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No. _____

FILED

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SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED STATES

WILKENS ON FRANCOIS,

Petitioner,

vs.

GABRIELLA F. RICHMAN

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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Dated: April 3, 2026

QUESTIONS PRESENTED

1. Whether the federal Title IV-D incentive payment structure (42 U.S.C. § 658a; 45 C.F.R. Part 305), when administered through state contracts with publicly traded private corporations operating state child support disbursement units, creates a structural pecuniary interest in case outcomes that violates the Due Process Clause of the Fourteenth Amendment under *Tumey v. Ohio*, 273 U.S. 510 (1927), *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009), and *Williams v. Pennsylvania*, 579 U.S. 1 (2016).

2. Whether federal law preempts state-court income execution against Veterans Affairs disability compensation benefits when the United States Department of Veterans Affairs is concurrently apportioning a portion of those same benefits to the same dependents pursuant to 38 U.S.C. § 5307 and 38 C.F.R. §§ 3.450 and 3.451, and whether such double collection exceeds the limits set by *Rose v. Rose*, 481 U.S. 619 (1987).

3. Whether absolute judicial immunity under *Stump v. Sparkman*, 435 U.S. 349 (1978), extends to a state actor whom the State itself classifies as a civil service employee under N.Y. Civil Service Law § 62 — having accepted a “Statement in Lieu of Oath” rather than the constitutional oath of judicial office required of judicial officers under N.Y. Const. Art. XIII § 1 — or whether the threshold determination of judicial-officer status under *Forrester v. White*, 484 U.S. 219 (1988), turns on the actor’s classification under state law rather than the title borne by the office.

4. Whether a state actor enforcing a child support obligation in violation of the continuing exclusive jurisdiction provisions of the Uniform Interstate Family Support Act, 42 U.S.C. § 666,

acts "in the clear absence of all jurisdiction" within the meaning of *Mireles v. Waco*, 502 U.S. 9 (1991), such that absolute judicial immunity does not attach.

PARTIES TO THE PROCEEDING

The petitioner is **Wilkenson Francois**, who appeared pro se as plaintiff-appellant in the proceedings below.

The respondent is **Gabriella F. Richman**, sued in her individual capacity as a New York Family Court Support Magistrate, who was the defendant-appellee below. The respondent did not appear at the Court of Appeals.

RELATED PROCEEDINGS

Francois v. Richman, No. 25-1237-cv (2d Cir. Mar. 27, 2026) (summary order affirming dismissal)

Francois v. Richman, No. 24-cv-05223 (E.D.N.Y. Apr. 24, 2025) (Hall, J.) (dismissal)

Onady v. Francois, Docket No. F-15846-22/24A (Kings County Family Court, Order of June 13, 2024) (Richman, S.M.)

Onady v. Francois, Docket No. 2018-04821 (Court of Common Pleas of Montgomery County, Pennsylvania, Family Division, Order of May 3, 2019) (Bertin, S.J.)

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OPINIONS BELOW

The summary order of the United States Court of Appeals for the Second Circuit is unreported and is reproduced in the Appendix at App. A. *Francois v. Richman*, No. 25-1237-cv (2d Cir. Mar. 27, 2026).

The Memorandum and Order of the United States District Court for the Eastern District of New York is reported at *Francois v. Richman*, No. 24-cv-05223, 2025 WL 1207659 (E.D.N.Y. Apr. 24, 2025), and is reproduced at App. B.

The June 13, 2024 Findings of Fact and Order of the New York Family Court, Kings County, by Support Magistrate Gabriella F. Richman, is unreported and is reproduced at App. C.

JURISDICTION

The United States Court of Appeals for the Second Circuit entered its judgment on March 27, 2026. This Court has jurisdiction over the petition under 28 U.S.C. § 1254(1). The United States District Court for the Eastern District of New York had subject-matter jurisdiction under 28 U.S.C. § 1331, as the complaint raised federal questions under 42 U.S.C. § 1983 and the Due Process Clause of the Fourteenth Amendment.

This petition is filed within the 90-day period required by Rule 13.1 of the Rules of the Supreme Court of the United States.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Due Process Clause of the Fourteenth Amendment to the Constitution of the United States provides:

“[N]or shall any State deprive any person of life, liberty, or property, without due process of law”

U.S. Const. amend. XIV, § 1.

