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No. 26-5827

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SUPREME COURT, U.S.

SUPREME COURT OF THE UNITED STATES

Braheem Hartley,

Petitioner,

vs.

Delaware County et. al.,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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I. Question Presented

Whether Rooker–Feldman doctrine bars a 42 U.S.C. § 1983 action seeking damages for alleged constitutional injuries caused by county officials before any state-court judgment, merely because a later state-court proceeding declined to set aside the underlying tax sale.

LIST OF PARTIES

The following were all parties to the proceeding in the United States Court of Appeals
for the Third Circuit whose judgment is sought to be reviewed:

1. Braheem Hartley, *Petitioner*;
 2. Delaware County, Pennsylvania, *Respondent*;
 3. Delaware County Tax Claim Bureau, *Respondent*;
- and
4. Janine Heinlein, Upset Tax Sale Coordinator, Delaware County Tax Claim
Bureau, *Respondent*.

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IV. Petition for Writ of Certiorari

Petitioner Braheem Hartley petitions this court for a writ of certiorari to review the judgment of the U.S. Court of Appeals for the Third Circuit. Petitioner requests that the Court grant the petition, vacate the judgment below, and remand for further consideration. In the alternative, petitioner requests plenary review of the question presented.

V. Opinions Below

The nonprecedential decision of the United States Court of Appeals for the Third Circuit affirming the judgment below is *Hartley v. Delaware County*, No. 25-3196, slip op. (3d Cir. Apr. 3, 2026). The Court of Appeals denied panel only rehearing on July 14th 2026. The memorandum and order of the United States District Court for the Eastern District of Pennsylvania dismissing the action were entered on October 23, 2025, in *Hartley v. Delaware County*, No. 2:25-cv-03078-JDW (E.D. Pa.). The district court denied reconsideration on November 5, 2025.

VI. Jurisdiction

This Court has jurisdiction under 28 U.S.C. § 1254(1). The United States Court of Appeals for the Third Circuit entered judgment on April 3, 2026. The Court of Appeals denied panel rehearing on July 14th 2026. This petition is timely filed within ninety days of the denial of rehearing. See 28 U.S.C. § 2101(c).

VII. Constitutional Provisions Involved

United States Constitution, Amendment V:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be put twice in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property

be taken for public use, without just compensation.

United States Constitution, Amendment XIV § 1:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State 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.

VIII. Statement of the Case

Petitioner's home was sold at an upset tax sale on September 19, 2024, for approximately \$220,000 to satisfy \$2,728.08 in delinquent taxes. Before any later state-court judgment, County officials, within the asserted 30-day objection period, acknowledged petitioner's filing of petition to set aside tax sale and refused his timely tender of \$2,728.08 on October 4, 2024 on the same day while petitioner was pursuing objections to the sale.

County officials later refused a second tender of \$15,427.03 on December 5, 2024, consisting of the delinquent amount plus current-year taxes in full while petitioner was still the unencumbered record owner. The property contained substantial equity at the time of the sale, while petitioner lost ownership of the property.

From the October 4th 2024 filing of petition to set aside tax sale in the court of common pleas, the court conducted a hearing on April 29, 2025.

On June 12, 2025, the Court of common pleas denied relief, holding that notice was sufficient and that Pennsylvania law did not permit redemption after the upset sale.

Petitioner did not appeal that ruling.

The District Court Ruling

On June 13, 2025, petitioner filed this action under 42 U.S.C. § 1983 in the United States District Court for the Eastern District of Pennsylvania against Delaware County, the Delaware County Tax Claim Bureau, and Janine Heinlein.

Petitioner later filed amended pleadings. The operative Second Amended Complaint sought compensatory, declaratory, punitive, and equitable relief. It challenged the upset sale, the County's refusal to accept tendered payments, and the alleged retention of surplus value. Petitioner also asserted due-process,

Takings, Monell, and related state-law claims.

Respondents filed a motion styled under Federal Rule of Civil Procedure 12(b)(6), supported by a memorandum raising the Tax Injunction Act and the Rooker–Feldman doctrine. The district court described the motion as proceeding under Rules 12(b)(1) and 12(b)(6), and dismissed the action for lack of subject-matter jurisdiction under Rooker–Feldman.

