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No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

APR - 1 2026

OFFICE OF THE CLERK

FREDERICK W. RICHARDSON,
Petitioner,

v.

UNITED STATES DEPARTMENT OF LABOR, OWCP, et al
Respondent.

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

Frederick W. Richardson
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QUESTION PRESENTED

Whether Congress may bar all judicial review of constitutional claims arising from the administration of the Federal Employees' Compensation Act, where sovereign immunity, the prohibition on Bivens remedies, and FECA's "alternative remedial structure" leave federal employees with no forum to vindicate due-process violations such as years-long delays in medical treatment.

LIST OF PARTIES

Petitioner is Frederick W. Richardson, an individual.

Respondents is U.S. Department of Labor, Office of Workers' Compensation Programs (OWCP); Sandra E. Tyus, Claims Examiner; Tracy A. Johnson, OWCP Chief of Operations; Craig Dunn; Jane Doe; John Doe; and Jonas Malm, Claims Examiner is an Agency.

Corporate Disclosure Statement

None of the Respondents is a corporation, and none has a parent corporation or publicly traded stock.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Frederick W. Richardson respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

OPINIONS BELOW

The memorandum disposition of the court of appeals (Appendix A1-A3) was entered on May 23, 2025. The order denying rehearing (Appendix A4) was entered on November 13, 2025. The Mandate was issued on November 21, 2025 (Appendix A5).

The Order of the United States District Court for the Western District of Washington dismissing the case (Appendix B1- B11) on September 29, 2023 and the accompanying judgement (Appendix B12) was entered on September 29, 2023.

The District Court referred the motion to dismiss the amended complaint to the Magistrate Court Judge pursuant to 28 U.S. Code § 636(b). Filed June 15, 2022, Dkt. 45 The Magistrate Judge recommends denying the Motion to Dismiss for lack of subject matter Jurisdiction. (Appendix C1-C10) and the accompanying **Proposed** Order of June 15, 2022, adopting the Report and Recommendation Dkt. 45-1, (Appendix C11)

JURISDICTION

The court of appeals entered judgment on May 23, 2025, and denied rehearing on November 13, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1). The petition is timely under this Court's rules and the extension granted by the Court.

STATUTORY PROVISIONS INVOLVED

Relevant provisions of the Federal Employees' Compensation Act, 5 U.S.C. § 8101 et seq., including 5 U.S.C. § 8101 and 5 U.S.C. § 8128(b), and 28 U.S.C. § 1254(1), are reproduced in Appendix D.

STATEMENT OF THE CASE

A. Statutory Background

The Federal Employees' Compensation Act (FECA), 5 U.S.C. § 8101 et seq., provides workers' compensation benefits to federal employees injured in the performance of duty. FECA vests exclusive authority in the Office of Workers' Compensation Programs (OWCP) to adjudicate claims and bars judicial review of benefit determinations. 5 U.S.C. § 8128(b). FECA contains no provision authorizing judicial review of constitutional claims arising from OWCP's administration of the statute.

B. Factual Background

Petitioner Frederick W. Richardson sustained a work-related knee injury on August 27, 1991. He later filed a FECA claim and, between 2016 and 2022, repeatedly sought medical treatment and related authorizations. During this period, OWCP repeatedly delayed or failed to act on his requests, resulting in nearly seven years in which he did not receive timely medical care. Petitioner alleges that these prolonged delays caused permanent physical harm and violated his right to procedural due process.

Because FECA provides no mechanism for judicial review of constitutional claims, and OWCP's administrative process does not permit constitutional challenges, Petitioner had no forum in which to raise his due-process claim.

C. Proceedings in the District Court

Petitioner filed suit in the United States District Court for the Western District of Washington, alleging that OWCP's delays in processing his claim and authorizing treatment violated his constitutional right to due process. He sought injunctive relief, damages, and recognition of a constitutional remedy.

The District Court referred the motion to dismiss Petitioner's amended complaint to Chief Magistrate Court Judge pursuant to 28 U.S. Code § 636(b). The Magistrate Court Judge recommends denying the Motion to Dismiss for lack of subject matter Jurisdiction but the District Court dismissed the complaint. It held that Petitioner lacked standing to seek injunctive relief; that sovereign immunity barred damages claims against OWCP; that Bivens relief was unavailable; and that FECA's "alternative remedial structure" foreclosed constitutional claims.