38 U.S.C. § 5307(a)(2) provides, in relevant part:

“[A]ll or any part of the compensation, pension, or emergency officers’ retirement pay payable on account of any veteran may—(2) if the veteran’s children are not in the custody of the veteran’s spouse, be apportioned as may be prescribed by the Secretary.”

42 U.S.C. § 658a establishes the federal incentive payment structure for state child support enforcement performance. The implementing regulations are codified at 45 C.F.R. Part 305.

42 U.S.C. § 666 codifies federal requirements for state child support enforcement, including the Uniform Interstate Family Support Act and its provisions governing continuing exclusive jurisdiction.

N.Y. Constitution Article XIII, § 1, requires all judicial officers, before entering upon the duties of their respective offices, to take and subscribe an oath of office.

N.Y. Civil Service Law § 62 governs the alternative “statement in lieu of oath” mechanism for civil service employees who are not constitutional officers.

STATEMENT OF THE CASE

A. The Pennsylvania Support Order and Continuing Exclusive Jurisdiction

In April 2018, Petitioner Wilkenson Francois and Erin E. Onady — both then residents of Pennsylvania — entered into an agreed child support order in the Court of Common Pleas of Montgomery County, Pennsylvania, Family Division, Docket No. 2018-04821. The agreed order required Petitioner to pay \$1,373 per month — \$1,246 in current support plus \$125 toward arrears — for the support of two children, Genevieve Francois (born September 6, 2014) and Esme Francois (born September 8, 2016).

In July 2018, Petitioner filed a petition in Pennsylvania to modify the agreed order on the basis of changed circumstances. On May 3, 2019, the Pennsylvania court (Bertin, S.J.) dismissed the petition for failure to allege a substantial and material change in circumstances. The

ed order of Pennsylvania court reaffirmed that “the agreed order of April 2, 2018 is in full force and effect” and dismissed the petition without prejudice. The Pennsylvania court certified the case as “complex.” (App. D.)

Erin Onady and both children continue to reside in Montgomery County, Pennsylvania — specifically at 1883 Lukens Avenue, Willow Grove, Pennsylvania 19090. Pennsylvania accordingly retains continuing exclusive jurisdiction over the support order under the Uniform Interstate Family Support Act § 205.

B. The Federal Veterans Affairs Apportionment

Petitioner is a veteran receiving disability compensation from the United States Department of Veterans Affairs. On March 12, 2022, Erin Onady submitted a request to the Department of Veterans Affairs for an apportioned share of Petitioner’s VA benefits on behalf of herself and the

parties' two children, pursuant to 38 U.S.C. § 5307 and the implementing regulations at 38 C.F.R. §§ 3.450 and 3.451.

The Department of Veterans Affairs provided Petitioner with a Due Process Letter on March 21, 2022. (App. E.) Petitioner contested the apportionment by filing VA Form 20-0996, Request for Higher Level Review, on March 29, 2022. After full review, the Department of Veterans Affairs granted the apportionment on May 26, 2022, in the amount of \$450 per month — \$150 to Onady individually and \$150 to each child — effective April 1, 2022. (App. F.) The Department of Veterans Affairs sent copies of both letters to the New York Division of Veterans Affairs, providing the State of New York with constructive notice of the federal apportionment from March 2022 forward.

The federal apportionment has been continuously operative since April 1, 2022. The Department of Veterans Affairs has paid the apportioned \$450 per month directly to Erin Onady for the benefit of the children, reducing Petitioner's net monthly VA benefit accordingly.

C. The New York Family Court Registration and Enforcement

On August 23, 2022, the Family Court of Kings County, New York, registered the Pennsylvania support order pursuant to Article 5-B of the New York Family Court Act and the Uniform Interstate Family Support Act. (App. G.) On September 1, 2022 — within the twenty-day statutory period for contesting registration under N.Y. Family Court Act § 580-606 — Petitioner filed Form UIFSA-12, a Petition to Vacate Registration of Out-of-State Child Support Order. (App. H.)