The district court concluded that petitioner's asserted injury was the loss of his home and that the injury resulted from the Court of Common Pleas decision. It reasoned that petitioner sought relief that would undo or reverse the state-court ruling. Because it found jurisdiction lacking, the district court did not resolve petitioner's remaining claims on their merits.

Petitioner moved for reconsideration under Rule 59(e). Petitioner argued that the “reversal” or “set-aside” language in earlier filings was clerical and that he instead sought redress for alleged constitutional injuries caused by County conduct before the June 12, 2025 state-court judgment. The district court denied reconsideration on November 5, 2025.

Appeal To the Third Circuit

Petitioner appealed the dismissal and the denial of reconsideration. On appeal, Petitioner argued that the District Court had misidentified the source of his alleged injuries. Petitioner maintained that the September 19, 2024 tax sale and the County's refusals of his October 4 and December 5, 2024 tenders were executive and administrative acts occurring before the June 12, 2025 state-court judgment.

Petitioner relied on *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280 (2005), *Great Western Mining & Mineral Co. v. Fox Rothschild LLP*, 615 F.3d 159 (3d Cir. 2010), and *Merritts v. Richards*, 62 F.4th 764 (3d Cir. 2023). Petitioner also explained that subsequent filings had clarified that he sought damages for alleged constitutional injuries caused by the County's own conduct, rather than appellate review or reversal of the state-court judgment, referencing petitioner's documents for support of petitioner's position.

On April 3, 2026, the Court of Appeals issued a nonprecedential opinion affirming the judgment. The court held that, to the extent Petitioner sought relief from injuries caused by the state-court judgment and invited review or rejection of that judgment, his claims were barred by Rooker–Feldman.

The court further concluded that claims raised or capable of being raised in the state proceeding were barred by claim preclusion and that, even if not barred, Petitioner's constitutional claims failed on the merits.

On April 8th 2026, petitioner timely sought panel rehearing. On July 14, 2026,

the Court of Appeals denied rehearing without a further opinion.

Respondents acknowledged in their appellate brief that neither Petitioner nor any lienholders had received the balance of the tax-sale proceeds. Respondents explained that payment distribution had not occurred because the litigation remained pending and the deed transfer had not been finalized.

After the panel issued its opinion, however, the tax-claim deed was recorded on April 21, 2026. On June 29, 2026, the Court of Appeals granted Petitioner's motion to take judicial notice of the recorded deed and title transfer. Petitioner represents that, as of the filing of this petition, he has not received a distribution of the net surplus or any additional proceeds from the 2024 sale of the property. Petitioner states that fact to explain the continuing practical significance of his pleaded damages claim and does not ask this Court to adjudicate liability arising solely from post-judgment events.

After the panel issued its opinion, this Court decided *T. M. v. University of Maryland Medical System Corp.*, 608 U.S. ____ (June 18, 2026), reaffirming the narrow scope of *Rooker–Feldman*, and *Pung v. Isabella County*, 609 U.S. ____ (June 23, 2026), addressing the protected interest in net proceeds from a tax sale.

This petition follows.

IX. REASONS FOR GRANTING THE WRIT

I. The Court Should Grant the Petition, Vacate the Judgment, and Remand in Light of *T. M.* and *Pung*

This Court may grant a petition, vacate the judgment below, and remand when a recent development reveals a reasonable probability that the decision rests on a premise the lower court might reject upon further consideration and when such reconsideration may affect the litigation's outcome. *Lawrence v. Chater*, 516 U.S. 163, 167–68 (1996). A GVR permits the lower court to evaluate the development in the first instance without requiring this Court to decide the ultimate merits. *Ibid.*

That disposition is appropriate here. The Court of Appeals issued its reasoned opinion on April 3, 2026. Pet. App. 1a–5a. After that opinion, this Court decided *T. M. v. University of Maryland Medical System Corp.*, 608 U.S. ____ (June 18, 2026), addressing the scope and application of *Rooker–Feldman*, and *Pung v. Isabella County*, 609 U.S. ____ (June 23, 2026), clarifying the proper compensation baseline following a fairly conducted tax sale. The Court of Appeals denied panel rehearing on July 14, 2026, without issuing a further opinion explaining whether or how either decision affected the rationales stated in its April 3 opinion. *T.M.* and *Pung* were issued on June 18 and June 23, 2026. Pet. App. ____A. Also, Pet. App. ____G.

