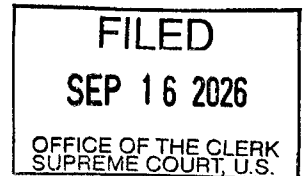


ORIGINAL

26-5703

No. _____
IN THE

SUPREME COURT OF THE UNITED STATES



THEODORE JUSTICE,

Petitioner,

v.

CARRIAGE HILL OF CARTHAGE

HOMEOWNERS ASSOCIATION, INC.,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
COURT OF APPEALS OF NORTH CAROLINA

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the First and Fourteenth Amendments permit a continuing state prefiling injunction that requires both judicial permission and a private attorney's merits certification for covered filings, but provides no express exception for papers seeking review, modification, or vacatur of the injunction itself.
2. Alternatively, whether the Court of Appeals of North Carolina's July 17, 2026 order denying extraordinary relief without opinion should be vacated and the matter remanded to clarify whether that disposition rests on the federal court-access claim or on an adequate and independent state ground.

LIST OF PARTIES

Theodore Justice was the plaintiff below and is the petitioner here. He is an individual, not a nongovernmental corporation, and has no stock ticker symbol.

Carriage Hill of Carthage Homeowners Association, Inc. was the defendant below and is the respondent here. No stock ticker symbol is known to Petitioner. Petitioner is not required to file a corporate disclosure statement under Rule 29.6.

RELATED PROCEEDINGS

Justice v. Carriage Hill of Carthage Homeowners Association, Inc., Moore County District Court, No. 25CV001833-620: complaint dismissed with prejudice February 24, 2026. The Gatekeeper Order bears No. 24CV001833-620, a February 20 file stamp, and a February 24 electronic signature.

Justice v. Carriage Hill of Carthage Homeowners Association, Inc., North Carolina Court of Appeals, No. P26-18: orders dated January 8, January 12, April 22, July 16, and July 17, 2026; the July 17 order denied certiorari and dismissed supersedeas and a temporary stay.

Justice v. Carriage Hill of Carthage Homeowners Association, Inc., Supreme Court of North Carolina, No. 15P26: mandamus and invocation of supervisory authority denied January 20, 2026.

Justice v. Carriage Hill of Carthage Homeowners Association, Inc., North Carolina Court of Appeals, No. 26-429: separate ordinary appeal dismissed June 25, 2026; reconsideration denied June 26, 2026.

Justice v. Carriage Hill of Carthage Homeowners Association, Inc., Supreme Court of North Carolina, No. 15P26-2: certiorari and separate discretionary review denied July 23, 2026. The order denying the July 18 certiorari petition is at Pet. App. 2a; the separate discretionary-review denial is at 14a.

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OPINIONS AND ORDERS BELOW

The Court of Appeals of North Carolina's unpublished July 17, 2026 order in No. P26-18 denied certiorari to review the Gatekeeper Order and dismissed requests for supersedeas and a temporary stay. Pet. App. 1a. That is the judgment sought to be reviewed. The Supreme Court of North Carolina denied further review on July 23, 2026, in No. 15P26-2. Pet. App. 2a. Neither order states reasons. The separate ordinary-appeal dispositions and separate same-day discretionary-review denial are not the judgments presented for review.

The Moore County District Court's unpublished Gatekeeper Order is reproduced at Pet. App. 3a–10a. Its face bears a February 20, 2026 file stamp and a February 24 electronic judicial signature. The separate dismissal-with-prejudice order and related dispositions appear at Pet. App. 12a–17a. This petition does not ask the Court to decide the legal entry date of the injunction from inconsistent dates or docket metadata.

JURISDICTION

Petitioner invokes 28 U.S.C. § 1257(a) to review the July 17, 2026 disposition of his extraordinary-writ proceeding in the Court of Appeals of North Carolina, No. P26-18. Pet. App. 1a. After the Supreme Court of North Carolina declined further discretionary review on July 23, the Court of Appeals was the highest state court in which a decision in that proceeding could be had. *American Railway Express Co. v. Levee*, 263 U.S. 19, 20–21 (1923). The underlying action has ended with prejudice, the continuing injunction remains in force, and this extraordinary-review proceeding has concluded. Pet. App. 1a–2a, 10a, 16a–17a.

