos. 25-1558/1614 (6th Cir. Aug. 21, 2026) (Gilman, J., joined by Griffin and Readler, JJ.), is designated for publication. It was decided forty-six days after the petition was filed and nine days after the August 12, 2026 response date closed. It was not cited by any party and was not before the Court. It is a substantial ground not previously presented. The Sixth Circuit affirmed the denial of judicial immunity to a Detroit district judge who, after court recessed, had a fifteen-year-old spectator handcuffed, placed in a jail jumpsuit, held in a cell, and put through a "mock trial" because she fell asleep during his lecture. The court held that the complaint plausibly alleged that the judge was "neither performing a 'function normally performed by a judge' nor acting in his 'judicial capacity.'" *Till*, slip op. at 10. And it expressly adopted the Eighth Circuit's 2023 reasoning in *Rockett*: "We find persuasive the Eighth Circuit's holding that the judge's effort to discipline and scare the children did not reflect a 'function normally performed by a judge.'" *Id.* at 8.

Hence the question is not whether Petitioner could have argued the point more forcefully in July. It is that two courts of appeals have since spoken to the same two-factor *Stump* inquiry the Eleventh Circuit applied, and have given it content that the Eleventh Circuit's opinion lacks.

B. The Decision Below Treats a Judge's Pre-Hearing Criminal Referral of a Non-Party as a Judicial Act Because of the Purpose It Served; Till and Rockett Apply the Stump Factors to the Act Itself, Asking Whether It Furthered an Official Act or Sanction and Whether the Plaintiff Dealt With the Judge in His Judicial Capacity.

Rule. Under *Stump v. Sparkman*, 435 U.S. 349, 362 (1978), an act is judicial if it is "a function normally performed by a judge" and the parties "dealt with the judge in his judicial capacity." Under *Mireles v. Waco*, 502 U.S. 9, 11 (1991), "a judge is not immune from liability for nonjudicial actions, i.e., actions not taken in the judge's judicial capacity." *Till* gives those factors operational content. On the first factor, the Sixth Circuit held that "[t]o qualify as a judicial act, a judge's actions must 'further[] [an] official act or sanction,'" *Till*, slip op. at 7 (quoting *Barrett v. Harrington*, 130 F.3d 246, 261 (6th Cir. 1997)), and that "whenever an action taken by a judge is not an adjudication between the parties, it is less likely that it will be deemed judicial," *id.* at 6 (quoting *Brookings v. Clunk*, 389 F.3d 614, 618 (6th Cir. 2004)). The court then treated the court record as a significant consideration: "the existence of a court record or order indicates that a judge's actions constituted judicial acts," and "[t]he absence of such an order or record here therefore suggests the opposite—that Judge King's actions were nonjudicial." *Id.* at 7 (citing *Stump*, 435 U.S. at 360-61). On the second factor, the court asked whether the plaintiff encountered the judge in his "private, non-judicial life" rather than as a litigant with business before him. *Id.* at 10. *Rockett* supplies the same rule from the other direction: a judge may order a bailiff to remove an unruly litigant, but when he personally performs the law enforcement function against persons who "were never parties," immunity does not attach, because that is not "a function normally performed by a judge." 71 F.4th at 672. Both circuits cite and follow *Gibson v. Goldston*, 85 F.4th 218, 225

(4th Cir. 2023), which denied immunity to a judge who conducted a warrantless search of a litigant's home because judges "do not do double duty as sheriffs." *Id.* at 226.

Application. The Eleventh Circuit answered the first factor by reference to purpose rather than act. It did not ask whether Holder's February 9 call to Detective Victor, his research of the property appraiser's records, or his communications directing the investigation furthered any official act or sanction. They did not. No order was entered. No finding was made. No sanction issued in the foreclosure action, then or ever. The panel instead reasoned from purpose: Holder "took reasonable action to preserve the integrity of the proceeding." Pet. App. A at 7. But a judge's stated purpose is exactly what *Till* declined to treat as controlling. Judge King also claimed he was "control[ling] the form and the function of [his] courtroom" and "reprimand[ing]" a spectator for "flouting the judicial authority," *Till*, slip op. at 6, and the Sixth Circuit answered that "not all actions taken by a judge in his courtroom are protected by judicial immunity," *id.* at 7. The judge in Rockett believed he was enforcing a custody order. The Eighth Circuit answered that "judges do not do double duty as jailers." A judge who personally gathers evidence against a citizen and directs a police detective to build a criminal case is performing an investigative function, whatever label is attached to it. That the judge wanted to protect his courtroom does not convert the act into an adjudication, any more than Judge King's wish to discipline a sleeping teenager or Judge Eighmy's wish to enforce a custody plan did.