Petitioner does not contend that either decision requires judgment in his favor. Nor does Petitioner ask this Court to decide the ultimate preclusion or merits questions in the first instance. The narrower submission is that the recent decisions materially bear on two premises underlying the judgment below and create a reasonable probability that reconsideration may affect the treatment of at least one federal damages claim.

First, *T. M.* bears on the Court of Appeals' application of Rooker–Feldman. That decision applied the doctrine where the plaintiff complained of injury caused by a state-court order and sought federal review and rejection of that order.

The present petition, by contrast, is limited to the claim-specific treatment of damages theories alleging injury from County conduct occurring before the state judgment. Petitioner does not ask this Court to invalidate the state judgment or deed or to restore title.

A remand would permit the Court of Appeals to determine whether *T. M.* affects its treatment of those narrowed damages claims. *T.M.* reaffirmed that the doctrine concerns state-court losers complaining of injuries caused by state judgments and seeking federal review and rejection of those judgments.

Second, *Pung* bears on the Court of Appeals' alternative takings analysis. Respondents acknowledged below that the balance of the tax-sale proceeds had not been distributed. Pet. App. ___A (Resp. C.A. Br. 5 n.1). The panel nevertheless relied on the availability of Pennsylvania's statutory distribution process when rejecting the takings theory. Pet. App. ___A. *Pung* subsequently clarified that, following a fairly conducted tax sale, the relevant constitutional measure is the auction price rather than hypothetical fair-market value. It also bears directly on the former owner's interest in the net auction surplus.

Reconsideration would not be futile. At least one damages theory, concerning the County's alleged administration or retention of the net auction surplus, may be considered without reversing the state-court judgment, invalidating the recorded deed, or restoring title.

The Court of Appeals would remain free on remand to apply any properly preserved preclusion and merits defenses on a claim-specific basis.

Petitioner acknowledges that *T. M.* and *Pung* were decided before the Court of Appeals denied rehearing. He therefore does not contend that the panel lacked an

opportunity to consider them. But both decisions postdated the panel's reasoned opinion, and the summary rehearing order does not disclose whether or how the panel applied either decision. Under *Lawrence*, the lower court's opportunity to consider a recent development does not, by itself, eliminate the Court's authority to order reconsideration where there remains a reasonable probability that the development could affect the outcome. *Lawrence*, 516 U.S. at 169–70.

The equities favor a limited remand. Petitioner seeks no summary merits ruling and no disturbance of the state judgment or recorded deed. A GVR would allow the Court of Appeals to address the recent decisions in the first instance, clarify its treatment of Petitioner's narrowed damages claims, and determine whether its prior judgment should remain unchanged.

Accordingly, petitioner asks the Court to grant the petition, vacate the judgment below, and remand for further consideration in light of *T. M. v. University of Maryland Medical System Corp.* and *Pung v. Isabella County*.

II. T. M. Warrants Reconsideration of the Rooker–Feldman Analysis

In *T. M. v. University of Maryland Medical System Corp.*, 608 U.S. ____ (2026), this Court reaffirmed that Rooker–Feldman applies within the narrow category of cases in which a state-court loser complains of injury caused by a state-court judgment and seeks federal district-court review and rejection of that judgment. *Id.*, slip op., at 1, 7–8; see also *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280, 283–84 (2005); *Skinner v. Switzer*, 562 U.S. 521, 531–32 (2011).

The federal complaint at issue in *T. M.* fell directly within that category. It sought declarations that the state-court consent order violated the plaintiff's rights, had been obtained under duress, and was "unconstitutional, unenforceable, and void ab initio." It also sought an injunction prohibiting enforcement of that order. The Court concluded that the plaintiff complained of injuries caused by the consent order itself and plainly sought federal review and rejection of the state-court judgment. *T. M.*, slip op., at 3, 8.