Under Rule 13.1, the ninety-day period runs from the July 23 denial of further review and expires October 21, 2026. See *Levee*, 263 U.S. at 21. No subsequent rehearing or order appears in the public appellate dockets checked September 16, 2026. This timing argument concerns the

July 17 extraordinary-review disposition; it does not revive direct review of a different judgment or establish that the federal question necessarily was decided below.

Petitioner seeks review of the federal question or, alternatively, certiorari, vacatur of the July 17 disposition, and remand to clarify its basis. *Capital Cities Media, Inc. v. Toole*, 466 U.S. 378, 378–79 (1984) (per curiam). Section 2106 supplies remedial authority in a case lawfully before this Court, not an independent jurisdictional grant. Part V addresses independence, adequacy, and the limited clarification remedy separately.

CONSTITUTIONAL PROVISIONS INVOLVED

The First Amendment provides:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

Section 1 of the Fourteenth Amendment provides in relevant part:

“No State shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

STATEMENT OF THE CASE

1. The challenged order requires two approvals for a covered filing.

The underlying action concerned alleged vehicle damage at Respondent’s property. The trial court dismissed it with prejudice and imposed a continuing prefiling restriction. Pet. App. 3a, 16a–17a. The court found abusive litigation and stated that Petitioner had notice and an opportunity to dispute the requested injunction but did not attend. Pet. App. 6a. Petitioner had submitted written objections and had been denied remote attendance. Pet. App. 11a, 18a–23a.

This petition does not ask the Court to retry the negligence claim, infer judicial motives, or reweigh the abuse findings. It challenges the mechanism used to control covered filings.

Conclusion of law 7 states that legitimate access can be preserved through permission from the court “or” certification by a licensed attorney. Pet. App. 7a. Decretal paragraph 1 instead requires court approval “and” attorney certification, and paragraph 3 makes the second requirement additional by directing that Petitioner “shall also submit” the proposed filing to a lawyer. Pet. App. 8a.

The order applies to documents filed with the Moore County clerk naming, involving, or relating to Respondent or its counsel, or involving the alleged December 20, 2024 vehicle damage. The clerk may not accept a covered filing without confirmation of approval from the Chief District Court Judge or a delegated judge. The order does not state criteria for that judicial approval, a procedure for requesting it, a decision deadline, or a means of reviewing its denial. Pet. App. 8a.

The separate attorney certification does have criteria. The North Carolina lawyer must review the order and proposed paper, investigate sufficiently to determine a legitimate lawful basis, and certify good faith and the absence of frivolous or improper purposes. The order neither appoints a lawyer nor obligates any lawyer to undertake that work. It states that certification does not establish an attorney-client relationship. Pet. App. 8a–9a.

An improperly accepted covered paper may be struck. Violations may result in contempt and other sanctions. The injunction remains operative until vacated; beginning one year after entry, Petitioner may petition for modification or vacatur. Pet. App. 9a–10a. No express exception protects that petition or a covered paper seeking appellate review. Because North Carolina Rule of Appellate Procedure 3(a) requires a civil notice of appeal to be filed with the clerk of superior

court, a covered notice would ordinarily be presented to the Moore County clerk governed by this directive.

Petitioner reads these provisions together to reach covered filings challenging the restraint itself. That reading is a legal contention based on the text, not an appellate construction already obtained or an established instance of rejection. The permission to request modification does not expressly displace either of the two filing conditions. Pet. App. 8a, 10a.