Moreover, the panel's treatment of the second factor does not survive the way *Till* and *Rockett* apply it. The panel held that "Doss's interactions with Judge Holder arose solely from Judge Holder's role as the presiding judge." Pet. App. A at 7. So did ELG's interactions with Judge King, who was lecturing from the well of his own courtroom in a program held there because he was the judge. So did the Rockett children's interactions with Judge Eighmy, who found them in

his courthouse lobby after presiding over their parents' hearing. In both cases the courts asked the narrower question *Stump* actually poses: whether the plaintiff "dealt with the judge in his judicial capacity," which is to say as a party or participant in a matter the judge was adjudicating. Petitioner was not that. Holder had denied him intervenor status and said so on the record. Pet. App. H, Tr. 4:3-4. The indigency application Holder investigated was filed with the Second District Court of Appeal in No. 2D17-354, not with Holder. Pet. 3. And the February 9 referral preceded the February 27 conference by eighteen days, so that when Holder first dealt with Petitioner in the matter he did so as the complainant who had already set the police in motion. Party status is not a standalone element of *Stump*, and Petitioner does not argue that it is. But a plaintiff who has been refused party status, whose filing was made in another court, and who is investigated before any hearing is convened presents the second factor in a form the panel never examined, because the panel resolved that factor by the judge's role alone.

The Eleventh Circuit's own precedent asks the same questions *Till* and *Rockett* ask. In *Sibley v. Lando*, 437 F.3d 1067, 1070 (11th Cir. 2005), the court identified four considerations for whether an act is judicial: whether it is a normal judicial function, whether it occurred in chambers or open court, whether "the controversy involved a case pending before the judge," and whether "the confrontation arose immediately out of a visit to the judge in [his] judicial capacity." The panel cited none of them. On the record here, the February 9 referral occurred outside any courtroom or chambers proceeding, no case involving Petitioner was pending before Holder because intervention had been denied, and the referral preceded rather than arose from any visit to the judge. Petitioner does not contend that these considerations are dispositive, and he acknowledges that *Stump* holds that procedural informality does not by itself make an act nonjudicial. 435 U.S. at 360-61. He contends that a court applying its own circuit's four

considerations, informed by *Till* and *Rockett*, could not have resolved the second factor with the single sentence the panel used.

In fact, the record feature *Till* found significant cuts more sharply here than it did there. In *Till* the court inferred nonjudicial action from the absence of "a case number, order, or any other court record associated with the events." Slip op. at 7, 9. Here there is a case number, but nothing in it: the foreclosure docket contains no order, finding, or sanction addressing the indigency application at all. The sole official instrument in the chain is the State Attorney's Information in Case No. 2017-CF-9089, the act of a separate branch in a separate case four months later. The judicial record of Holder's own conduct is empty. That emptiness does not by itself resolve immunity, but under *Till* it "suggests the opposite" of a judicial act, and it undercuts the panel's stated rationale that the referral was an exercise in managing the case.

Conclusion. Measured against *Till* and *Rockett*, the Eleventh Circuit's holding that Holder's pre-hearing investigation and referral of a non-party was "an act normally performed by judges" cannot stand as a correct application of *Stump*. Two courts of appeals, in decisions issued after this petition was filed or confirmed after it was denied, now apply the two *Stump* factors to a judge who leaves the bench to perform a law enforcement function in a manner the decision below did not.

C. The New Authority Is Outcome-Determinative on Question III, and This Case Presents the Question in a Form That Will Recur.

The Eleventh Circuit's opinion is unpublished, but the rule it applied is not. The panel drew its two-step framework from *Stevens v. Osuna*, 877 F.3d 1293, 1304, 1307-08 (11th Cir. 2017), a published decision, and its "integrity of the proceeding" rationale from *Mullane v. Moreno*, 2025 WL 1386666, at *8. Pet. App. A at 7-8. Those are the authorities district courts in Florida, Georgia, and Alabama will apply to the next litigant a judge reports to the police. Nothing in them directs the

court to ask whether the judge's act furthered an official act or sanction, whether any court record reflects it, or whether the plaintiff dealt with the judge as a litigant before him. The Sixth Circuit, following the Eighth and Fourth, asks those questions. Petitioner does not contend that those decisions bind the Eleventh Circuit; he contends that they show the decision below applied the functional test in a way that two circuits, in published opinions, have now declined to apply, and that the divergence emerged only after this petition was filed.