But *T. M.* did not decide how Rooker–Feldman applies when a federal plaintiff attributes a particular injury to independent conduct by a defendant rather than to the later state-court judgment. The Court noted that *T. M.* had argued in the Fourth Circuit that her action concerned injuries inflicted by the medical center rather than by the consent order, but that she had not raised that argument in this Court. *Id.* at 9 n.6. The Court therefore had no occasion to resolve that antecedent-causation issue.

Petitioner does not rely on the proposition that Rooker–Feldman applies only after state appellate review has ended. *T. M.* rejected that proposition. The question here instead concerns the doctrine's separate source-of-injury requirement: whether particular federal damages claims alleged injury caused by the state judgment itself or by conduct attributable to County officials. Pet. App. L.

Petitioner acknowledges that the operative complaint included declaratory and equitable requests that the lower courts understood as seeking to disturb the state-court result. Pet. App. ____ A.

Rooker–Feldman may apply to the extent those requests sought review or rejection of the Court of Common Pleas judgment. But the complaint also sought damages for injuries

allegedly caused by County conduct, and the presence of judgment-directed relief did not eliminate the need to identify the alleged source of each distinct injury and the relief requested for it.

The alleged County conduct included the September 19, 2024 tax sale, the refusal of Petitioner's October 4, 2024 tender, the refusal of his December 5, 2024 tender, and the County's administration of the sale proceeds. Pet. App. ___B.

Those acts occurred independently of, or were administered separately from, the Court of Common Pleas later determination that the sale would not be set aside. Petitioner alleged that the County's own executive and administrative conduct caused compensable injuries.

Pet. App. ___L. See also Pet. App. ___K. Petitioner does not ask this Court to decide whether those allegations ultimately state valid constitutional claims.

This petition is correspondingly limited. Petitioner does not ask this Court to declare the June 12, 2025 state-court judgment unconstitutional or void, enjoin its enforcement, invalidate the recorded deed, or restore title. Petitioner seeks reconsideration only of the jurisdictional treatment of damages theories alleging injuries caused by County conduct. Unlike the judgment-directed relief in *T. M.*, adjudicating those particular damages theories would not necessarily require a federal court to exercise appellate authority over the state judgment.

The Court of Appeals stated that *Rooker–Feldman* applied “to the extent” petitioner sought relief from injuries caused by the state-court judgment and invited review or rejection of that judgment. Pet. App. ___A. But the opinion did not expressly identify which particular damages theory alleged a judgment-caused injury, which requested remedy necessarily

required rejection of the state judgment, or why each alleged injury arising from County conduct should be attributed to the later judicial decision. It instead proceeded to discuss claim preclusion and the merits as alternative grounds.

A remand would allow the Court of Appeals to reconsider that analysis in light of *T. M.* and to distinguish between two categories: claims or remedies that constitute a direct attack on the state judgment, and claims seeking damages for injuries allegedly caused by independent County conduct. Such reconsideration would not require judgment for Petitioner. The Court of Appeals would remain free to determine, claim by claim, whether any damages theory is barred by preclusion or fails on the merits.

Accordingly, *T. M.* creates a substantial reason for the Court of Appeals to reconsider whether its Rooker–Feldman analysis adequately separated Petitioner’s judgment-directed requests from his narrowed damages claims alleging injury from antecedent County conduct.

III. *Pung* Warrants Reconsideration of the Alternative Takings Analysis

The Court of Appeals alternative merits analysis relied on Pennsylvania’s statutory process for distributing excess tax-sale proceeds be returned to the former owner in rejecting petitioner’s Takings claim. Pet. App. ___A. See also 72 Pa. Stat. § 5860.205(d)–(f).

But the record before the Court of Appeals also reflected that the proceeds had not actually been distributed. Respondents acknowledged that neither Petitioner nor any lienholders had received the balance of the sale proceeds and explained that distribution had not occurred because the litigation remained pending and the deed transfer had not been finalized. Resp. C.A. Br. 5 n.1. See also Pet. App. ___N.

One of those stated factual circumstances subsequently changed. After the panel issued its reasoned opinion, the tax-claim deed was recorded on April 21, 2026. Pet. App. ___M. On June 29, 2026, the Court of Appeals granted petitioner’s motion to take judicial notice of the completed deed and title transfer. Pet. App. ___F; C.A. Doc. 30.