2. The state proceedings ended without an appellate explanation.

Petitioner stated below that he first learned of and obtained the Gatekeeper Order while reviewing the electronic docket on April 17, 2026. His earlier notice of appeal designated three other orders. Pet. App. 27a–28a, 49a. The separate ordinary appeal was dismissed on June 25; reconsideration was denied June 26; discretionary review was denied July 23. Pet. App. 12a–14a. Those dispositions are not treated here as appellate merits rulings on the Gatekeeper Order.

On June 29, Petitioner filed the Rule 21 petition directly challenging the Gatekeeper Order. Respondent opposed review on July 15. The Court of Appeals denied the petition on July 17 without explaining its basis. Pet. App. 1a, 40a–52a. Petitioner sought further review on July 18, identifying the combined approvals and absence of appellate-preservation exceptions, and requesting alternative relief separating the two conditions and exempting review of the order. Pet. App. 25a–26a, 30a, 36a–37a. The Supreme Court of North Carolina denied certiorari on July 23. Pet. App. 2a.

The appellate clerks accepted the extraordinary-writ papers. The record does not show a post-order Moore County submission, a judicial-permission request, an attorney's refusal to certify, or a clerk rejection. Petitioner does not claim complete exclusion from every court or that the

challenged conditions caused the missed direct appeal. His challenge concerns the continuing command governing covered papers presented to the Moore County clerk.

3. The record identifies the federal claim presented below.

Rule 14.1(g)(i) requires a precise account of the federal presentation. Petitioner relies on the following passages, rather than on an assumption that a general constitutional label preserves every possible claim. See *Adams v. Robertson*, 520 U.S. 83, 86–89 (1997).

Trial court. The written opposition signed January 10, 2026 expressly invoked the First Amendment right of court access and objected on due-process grounds to judicial preapproval. Pet. App. 18a–19a (opposition pp. 6–7; R. pp. 572–573). The later written objections expressly invoked the First Amendment in paragraph 24. Paragraphs 25–26 separately objected to gatekeeping interference with a notice of appeal, citing the state constitution and Rule 3(a). Pet. App. 23a (R. p. 642). The latter paragraphs should not be mistaken for an express federal constitutional guarantee of every appeal.

Court of Appeals. The June 29 petition invoked the Fourteenth Amendment in its notice-and-hearing argument, then challenged the combined court-approval and attorney-certification requirements through narrow-tailoring reasoning, citing Cromer. Pet. App. 42a–44a (petition pp. 10–12). The latter discussion expressly connected Cromer’s due-process reasoning to North Carolina constitutional protections. Its stay request argued that applying to the issuing court would require submission to the same challenged conditions. Pet. App. 46a (petition p. 14). These passages identify the mechanism and asserted access problem; they do not state each component of the present formulation in identical federal terms.

Supreme Court of North Carolina. The July 18 petition expressly identified both approvals and the absence of exceptions for notices of appeal and requests to review or modify the order.

Pet. App. 30a (petition p. 19). Its constitutional discussion invoked the First and Fourteenth Amendments. Pet. App. 33a–34a (petition pp. 24–25). Its requested relief expressly sought exceptions for appellate-preservation and self-review filings, an alternative rather than cumulative approval requirement, and prompt written dispositions of permission requests. Pet. App. 37a (petition p. 28).

The July 18 petition also expressly presented constitutional court-access interests as extraordinary circumstances warranting review, not merely as reasons that the injunction was erroneous. Pet. App. 26a (Question III), 33a–34a. Its prayer sought a reasoned disposition and alternative modification protecting review of the injunction. Pet. App. 36a–37a.

Petitioner submits that the current question narrows the federal court-access claim raised below rather than introduces a new constitutional injury. Once a federal claim is properly presented, a party may develop additional arguments supporting it. *Yee v. City of Escondido*, 503 U.S. 519, 534–35 (1992); *Lebron v. National Railroad Passenger Corp.*, 513 U.S. 374, 379 (1995). The focus on self-review concerns the same order and combined filing restrictions, not a newly alleged enforcement event. Petitioner does not rely on those decisions to excuse a failure to present a distinct federal claim at a required stage; the submission rests on the actual passages identified above.