Furthermore, this case presents the question more cleanly than either *Till* or *Rockett*. Those cases involved physical custody imposed by the judge's own hand, which allowed the defendants to argue that the courts were reacting to the severity of the conduct. Here the conduct is far less extreme and for that reason more likely to recur: a judge picking up the telephone to a detective about a person he has decided is a criminal, before any hearing and outside any adjudication. Whether that act is judicial is a question the courts of appeals have not consistently answered, and the decision below answers it by reference to the judge's purpose alone.

D. The Referral Authorities on Which the Panel and Its Sister Circuits Rely All Turn on a Proceeding Before the Judge Involving the Person Reported; That Element Is Absent Here, and Binding Former Fifth Circuit Precedent Denies Immunity Where It Is Absent.

Petitioner does not contend that a judge's report of suspected misconduct is categorically nonjudicial, and the decisions that have held such reports judicial show why this case is different. In *Mullane*, the panel's only authority, Judge Moreno wrote to a law school about a pro se litigant in the case before him, reporting a misstatement in a verified pleading filed in that case, after a recusal order that announced he might make the referral; the court grounded the holding in the judge's duty under the Code of Conduct to act on attorney misconduct, and stated that the observations "came from a proceeding" over which he presided. *Mullane*, No. 21-13468, slip op. at 18-21 (11th Cir. May 14, 2025). No referral to law enforcement is mentioned anywhere in the

opinion. In *Barrett v. Harrington*, 130 F.3d 246 (6th Cir. 1997), the judge's letters to prosecutors were judicial because she "reasonably perceive[d] a threat" to herself "arising out of the judge's adjudicatory conduct" toward a litigant who had appeared before her, and the court was explicit that "[t]he import is in the nexus" between the referral and the threat to her ability to decide cases, *id.* at 259; her statements to the press, which protected no proceeding, were not judicial because they "further[ed] no official act or sanction." *Id.* at 261. And in *Brookings v. Clunk*, 389 F.3d 614 (6th Cir. 2004), the judge swore out a criminal complaint over a marriage license application filed in his own court; the majority conceded that "the swearing out of a criminal complaint is not a normal function of a judge," *id.* at 621, and sustained immunity only because the controversy arose from the plaintiff's dealings with the judge in his official capacity in that court even though he was "no longer a litigant," *id.* at 622, over the dissent of Judge Gibbons, who would have held that a judge who initiates a prosecution rather than deciding a case performs no judicial function.

Each of those decisions rests on a proceeding before the judge in which the person reported was a participant and from which the reported conduct arose. That element is missing here, and the record shows it is missing. Holder denied Petitioner intervenor status and said so on the record. Pet. App. H, Tr. 4:3-4. The indigency application he investigated was filed in the Second District Court of Appeal in No. 2D17-354, not in Holder's court. Pet. 3. The referral to Detective Victor on February 9, 2017 preceded the only hearing at which Petitioner ever appeared before Holder by eighteen days, and the hearing itself was, in Holder's words, convened "to at least investigate some of these allegations." Pet. App. H, Tr. 9:20-22. There was no threat to the judge, no attorney misconduct, no filing in his court, and no litigant before him. What remains, once those elements are removed, is a judge researching a citizen's property records and asking the police to build a case. So the panel's reliance on *Mullane* for the proposition that the referral was "an act normally

performed by judges as part of managing cases before them," Pet. App. A at 7, extends that decision to facts it did not address and to a nexus it did not have.