Petitioner represents that, as of the filing of this petition, he has not received a distribution of the net surplus. Petitioner offers that fact only to explain the continuing practical significance of the pleaded damages theory and does not ask this Court to adjudicate liability arising solely from post judgment events.

In *Tyler v. Hennepin County*, 598 U.S. 631, 639–47 (2023), this Court held that the government may sell property to recover unpaid taxes but may not appropriate value exceeding the taxpayer’s debt. The taxpayer retains a protected interest in the surplus generated after the government satisfies the taxes and lawful charges it is owed.

After the panel issued its opinion in this case, this Court clarified the measure of that protected interest in *Pung v. Isabella County*, 609 U.S. ___ (2026). *Pung* held that, following a fairly conducted tax sale, the constitutional baseline is the auction price rather than the property’s hypothetical fair-market value. When the government seizes and sells property to collect a tax debt, the former owner is entitled to the surplus sale proceeds—“nothing less, and nothing more.” *Id.*, slip op., at 6.

Pung narrows Petitioner’s takings theory. It forecloses any claim that the amount of just compensation is established solely by subtracting the tax debt from the property’s hypothetical fair-market value. Petitioner therefore does not seek compensation based merely on the difference between the property’s alleged market value and the \$220,000 auction

price. Nor does Petitioner contend that *Pung* creates a federal right of post-sale redemption, requires distribution on the date of the auction, or invalidates reasonable procedures for determining taxes, costs, lien priorities, and the person entitled to the remaining balance. *Pung* itself limited its auction-price holding to a sale fairly conducted in light of the Nation's historical tax-sale practices and left preserved procedural-fairness issues for consideration on remand.

But *Pung* also makes the net auction surplus, not merely the existence of a statutory distribution mechanism, the relevant protected property. Respondents acknowledged that no distribution had occurred. The panel's reasoned opinion did not have the benefit of *Pung* when it considered whether Pennsylvania's provision for a future distribution conclusively disposed of Petitioner's allegation that the County had retained the sale proceeds without compensation. Pet. App. ___N; Pet. App. ___A. A statutory procedure capable of producing compensation and the actual return of the protected surplus are not necessarily the same.

Knick v. Township of Scott, 588 U.S. 180, 190–94 (2019), supports that limited distinction.

Knick does not determine whether a taking occurred here or the date on which a Pennsylvania tax-sale surplus became payable. It establishes, however, that once the government takes protected property without providing just compensation, the existence of a state compensation procedure does not by itself displace the owner's federal claim under 42 U.S.C. § 1983.

Petitioner does not ask this Court to determine the amount of any net surplus, the validity or priority of any lien, the precise date on which distribution became required, or whether every administrative delay constitutes a taking. Those questions may depend on Pennsylvania law, the complete distribution record, and defenses not resolved in the panel's

reasoned opinion. The narrower question for remand is whether, in light of *Pung*, the availability of Pennsylvania's statutory distribution process conclusively defeats a pleaded damages theory when the record reflected that the protected balance had not actually been distributed.

A GVR would permit the Court of Appeals to reconsider that issue in the first instance. The court could determine whether *Pung* affects its alternative takings analysis while leaving the tax sale, the Court of Common Pleas judgment, the recorded deed, and all lawful taxes, costs, and lien priorities undisturbed. Petitioner seeks reconsideration, not a ruling from this Court that he is entitled to judgment.

Accordingly, *Pung* supplies a substantial reason for the Court of Appeals to reconsider whether its alternative merits analysis fully resolved Petitioner's narrowed claim concerning the County's alleged retention or non-distribution of the net auction surplus.

IV. The Alternative Holdings Do Not Make Remand Futile

Petitioner recognizes that the Court of Appeals discussed Rooker-Feldman, claim preclusion, and the merits as alternative grounds for affirmance. Pet. App. ____ A. Petitioner does not contend that every claim or form of relief contained in the operative complaint necessarily survives each of those doctrines. Nor does he ask this Court to review the state court's notice ruling, create a right of redemption after an upset sale, invalidate the recorded deed, or restore title.