REASONS FOR GRANTING THE PETITION

I. Review of a filing restraint should not depend on indispensable private approval.

The question concerns the distinction between controlling abusive litigation and controlling access to review of the control itself. Under this order, even a covered filing approved by a judge remains subject to a private lawyer's willingness to investigate and certify it. The clerk cannot substitute the judge's approval for the lawyer's certification. Pet. App. 8a–9a. The concern is not

a lawyer's professional judgment when voluntarily retained. It is the State's making a private certification independently indispensable at the point of filing.

The order provides no express exception for papers seeking its review, modification, or vacatur. Petitioner's construction would therefore place the same private condition on the means of testing whether that condition is lawful. A court-controlled screening process and a mandatory outside certification are not equivalent safeguards: a court can decide a request according to governing law, while the order obligates no private lawyer to accept the task at all.

The proposed constitutional rule is limited. Courts could continue to screen abusive submissions through appropriately tailored procedures and to impose lawful sanctions. But a meaningful route for obtaining review of the restraint should not depend on indispensable private consent, and any judicial screening of time-sensitive review papers should preserve an effective opportunity to seek that review. Petitioner asks the Court to decide that rule, not to declare all attorney-signature requirements invalid.

The important federal question is advanced under Rule 10(c). The petition does not assert a square conflict on identical facts under Rule 10(b). The reason for plenary review is the constitutional boundary governing a class of filing restrictions, not correction of every alleged error in this litigation. If uncertainty about the state ground prevents present consideration of that question, Part V requests a limited clarification remand instead.

II. The decisions concerning lawyer conditions differ materially and require a qualified comparison.

In *Procup v. Strickland*, 792 F.2d 1069, 1070–71, 1074 (11th Cir. 1986) (en banc), the court vacated an attorney-only filing restriction because it could foreclose all suits, while recognizing broad authority to control abusive litigation. The opinion does not establish that every subject-limited attorney condition is impermissible.

The Colorado Supreme Court found *Procup* persuasive and preserved a route through judicial permission governed by stated requirements. *Karr v. Williams*, 50 P.3d 910, 915–16 (Colo. 2002). Its analysis rested on Colorado’s constitutional guarantee of court access as well as the cited reasoning. It is not treated here as a holding on precisely the same federal question. The Florida Supreme Court expressly disagreed with *Procup*’s continuing force and required an attorney’s signature for further filings in that court after repeated abuse of its review processes. *Martin v. State*, 833 So. 2d 756, 759–61 (Fla. 2002).

North Carolina also has upheld a lawyer-signature restriction. *Fatta v. M & M Properties Management, Inc.*, 224 N.C. App. 18, 30–31, 735 S.E.2d 836, 844–45 (2012), regarded the restriction before it as leaving room for meritorious filings. That adverse authority is part of this case’s legal setting. The opinion did not decide the particular combination of indispensable private certification and separate judicial permission for reviewing the restraint itself.

Later Eleventh Circuit decisions further qualify any broad reliance on *Procup*. *DeBose v. United States*, No. 22-13380, slip op. 3–4 (11th Cir. Feb. 8, 2024) (unpublished), upheld an attorney-signature condition limited to future employment-related lawsuits. *DeBose v. United States*, No. 25-12299, slip op. 2–4 (11th Cir. May 21, 2026) (unpublished), affirmed the denial of a motion to dissolve that restriction. These decisions do not overrule *Procup*, but they defeat a simple claim that the circuit categorically rejects mandatory lawyer conditions.

The distinction Petitioner advances is narrower: a restriction on new lawsuits does not itself answer whether combined approvals may govern papers reviewing the restriction. The 2026 *DeBose* opinion considered an appeal from a dissolution ruling; it did not announce a constitutional rule permitting the dual conditions presented here. Nor does that opinion establish

that the dissolution motion was accepted without any attorney certification. The authorities demonstrate differing approaches, not a verified square split on this exact federal question.