On April 23, 2024, Petitioner appeared before Respondent Gabriella F. Richman, a New York Family Court Support Magistrate. The Office of the Corporation Counsel for the City of New

York (Joshua Lieberman, Esq.) appeared as counsel for the initiating jurisdiction. The custodial parent, Erin Onady, did not appear and her appearance was excused.

A hearing was held on June 6 and June 12, 2024. Petitioner appeared pro se throughout. On June 13, 2024, Respondent issued Findings of Fact and Order finding Petitioner in willful violation of the support order, entering a money judgment in the amount of \$101,081.14 plus statutory interest, placing Petitioner on eighteen months of probation, and ordering the New York Support Collection Unit to “effectuate an income execution on Respondent’s Veteran’s Administration benefits.” (App. C.)

The June 13, 2024 order acknowledged that “the subject children receive \$450 per month as an ‘apportionment’ of Respondent’s VA benefits award” — that is, the federal apportionment that had been finalized and operative since April 2022. Citing *Graby v. Graby*, 87 N.Y.2d 605 (1996), the order characterized this \$450 monthly apportionment as “derivative benefits, and not child support” — but did not credit the apportioned amount against Petitioner’s monthly support obligation. The court instead ordered income execution against the full VA benefit pool, resulting in collection from the same federal benefit funds that were already being apportioned to the same dependents under the federal mechanism.

D. The Operating Structure of the New York State Disbursement Unit

The New York State Disbursement Unit, which administers child support collections in New York, is operated pursuant to a contract between the State of New York and Conduent State & Local Solutions, Inc. The contract has a current value of \$116,276,766. Conduent State & Local Solutions, Inc. is a New York-incorporated subsidiary of Conduent Incorporated, a publicly traded corporation listed on the NASDAQ Global Select Market under the ticker symbol CNDT.

(App. I; see Conduent Incorporated, Annual Report (Form 10-K), Exhibit 21.1 (Feb. 22, 2023), SEC Accession No. 0001677703-23-000011.)

Conduent Incorporated's revenue from state and local government contracts depends on the renewal of those contracts, which in turn depends on collection performance metrics. The State of New York's receipts from the federal Title IV-D incentive payment program (42 U.S.C. § 658a) likewise depend on collection performance metrics established under 45 C.F.R. Part 305. The financial structure of the New York child support enforcement system thus creates a chain of pecuniary interest from federal incentive payments through state revenue to private contractor revenue to publicly traded corporate shareholder returns.

E. The Status of Support Magistrate Richman as a Civil Service Employee

On April 18, 2019, Respondent Gabriella F. Richman filed a "State Employee Statement in Lieu of Oath Pursuant to Civil Service Law § 62" with the New York Department of State, Division of Corporations, State Records and Uniform Commercial Code. (App. J.) The statement was filed on Form DOS-1690-f, the form prescribed by the New York Department of State for civil service employees. Respondent did not file the constitutional oath of judicial office required of judicial officers under N.Y. Constitution Article XIII, Section 1, nor did she file her oath in the manner prescribed by N.Y. Public Officers Law § 10 for judicial officers. The State of New York accepted the Statement in Lieu of Oath in lieu of the constitutional oath, classifying Respondent as a civil service employee for purposes of New York's oath and ethics requirements.

F. The Federal Court Proceedings

On August 22, 2024, Petitioner filed a complaint in the United States District Court for the Eastern District of New York under 42 U.S.C. § 1983, alleging that Respondent, acting under

color of state law, had deprived Petitioner of due process rights guaranteed by the Fifth and Fourteenth Amendments. The complaint specifically challenged (1) the failure to credit the federal VA apportionment against Petitioner's support obligation; (2) the Family Court's exercise of jurisdiction in conflict with Pennsylvania's continuing exclusive jurisdiction under UIFSA § 205; (3) the absence of an ability-to-pay determination under *Turner v. Rogers*, 564 U.S. 431 (2011); and (4) the structural conflict of interest in the Title IV-D enforcement system.

On April 24, 2025, the District Court (Hall, J.) dismissed the complaint sua sponte under 28 U.S.C. § 1915(e)(2)(B)(iii), concluding that Petitioner's claims for damages were barred by absolute judicial immunity, that injunctive relief was unavailable under § 1983 as amended in 1996, and that abstention under *Younger v. Harris*, 401 U.S. 37 (1971), or the domestic relations abstention doctrine might also bar the action. (App. B.)

On March 27, 2026, the United States Court of Appeals for the Second Circuit (Jacobs, Wesley, and Robinson, JJ.) affirmed by summary order. (App. A.) The panel held that Respondent was a "judicial officer" under New York Family Court Act § 439(a) and was therefore entitled to absolute immunity, citing *Dieujuste v. Sin*, 125 F.4th 397 (2d Cir. 2024). The panel addressed Petitioner's argument that Respondent was a non-judicial officer performing administrative duties with a single sentence: "We disagree." The panel did not consider the documentary evidence — newly developed and not part of the record below — that Respondent had filed a Statement in Lieu of Oath under N.Y. Civil Service Law § 62 rather than the constitutional oath of judicial office. The panel did not reach the *Younger* or domestic relations abstention questions.

This petition followed.

REASONS FOR GRANTING THE PETITION

This case presents four federal questions of national importance, each of which arises from the increasing privatization of state child support enforcement under Title IV-D. The questions presented arise from the increasing privatization of state child support disbursement units and the resulting collision between (1) the federal Title IV-D incentive payment structure, (2) federal Veterans Affairs apportionment under 38 U.S.C. § 5307, (3) the federal jurisdictional framework of the Uniform Interstate Family Support Act, and (4) federal constitutional limits on the immunity of state actors under § 1983.

This Court has not directly decided any of the four questions presented. The recent denial of certiorari in *Dieujuste v. Sin*, 146 S. Ct. 119 (2025), does not foreclose review here because *Dieujuste* did not present the structural pecuniary interest question, the federal preemption question, the civil service employee classification question, or the UIFSA jurisdictional question raised in this petition.

I. This Court Should Decide Whether the Title IV-D Incentive Payment Structure, Administered Through Publicly Traded Private Contractors Operating State Child Support Disbursement Units, Creates a Structural Pecuniary Interest That Violates Due Process.

This Court has long held that institutional financial interests in case outcomes can violate due process even without direct personal benefit to the decisionmaker. *Tumey v. Ohio*, 273 U.S. 510 (1927), held that a mayor who received a percentage of fines from his court violated due process because his pecuniary interest in convictions destroyed impartiality. *Connally v. Georgia*, 429 U.S. 245 (1977), extended this principle to magistrates compensated for issuing search warrants. More recently, *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009), held that a state supreme court justice was required to recuse where a litigant had spent millions to elect him. *Williams v.*

Pennsylvania, 579 U.S. 1 (2016), held that a state supreme court justice could not sit on a case he had previously prosecuted as a district attorney. Taken together, these decisions establish that structural and institutional financial interests in adjudicative outcomes can independently violate due process.

The petition presents a question this Court has not yet resolved: whether the federal Title IV-D incentive payment structure creates a structural pecuniary interest that, when administered through state contracts with publicly traded private corporations operating state child support disbursement units, violates due process under the *Tumey* line of cases.

The federal Title IV-D program (42 U.S.C. § 658a; 45 C.F.R. Part 305) provides incentive payments to state child support enforcement agencies based on collection performance metrics.

The states retain a portion of every dollar collected. In New York, the State Disbursement Unit that administers these collections is operated under a \$116 million contract with Conduent State & Local Solutions, Inc. — a New York-incorporated subsidiary of NASDAQ-listed Conduent Incorporated. (App. I.) Conduent's revenue depends on contract renewal, which depends on collection performance metrics. The State of New York's federal Title IV-D incentive payments depend on the same collection performance metrics. The result is a structural chain of pecuniary interest from the federal Title IV-D program through state government revenue to private contractor revenue to publicly traded corporate shareholder returns.

This structural pecuniary interest is not theoretical. It is documented in Conduent Incorporated's annual reports filed with the Securities and Exchange Commission. (App. I.) It is documented in 45 C.F.R. Part 305, which establishes the federal incentive payment formula. It is documented in the publicly available text of New York contract C021913.

The question is whether this structural pecuniary interest, when applied to the adjudication of individual child support cases under Title IV-D, violates the Due Process Clause under *Tumey*, *Caperton*, *Williams*, and *Connally*. *Lebron v. National Railroad Passenger Corp.*, 513 U.S. 374 (1995), which confirmed that the public function doctrine remains a live constraint on the structural relationship between government and private entities, further supports review of this question.

This question is of national importance. Title IV-D is a federal program that operates in every state. Privatized state disbursement units are increasingly common. Millions of noncustodial parents are subject to enforcement actions through this structure. This Court has never directly addressed whether the structural financial incentives at the heart of the Title IV-D program create a *Tumey*-type due process problem when administered through publicly traded private contractors.

II. This Court Should Decide Whether Federal Law Preempts State-Court Income Execution Against VA Benefits That Are Concurrently Subject to Federal Apportionment.

In *Rose v. Rose*, 481 U.S. 619 (1987), this Court held that the federal anti-attachment statute now codified at 38 U.S.C. § 5301(a) does not preclude state courts from considering Veterans Affairs disability benefits as income in setting child support obligations. *Rose* did not, however, decide whether state-court enforcement may extend to direct income execution against VA benefits that are concurrently being apportioned to the same dependents under the separate federal apportionment mechanism of 38 U.S.C. § 5307. That question is presented here in stark form.

In April 2022, the Department of Veterans Affairs granted Erin Onady an apportionment of \$450 per month from Petitioner's VA disability compensation, payable directly to Onady for the benefit of the parties' two children. (App. F.) The federal apportionment was preceded by full

federal due process: a Due Process Letter to Petitioner (App. E), an opportunity for a Higher Level Review (which Petitioner exercised), and a final agency decision after consideration of all evidence. The apportionment has been continuously operative since April 1, 2022. The Department of Veterans Affairs sent copies of the relevant correspondence to the New York Division of Veterans Affairs, providing the State of New York with constructive notice of the federal apportionment.

More than two years later, on June 13, 2024, the New York Family Court ordered the New York Support Collection Unit to “effectuate an income execution on Respondent’s Veteran’s Administration benefits” — directing collection against the same federal benefit pool that was already subject to the federal apportionment. (App. C.) The June 13 order acknowledged the existence of the \$450 monthly apportionment but characterized it as “derivative benefits, and not child support” and did not credit the apportioned amount against Petitioner’s support obligation.

The result is double collection: the same federal benefit funds are being collected twice for the same dependents — once through the federal apportionment paid directly to Onady, and again through state income execution administered by Conduent State & Local Solutions, Inc.

This double collection is not merely a state-law accounting error. It implicates a federal preemption question this Court has not yet decided. The federal apportionment mechanism in 38 U.S.C. § 5307 represents Congress’s express choice about how Veterans Affairs benefits should be redirected to dependents. Allowing state courts to execute against the same benefits in addition to the federal apportionment would render the federal mechanism redundant and subject veterans to recurring double collection that Congress did not authorize. *Mansell v. Mansell*, 490 U.S. 581 (1989), confirms that federal protections of veterans’ benefits operate as preemptive

constraints on state-court authority. *Rose v. Rose* did not authorize the result Petitioner faces — direct income execution against benefits already subject to a final federal apportionment.

This question affects every disabled veteran whose VA benefits are subject to both federal apportionment and state-court child support enforcement. The interaction between the two mechanisms has been the subject of inconsistent treatment in the lower courts and warrants this Court's clarification.

III. This Court Should Decide Whether the State's Classification of a Support Magistrate as a Civil Service Employee Defeats the Threshold Requirement for Absolute Judicial Immunity.

In *Forrester v. White*, 484 U.S. 219 (1988), this Court held unanimously that absolute judicial immunity attaches to judicial functions, not to job titles. The Court reasoned that “the doctrine of judicial immunity is supported by a long-settled understanding that the independent and impartial exercise of judgment vital to the judiciary might be compromised by exposure to potential damages liability.” *Id.* at 226. The protection extends to “judicial acts,” not to acts that are “administrative” in nature. *Id.* at 228-29.

Before reaching the functional question, however, *Forrester* presupposes a threshold question: is the actor a judicial officer at all? Where the State itself does not treat an actor as a constitutional judicial officer — where the State accepts a “Statement in Lieu of Oath” under its civil service employee oath provisions rather than the constitutional oath of judicial office — the threshold question is answered in the negative as a matter of state law.

That is precisely the situation in Petitioner's case. On April 18, 2019, Respondent Gabriella F. Richman filed a “State Employee Statement in Lieu of Oath Pursuant to Civil Service Law § 62” with the New York Department of State, Division of Corporations, State Records and Uniform

Commercial Code. (App. J.) She did not file a constitutional oath of judicial office under N.Y. Constitution Article XIII, Section 1. She did not file her oath with the office that processes judicial officer oaths under N.Y. Public Officers Law § 10. She filed the form prescribed for civil service employees with the office that processes civil service employee oaths.

The State of New York accepted that filing in lieu of the constitutional oath. By operation of New York law, the State has classified Respondent as a civil service employee, not as a constitutional judicial officer. *Forrester*'s functional inquiry never reaches a state actor whom the State itself does not treat as a judicial officer in the first instance. The Second Circuit, citing only New York Family Court Act § 439(a), extended absolute judicial immunity to a state actor whom the State itself does not classify as a judicial officer — an extension this Court has never authorized.

This Court should grant certiorari to clarify whether *Forrester*'s functional inquiry into judicial acts presupposes the threshold determination that the actor is a constitutional judicial officer, and whether that threshold determination is governed by state law classification.

IV. This Court Should Decide Whether a State Actor Enforcing in Violation of UIFSA's Continuing Exclusive Jurisdiction Provisions Acts in the Clear Absence of All Jurisdiction.

Mireles v. Waco, 502 U.S. 9 (1991), recognized that absolute judicial immunity does not protect a judge for actions taken “in the complete absence of all jurisdiction.” *Id.* at 11-12. The classic example is a probate judge who attempts to convict someone of murder — the judge has no subject-matter jurisdiction over criminal cases, and immunity does not attach. The *Mireles* exception is narrow but real, and it preserves an essential check on judicial actors who exceed the jurisdictional bounds of their office.

The Uniform Interstate Family Support Act, codified at 42 U.S.C. § 666 and adopted in identical form by every state, allocates jurisdiction over child support orders among the states. UIFSA § 205 provides that the issuing state retains continuing exclusive jurisdiction (CEJ) over a child support order as long as the obligee, obligor, or child continues to reside in the issuing state. UIFSA § 611 provides that a non-issuing state may modify a child support order only when (1) all individual parties have left the issuing state, (2) the parties consent in writing to modification, or (3) the petitioner is a nonresident of the new state and the respondent is a resident.

Pennsylvania retains continuing exclusive jurisdiction over the support order at issue in this case. The order was issued by the Court of Common Pleas of Montgomery County, Pennsylvania. The obligee (Erin Onady) and both children continue to reside in Montgomery County, Pennsylvania, at 1883 Lukens Avenue, Willow Grove, Pennsylvania 19090. (App. F.) None of the conditions for modification by a non-issuing state under UIFSA § 611 has been met.

Under UIFSA, the New York Family Court accordingly has authority only to enforce the Pennsylvania order, not to modify it. The June 13, 2024 order, however, did not merely enforce the Pennsylvania order — it failed to credit the federal apportionment against the Pennsylvania-set obligation, ordered income execution against the full VA benefit pool, and entered a money judgment based on uncredited arrears calculations. Each of these actions exceeded New York's UIFSA enforcement authority and crossed into modification of the Pennsylvania order.

When a state actor exceeds the jurisdictional limits set by UIFSA, that actor “acts in the complete absence of all jurisdiction” within the meaning of *Mireles*. The *Mireles* exception is precisely the doctrinal mechanism for breaking immunity when judicial actors exceed their subject-matter jurisdiction. The Second Circuit's panel did not engage with this argument and

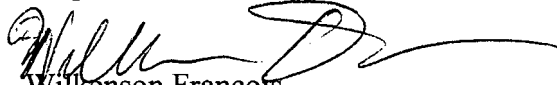
did not consider whether UIFSA jurisdictional limits define the scope of subject-matter jurisdiction for *Mireles* purposes.

This question is of national importance because UIFSA governs every interstate child support case in the United States. Whether state actors are protected by absolute immunity even when they exceed UIFSA's jurisdictional limits affects millions of obligors and obligees subject to interstate support orders.

CONCLUSION

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

Respectfully submitted,



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Dated: April 13, 2026