The narrower submission is that the alternative holdings do not eliminate a reasonable possibility that reconsideration under *T. M.* and *Pung* could affect the treatment of at least one federal damages claim. In particular, a claim concerning the County's administration or

alleged retention of the net auction surplus may be considered without disturbing the state-court judgment or the completed sale. Pet. App. ____L.

A. Preclusion Is Distinct From Subject-Matter Jurisdiction

Rooker–Feldman and claim preclusion address different questions. Rooker–Feldman concerns whether a federal district court has subject-matter jurisdiction over a claim alleging injury caused by a state-court judgment and seeking federal review and rejection of that judgment. Preclusion concerns the effect a prior judgment may have on a claim otherwise within the federal court’s jurisdiction. *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280, 292–93 (2005).

The distinction matters here. The Court of Appeals stated generally that claims raised or capable of being raised in the state tax-sale proceeding were barred by claim preclusion. Pet. App. ____A. But the opinion did not separately explain whether every federal damages theory involved the same cause of action, the same parties or their privies in the same capacities, or a claim that was actually or could have been litigated in the proceeding to set aside the tax sale. Nor did it separately address whether the pleaded surplus retention theory concerning the County’s administration of the sale proceeds was identical to a claim adjudicated, or capable of being adjudicated in that proceeding.

Petitioner does not ask this Court to decide those questions of Pennsylvania preclusion law in the first instance. He also does not contend that correction of the Rooker–Feldman analysis would necessarily require judgment in his favor. The narrower point is that a potential preclusion defense does not convert an injury allegedly caused by County conduct into an injury caused by a later state-court judgment.

If federal jurisdiction exists over particular damages claim, the Court of Appeals may consider preclusion under the standards governing that defense and on a claim-specific record.

A GVR would permit the court to conduct that analysis while preserving the distinction between jurisdiction and preclusion emphasized in *Exxon Mobil* and recently applied in *T. M.*

B. The Alternative Merits Analysis Did Not Conclusively Resolve the Undistributed-Surplus Claim

The Court of Appeals alternative merits analysis likewise does not establish that reconsideration would be pointless. Respondents acknowledged in their appellate brief that neither Petitioner nor any lienholders had received the balance of the tax-sale proceeds. They explained that distribution had not occurred because litigation remained pending and the deed transfer had not been finalized. Resp. C.A. Br. 5 n.1; Pet. App. ___N.

After the panel issued its reasoned opinion, the deed was recorded. Pet. App. ___M. The Court of Appeals thereafter granted Petitioner's motion to take judicial notice of the completed deed and title transfer. C.A. Doc. 30; Pet. App. ___F. Petitioner represents that, as of the filing of this petition, he has not received a distribution of the net surplus. He offers that representation only to demonstrate the continuing practical significance of the pleaded damages theory, not to ask this Court to adjudicate liability arising solely from postjudgment events.

For the reasons explained in Part III, *Pung* materially clarifies the nature and measure of the protected property interest following a fairly conducted tax sale. It rejects a compensation theory based solely on hypothetical fair-market value, but identifies the net auction surplus

as the relevant protected amount. *Pung v. Isabella County*, 609 U.S. ___, ___ (2026) (slip op., at 6).

The panel's alternative discussion relied on Pennsylvania's statutory distribution process, but it did not establish that Petitioner had received the net surplus, that no protected balance existed, or that an accounting and distribution had been completed. Nor did it conclusively determine whether the alleged nondistribution of the proceeds was attributable to the state-court judgment rather than to the County's administration of the sale.

The existence of a procedure through which compensation may eventually be distributed is not necessarily identical to the actual provision of compensation. *Knick v. Township of Scott*, 588 U.S. 180, 190–94 (2019). That does not mean every administrative delay constitutes a taking. Pennsylvania may use reasonable procedures to determine lawful taxes, costs, commissions, lien priorities, and the person entitled to the remaining balance. But the panel's alternative analysis does not eliminate the need to consider whether the narrowed claim concerning the actual net auction surplus remains viable after *Pung*.