III. This Court's access and facial-review decisions support the proposed rule without already deciding it.

Court access is an aspect of the right to petition. *California Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972). *BE&K Construction Co. v. NLRB*, 536 U.S. 516, 524–25, 529–30 (2002), recognizes the petitioning interests implicated by litigation and the particular concerns that can accompany injunctions against ongoing litigation. Neither case affords immunity for abusive filings, nor does either decide the precise prefiling mechanism presented here.

In *Ex parte Hull*, 312 U.S. 546, 548–49 (1941), this Court rejected a prison rule making an outside legal investigator's approval a condition of transmitting habeas papers to the receiving court. The decision concerned habeas access, not a state civil sanction or a private lawyer's certificate. Its relevance is the principle that an outside merits screen can impermissibly prevent a court from receiving a legal challenge. Applying that reasoning here requires deciding how it operates alongside courts' authority to sanction abuse.

City of Lakewood v. Plain Dealer Publishing Co., 486 U.S. 750, 755–62 (1988), permitted a facial challenge to a discretionary licensing scheme closely connected with expression without a prior application and denial. It concerned newspaper licensing, not court-filing injunctions. Petitioner asks whether the same concern about unconstrained permission applies when the regulated activity is petitioning a court and the order supplies no judicial screening standards, while adding an indispensable private merits certification.

That argument does not confuse the two conditions. The attorney certification has substantive standards; the order's judicial approval requirement has none stated in its text. Pet. App. 8a–9a.

The combined mechanism leaves a favorable decision at either stage insufficient by itself. The absence of procedures protecting review papers and filing deadlines compounds that restriction, but those omissions are supporting features rather than separate questions seeking an advisory code of preferred practices.

Workable alternatives remain available. *Cromer v. Kraft Foods North America, Inc.*, 390 F.3d 812, 817–19 (4th Cir. 2004), requires consideration of litigation history, purpose, burdens, alternatives, and narrow tailoring in the federal prefiling-injunction setting. *Karr*, 50 P.3d at 915–16, illustrates a judicial-permission route with specified submissions and criteria. These authorities show possible approaches; they are not offered as binding prescriptions for a North Carolina court or proof that their precise procedures are constitutionally compulsory.

IV. The order supplies the asserted injury, while the record limits the requested decision.

Petitioner is the named subject of a present injunction backed by striking and contempt provisions. Pet. App. 8a–10a. His asserted injury is that continuing legal restriction, not a proved rejection or an attorney’s refusal. Under his reading, the order also governs covered papers seeking its own review. The facial challenge asks whether that mechanism may remain in force without an express review-preserving exception.

The absence of a post-order submission is a limitation, not a fact to conceal. There is no as-applied record demonstrating actual obstruction, delay, or an inability to obtain certification. *Lakewood* supplies an argument for adjudicating a facial permission requirement without first suffering rejection, but its application to this setting remains a question to be decided, not a holding Petitioner assumes.

Acceptance of the state extraordinary-writ petitions is likewise material. Those filings obtained access to the appellate clerks, but did not amend the directive governing the Moore

County clerk. Petitioner does not claim a right to a favorable discretionary ruling or a written opinion in every proceeding. He contends that the continuing restriction on covered clerk-filed review papers presents a distinct issue despite the availability of a different discretionary avenue. Whether that avenue adequately protects review is part of the merits question, not a fact conclusively established in his favor.

A state-court narrowing construction could affect the question. No appellate order supplied one. Petitioner relies on the mandatory text, while acknowledging that the Court would need to determine whether the federal issue is properly presented and reviewable without such a construction. The requested decision does not require resolving the negligence merits, finding misconduct from docket metadata, or attributing the lost direct appeal to an obstruction not shown by this record.