Moreover, the former Fifth Circuit, whose decisions bind the Eleventh, has already applied the same four considerations to deny immunity to a judge who acted against a person with no matter pending before him. In *Harper v. Merckle*, 638 F.2d 848 (5th Cir. Unit B 1981), a Hillsborough County judge encountered a man delivering a support check to a secretary at the courthouse, demanded that he be sworn, had bailiffs pursue him, and held him in contempt in chambers in a proceeding in which the judge "acted as complaining witness, prosecutor, factfinder, and judge." *Id.* at 852. Applying the four factors, the court conceded that using the contempt power is a normal judicial function and that the events occurred in chambers, but held that the judge's position "loses ground" on the third and fourth: "The controversy that led to Harper's incarceration did not center around any matter 'then pending before the judge,'" and "Harper did not visit Judge Merckle 'in his official capacity.'" *Id.* at 858-59. The judge was therefore "not entitled to assert absolute judicial immunity under the unusual facts of this case." *Id.* at 850. *Brookings* itself discusses *Harper* as a decision refusing immunity where the charges did not arise from a case brought before the judge. 389 F.3d at 622. Petitioner relies on *Harper* for that holding alone, and not for its separate discussion of judicial motive, which later Fifth Circuit decisions have questioned in light of *Mireles*. *See Morrison v. Walker*, No. 16-41712 (5th Cir. Aug. 9, 2017). The panel did not cite *Harper*, did not cite *Sibley*, and did not ask whether any matter involving Petitioner was pending before Holder when the referral was made. *Till* and *Rockett* supply the reason that omission matters: both deny immunity where the judge's act reached a person who was not before him in any proceeding, and both postdate the petition.

E. Whether Holder Acted Under Color of State Law Is a Merits Question for Remand, Not a Reason to Leave the Immunity Ruling in Place.

Petitioner acknowledges that a defendant who defeats absolute immunity by showing that a judge acted outside the judicial function may then contend that the same conduct was not taken under color of state law. That question was not reached by the district court or the court of appeals, both of which disposed of Holder solely on absolute immunity. Pet. App. A at 6-8. It is a merits defense to be pleaded and decided on remand, and the record on it is not undeveloped: Holder identified himself as the presiding judge in his communications with the detective, announced the referral from the bench, and used the court's case management conference to question Petitioner about the subject of the investigation. Pet. App. H, Tr. 6:17-22, 9:20-22. The existence of a downstream merits question does not answer whether absolute judicial immunity applies, and it is not a ground for leaving in place an immunity ruling that the newly available authority calls into question.

III. CONCLUSION AND RELIEF REQUESTED

Petitioner moves that this Court grant rehearing, vacate its order of October 5, 2026 insofar as it denied certiorari on Question III, and either (1) grant the petition for a writ of certiorari limited to Question III, or (2) grant the petition, vacate the judgment of the Eleventh Circuit as to Respondent Holder, and remand for further consideration in light of *Till v. King*, Nos. 25-1558/1614 (6th Cir. Aug. 21, 2026), *Rockett ex rel. K.R. v. Eighmy*, 71 F.4th 665 (8th Cir. 2023), and *Rockett v. Eighmy*, No. 25-1664 (8th Cir. Oct. 13, 2026).

Respectfully submitted this 30th day of October 2026.

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CERTIFICATE OF GOOD FAITH

(Supreme Court Rule 44.4)

I, Surgret Urania Doss, Petitioner appearing pro se, certify pursuant to Supreme Court Rule 44.4 that this petition for rehearing is restricted to the grounds specified in Rule 44.2, namely intervening circumstances of a substantial or controlling effect and other substantial grounds not previously presented, and that it is presented in good faith and not for delay. The decisions on which it rests, *Till v. King*, Nos. 25-1558/1614 (6th Cir. Aug. 21, 2026), and *Rockett v. Eighmy*, No. 25-1664 (8th Cir. Oct. 13, 2026), were decided after the petition for a writ of certiorari was filed on July 6, 2026; the earlier decision in *Rockett ex rel. K.R. v. Eighmy*, 71 F.4th 665 (8th Cir. 2023), on which both rely, was not cited in any filing in this case before today.

Respectfully submitted this 30th day of October 2026.

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PROOF OF SERVICE

(Supreme Court Rule 29.5)

I, Surgret Urania Doss, Petitioner appearing pro se, certify that on October 30, 2026, I served one copy of the foregoing Petition for Rehearing on each of the following counsel of record for Respondents by depositing it in the United States mail, first-class postage prepaid, and by electronic mail, addressed as follows:

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I further certify that on October 30, 2026, I deposited the original and ten copies of this petition in the United States mail, by Certified Mail, Return Receipt Requested, postage prepaid, addressed to the Clerk of the Supreme Court of the United States, 1 First Street, N.E., Washington, D.C. 20543, in accordance with Supreme Court Rules 29.2 and 33.2.

Respectfully submitted this 30th day of October 2026.



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