C. A Claim-Specific Remand Would Remain Meaningful

At least one damages theory, concerning the County's administration or alleged retention of the net auction surplus, may be analyzed without reviewing or rejecting the state-court judgment. Pet. App. ___ L. The validity of the tax sale, the Court of Common Pleas judgment, and the recorded deed may remain undisturbed while a federal court separately considers whether the County fulfilled its obligations concerning the proceeds generated by the sale.

A remand would require the lower courts to distinguish claims and remedies directed at the state judgment from damages claims alleging injury caused by independent County conduct. The Court of Appeals could then apply preclusion, pleading requirements, municipal-liability principles, and any other properly preserved defenses to each claim under the appropriate standards.

The panel's rejection of Petitioner's Monell theory does not necessarily render that reconsideration immaterial. That conclusion depended on the panel's determination that Petitioner had not alleged an underlying constitutional violation. Pet. App. ____ a n.2. If the treatment of the narrowed surplus theory warrants reconsideration under *Pung*, the related municipal-liability analysis may require reconsideration as well. Petitioner does not contend that Monell liability follows automatically or ask this Court to decide that issue in the first instance.

Nor must every claim survive for a GVR to have practical effect. The due-process, redemption, title-restoration, and hypothetical-market-value theories may remain subject to the panel's alternative reasoning while the distinct net-surplus damages theory receives renewed consideration. A different treatment of even that limited theory could affect the judgment and therefore would not constitute a merely advisory exercise.

A GVR would not direct entry of judgment for Petitioner. The Court of Appeals would remain free to affirm again after considering *T. M.* and *Pung*, separating jurisdiction from preclusion, and addressing the narrowed claims individually. That limited disposition accords with the purpose of a GVR: to obtain the lower court's considered analysis when recent developments create a reasonable probability that further consideration may affect the

outcome. *Lawrence v. Chater*, 516 U.S. 163, 167–68 (1996).

Accordingly, the alternative holdings do not foreclose meaningful reconsideration or defeat Petitioner's principal request that the Court grant the petition, vacate the judgment below, and remand for further consideration in light of *T. M.* and *Pung*.

V. Alternatively, the Question Presented Warrants Plenary Review

If the Court concludes that a GVR is not appropriate, the question presented warrants plenary review. The source-of-injury issue arises when state or local officials allegedly commit executive or administrative misconduct before a state-court judgment, and the federal plaintiff later seeks damages without requesting reversal of that judgment. The distinction determines whether the objection concerns subject-matter jurisdiction under *Rooker–Feldman* or the separate operation of ordinary preclusion principles.

The decision below is in serious analytical tension with *HPIL Holding, Inc. v. Zhang*, 168 F.4th 944, 949–52 (6th Cir. 2026). HPIL required the federal court to identify the actual source of the alleged injury and held that a state judgment's ratification of, acquiescence in, or failure to remedy antecedent misconduct does not necessarily make the judgment the source of the injury. It further explained that tension between a federal claim and a state court's reasoning may implicate preclusion rather than subject-matter jurisdiction.

Here, petitioner alleges that the September 19, 2024 tax sale and the County's October 4 and December 5, 2024 refusals of his tenders occurred before the June 12, 2025 state-court judgment, and that the County, not the state court, administered the sale proceeds and allegedly retained or failed to distribute the net surplus. The state court later declined to set aside the sale, but petitioner now seeks damages without asking that the judgment or recorded deed be invalidated. This case therefore presents whether that later judgment

became the source of injuries allegedly caused by antecedent County conduct, or whether the judgment's effect on those claims is properly addressed through ordinary preclusion principles rather than Rooker-Feldman.

Petitioner does not contend that the decisions establish a perfectly square circuit conflict or that plenary review must produce judgment in his favor. But the differing approaches demonstrate the need for clarification concerning whether a later state judgment converts an independently alleged injury from prior official conduct into an injury "caused by" that judgment. Should the Court decline to order reconsideration in light of *T. M.* and *Pung*, it should grant plenary review of that question.

X. CONCLUSION

For the foregoing reasons, petitioner asks the Court to grant the petition for a writ of certiorari, vacate the judgment of the United States Court of Appeals for the Third Circuit, and remand the case for further reconsideration. In the alternative, petitioner asks the Court to the Court to grant plenary review of the question presented.

DATED this 10th day of September, 2026.

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