V. The state-review posture supports review or a limited clarification remand.

A. The relevant disposition is the July 17 denial and independence turns on its actual ground.

Petitioner's February 25 notice of appeal did not designate the Gatekeeper Order. He stated below that he first obtained the order on April 17, 2026. Pet. App. 27a–28a, 49a. He does not contend that a direct appeal remains timely or that the two approval conditions caused the omission of a timely notice. The June 29 petition instead invoked the extraordinary-review procedure under North Carolina Rule of Appellate Procedure 21(a)(1). Pet. App. 40a–47a. The July 18 petition sought further review under Rule 21(a)(2), which was denied July 23. Pet. App. 2a, 24a–26a. The refusal of further review is not offered as a new merits judgment. See *Felton v. Barnett*, 912 F.2d 92, 94–95 (4th Cir. 1990).

North Carolina's extraordinary-review standard requires merit or probable error and extraordinary circumstances. *Cryan v. National Council of YMCAs*, 384 N.C. 569, 572–73, 887

S.E.2d 848, 851 (2023). The June 29 petition attacked the cumulative approval requirements and argued that seeking a stay from the issuing court would require submission to the same challenged conditions. Pet. App. 44a–46a. It therefore presented an objection to the continuing operation of the restraint, not only an effort to extend an ordinary appeal deadline. The extent to which that presentation preserved the present federal formulation is addressed in the Statement of the Case.

A state ground is not independent if its application depends on deciding a federal constitutional issue. *Ake v. Oklahoma*, 470 U.S. 68, 75 (1985). *Foster v. Chatman*, 578 U.S. 488, 497–99 & nn.2–3 (2016), applied that principle to an unexplained denial in light of the governing procedure and record. Foster’s arguable-merit threshold differs from North Carolina’s discretionary standard; a federal claim’s presence alone does not establish dependence. Here, a ground dependent on rejecting the federal court-access claim’s merits would not be independent.

Respondent disputed both certiorari requirements: extraordinary circumstances, relying partly on the missed appeal; and merit or probable error, defending the Order as proper under North Carolina law and within the trial court’s discretion. Pet. App. 49a–52a. The unexplained July 17 order does not identify which argument, if either, supplied its ground. Pet. App. 1a. Petitioner does not invoke *Michigan v. Long*, 463 U.S. 1032, 1040–41 (1983), as a presumption that silence alone resolves federal law. See *Coleman v. Thompson*, 501 U.S. 722, 735–40 (1991). Nor does preservation by itself overcome a sufficient independent state ground. *Stembridge v. Georgia*, 343 U.S. 541, 547–48 (1952).

B. Adequacy is a separate federal inquiry not foreclosed by procedural default alone.

The lost ordinary appeal did not eliminate the Court of Appeals’ authority to review the Gatekeeper Order. Rule 21(a)(1) permits certiorari after untimely appellate action, and *Anderson*

v. Hollifield, 345 N.C. 480, 482, 480 S.E.2d 661, 663 (1997), sustained that authority where no notice of appeal had been filed. Issuance nevertheless requires merit or probable error and extraordinary circumstances. Cryan, 384 N.C. at 572–73. The subsequent decision in *State v. Martinez*, No. 101PA25, slip op. 7–10 (N.C. Aug. 14, 2026), reaffirmed that framework and expressly preserved discretion to grant or deny the writ even when its requirements are satisfied. Martinez postdates the orders here; it confirms the present account of Cryan, not a departure from Martinez in July.

Adequacy presents a distinct federal inquiry. An exceptional application of an otherwise valid procedural rule may be inadequate to prevent review of a federal claim. *Lee v. Kemna*, 534 U.S. 362, 375–76, 381–85 (2002). So may a novel and unforeseeable procedural interpretation lacking support in established state practice. *Cruz v. Arizona*, 598 U.S. 17, 25–29 (2023). But discretion alone does not render a state rule inadequate. *Beard v. Kindler*, 558 U.S. 53, 60–62 (2009). Petitioner challenges neither ordinary appeal deadlines generally nor the mere existence of certiorari discretion.