D. Proceedings in the Court of Appeals

The Ninth Circuit affirmed in an unpublished memorandum disposition. The court held that Petitioner lacked standing for injunctive relief under *City of Los Angeles v. Lyons*; that sovereign immunity barred damages claims; that *Egbert v. Boule* foreclosed a Bivens remedy; and that FECA's administrative scheme constituted an "alternative remedial structure" that precluded judicial review of Petitioner's constitutional claim. As a result, no court addressed the merits of Petitioner's allegation that OWCP's years-long delay in treatment violated due process.

Petitioner timely seeks a writ of certiorari.

REASONS FOR GRANTING THE PETITION

I. The Decision Below Eliminates All Judicial Review of Constitutional Claims Under FECA, creating a Constitutional Vacuum This Court Has Repeatedly Forbidden

The Ninth Circuit held that sovereign immunity bars damages; that Bivens is unavailable; that Petitioner lacks standing to seek injunctive relief; and that FECA's "alternative remedial structure" forecloses constitutional claims. Taken together, these holdings mean that no court—state or federal—may hear a constitutional claim arising from OWCP's administration of FECA.

This Court has repeatedly rejected statutory interpretations that would insulate constitutional violations from judicial review. *Webster v. Doe*, 486 U.S. 592 (1988); *Bowen v. Michigan Academy of Family Physicians*, 476 U.S. 667 (1986); *Free Enterprise Fund v. PCAOB*, 561 U.S. 477 (2010). Yet the decision below creates exactly the kind of constitutional vacuum these cases forbid.

Under the Ninth Circuit's approach, OWCP may delay medical treatment for years, cause permanent harm, and violate due process—all without any judicial forum to review or remedy the violation. That result is incompatible with the Constitution's guarantee that rights must be enforceable.

II. The Ninth Circuit's Reliance on an "Alternative Remedial Structure" Conflicts with Supreme Court Precedent Requiring That Such Structures Provide a Meaningful Remedy

The Ninth Circuit invoked *Egbert v. Boule*, 596 U.S. 482 (2022), to deny a Bivens remedy, reasoning that FECA provides an "alternative remedial structure." But FECA provides:

- no judicial review,

- no constitutional review,
- no damages remedy,
- no injunctive relief,
- no mechanism to address unconstitutional delay, and
- no remedy for permanent harm caused by agency inaction.

An “alternative remedial structure” that provides no remedy at all cannot bar constitutional claims. This Court’s decisions in *Egbert, Bush v. Lucas*, 462 U.S. 367 (1983), and *Wilkie v. Robbins*, 551 U.S. 537 (2007), all require that the alternative remedy be meaningful. The Ninth Circuit’s decision expands sovereign immunity and administrative insulation far beyond what this Court has permitted.

III. The Circuits Are Divided on Whether FECA Bars Constitutional Claims

The Third Circuit has held that FECA does not bar constitutional claims and that sovereign immunity does not shield agencies from constitutional review. The Ninth Circuit holds the opposite.

This creates a direct conflict on a question of national importance:

Can federal employees bring constitutional claims arising from FECA administration, or are such claims categorically barred?

This Court routinely grants certiorari to resolve conflicts involving sovereign immunity, administrative law, access to judicial review, and constitutional accountability. This case presents all four.

IV. The Question Presented Is Exceptionally Important and Recurring

FECA covers millions of federal employees, and OWCP processes hundreds of thousands of claims annually. If the Ninth Circuit is correct, then:

- OWCP may violate due process with impunity,
- federal employees have no judicial recourse,
- constitutional rights are unenforceable, and
- administrative delay—even for years—is beyond review.

Petitioner’s seven-year delay is not an isolated incident. It reflects a systemic problem: a federal benefits program operating without constitutional accountability.

This Court has repeatedly intervened when agencies operate without judicial oversight. *Free Enterprise Fund; Thunder Basin Coal Co. v. Reich*, 510 U.S. 200 (1994). The same structural problem is present here.

V. This Case Is an Ideal Vehicle

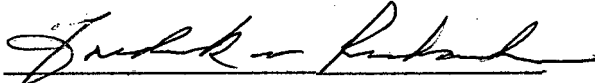
The Ninth Circuit resolved the case on pure questions of law: sovereign immunity, Bivens availability, standing, and FECA's preclusion of constitutional claims. There are no disputed facts. The record is clean. The issue is squarely presented.

This case provides an ideal vehicle for resolving the constitutional question and restoring judicial review where the Constitution requires it.

CONCLUSION

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

Respectfully submitted this 17th day of July, 2026,

A handwritten signature in cursive script, appearing to read "Frederick W. Richardson", written over a horizontal line.

Frederick W. Richardson
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