If the July 17 disposition rested on a categorical conclusion that the omitted notice deprived the Court of Appeals of authority to entertain certiorari, that premise would conflict with Rule 21 and Anderson and would require scrutiny under Lee and Cruz rather than acceptance as a settled procedural bar. A discretionary determination under Cryan is different. The unexplained order does not establish which occurred, and Respondent's arguments are not the court's holding. Pet. App. 1a, 49a–52a. Petitioner thus asks the Court to test any identified state ground for adequacy separately from independence; he does not claim that an exceptional application already has been proved. This unresolved distinction supports the limited clarification request below.

C. Toole supports a limited clarification remand when the ground remains uncertain.

In *Capital Cities Media, Inc. v. Toole*, 466 U.S. 378, 378–79 (1984) (per curiam), the Pennsylvania Supreme Court denied without opinion an extraordinary-writ challenge to restrictions on press activity in court proceedings. Because the record did not show whether federal claims or an adequate and independent state ground controlled, this Court granted certiorari, vacated the state judgment, and remanded for proceedings to clarify the record.

Philadelphia Newspapers, Inc. v. Jerome, 434 U.S. 241, 241–42 (1978) (per curiam), likewise vacated and remanded unexplained denials of extraordinary relief involving federal access claims. That case reached this Court by statutory appeal under the then-existing version of § 1257, not by a certiorari grant. *Toole* is the direct certiorari analogue and expressly relies on *Philadelphia Newspapers*. Although *Long* disfavored routine clarification remands, it reserved circumstances in which clarification is appropriate. 463 U.S. at 1041 n.6. *Toole* followed *Long*.

The procedural parallel is an unexplained disposition of an extraordinary proceeding challenging a continuing court-imposed restraint. Petitioner directs the request to the July 17 Court of Appeals order that disposed of his challenge, not to the July 23 refusal of further review. The dual approval provisions and the identified court-access presentation give clarification a concrete purpose: determining whether a nonfederal ground precludes consideration of the federal question. Pet. App. 1a, 7a–10a, 42a–46a. Neither the differing constitutional interests in *Toole* nor silence alone establishes entitlement to that remedy.

Petitioner accordingly asks, in the alternative, that this Court vacate only the July 17 disposition and return the proceeding to the Court of Appeals of North Carolina for such further proceedings as it deems appropriate to clarify the record. That limited relief would not itself vacate the Gatekeeper Order, reinstate the negligence action, excuse the missed ordinary appeal, or require a favorable state decision.

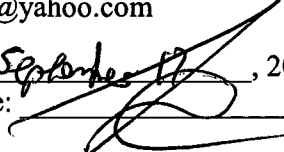
Clarification could establish a state-law barrier rather than lead to federal merits review. In *Toole's* subsequent proceedings, the Pennsylvania Supreme Court explained that its denial rested on the state requirements for prohibition. *Capital Cities Media, Inc. v. Toole*, 506 Pa. 12, 483 A.2d 1339 (1984). That possibility does not negate the utility of identifying the ground; it defines the limited relief requested. The alternative is a clarification remand, not a claim that the missed appeal or any preservation defect has already been cured.

CONCLUSION

The petition for a writ of certiorari to the Court of Appeals of North Carolina should be granted for consideration of the federal question presented. Alternatively, the Court should grant certiorari, vacate that court's July 17, 2026 disposition, and remand for such further proceedings as that court deems appropriate to clarify whether its disposition rests on an adequate and independent state ground. *Capital Cities Media, Inc. v. Toole*, 466 U.S. 378, 378-79 (1984); *Philadelphia Newspapers, Inc. v. Jerome*, 434 U.S. 241, 241-42 (1978).

Respectfully submitted,

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Dated: September 17, 2026
Signature: 

No. _____

SUPREME COURT OF THE UNITED STATES

THEODORE JUSTICE,

Petitioner,

v.

**CARRIAGE HILL OF CARTHAGE
HOMEOWNERS ASSOCIATION, INC.,**

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
COURT OF APPEALS OF NORTH CAROLINA

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI