26-5858

IN THE SUPREME COURT OF THE UNITED STATES

ORIGINAL

FILED
APR 16 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

NIKITA LYNETTE BARNES,
Petitioner,

v.

GUILD MORTGAGE COMPANY LLC,
DESIREE (AMBER) KRAMER,
MCCALLA RAYMER LEIBERT PIERCE, LLC, et al.,
Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. **Whether the Due Process Clause of the Fifth Amendment permits a federal court to dismiss a civil action with prejudice at the pleading stage, under the circumstances presented here, after denying requests for discovery and other procedures the plaintiff sought to develop the factual basis of her claims.**

2. **Whether, after a plaintiff sought voluntary dismissal following the filing of responsive pleadings, the district court's denial of voluntary dismissal and entry, in the same order, of a dismissal with prejudice—considered together with the preceding denial of discovery and compulsory process—provided the procedural protections required before the plaintiff's claims were permanently extinguished.**

3. Whether the combined procedural rulings in this case—including the denial of discovery, the treatment of Petitioner's Notice of Voluntary Dismissal, and the dismissal with prejudice—present an important federal question concerning the procedural protections required before civil claims are permanently extinguished.

LIST OF PARTIES TO THE PROCEEDING

Pursuant to Supreme Court Rule 14.1(b), the parties to the proceeding in the United States Court of Appeals for the Eleventh Circuit whose judgment is sought to be reviewed are:

Petitioner:
Nikita Lynette Barnes.

Respondents:
Guild Mortgage Company LLC;
Desiree (Amber) Kramer;
McCalla Raymer Leibert Pierce, LLC;
Victoria M. Calvert; and
Linda T. Walker.

CORPORATE DISCLOSURE STATEMENT

Petitioner Nikita Lynette Barnes is a natural person proceeding pro se. Petitioner therefore has no disclosure to make under Supreme Court Rule 29.6.

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The unpublished opinion of the United States Court of Appeals for the Eleventh Circuit in Barnes v. Guild Mortgage Company LLC, et al., No. 24-14033, entered December 9, 2025, is reproduced at Appendix A. The order denying Petitioner's timely petition for panel rehearing and rehearing en banc, entered

January 21, 2026, is reproduced at Appendix B. The district court's final order relevant to the judgment under review is reproduced at Appendix C. Because the court of appeals' decision is unpublished, Petitioner is not aware of an official United States Reports citation.

STATEMENT OF JURISDICTION

Petitioner seeks review of the judgment of the United States Court of Appeals for the Eleventh Circuit entered on December 9, 2025, in Case No. 24-14033. Petitioner timely sought panel rehearing and rehearing en banc, which were denied on January 21, 2026. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution provides in relevant part: "No person shall ... be deprived of life, liberty, or property, without due process of law."

Federal Rule of Civil Procedure 12(b)(6) authorizes a motion asserting failure to state a claim upon which relief can be granted.

Federal Rule of Civil Procedure 26 governs discovery in civil actions. Federal Rule of Civil Procedure 45 governs subpoenas, including subpoenas commanding attendance and testimony or the production of designated documents, electronically stored information, or tangible things.

Federal Rule of Civil Procedure 41 governs voluntary dismissal. Rule 41(a)(1) addresses dismissal without a court order in specified circumstances, while Rule 41(a)(2) provides for dismissal by court order at the plaintiff's request when Rule 41(a)(1) does not apply.

The full text of any provision considered necessary by the Court may be reproduced in the appendix.

STATEMENT OF THE CASE

Petitioner Nikita Lynette Barnes commenced a civil action in the United States District Court for the Northern District of Georgia arising from the servicing and enforcement of her mortgage loan, foreclosure-related conduct, and related events. Petitioner proceeded pro se and asserted federal and state-law claims against the named Respondents.

During the district court proceedings, Petitioner sought discovery and compulsory process, including a subpoena pursuant to Federal Rule of Civil Procedure 45, to obtain evidence that she maintained was relevant to the development and presentation of her claims and to the issues raised by Respondents' motions. The district court denied the requested subpoena, requests for discovery, and related relief before the action was finally resolved.

Petitioner repeatedly sought interim relief intended to preserve the property while her federal claims remained pending. Petitioner sought such protective or stay relief on four occasions, and each request was denied. The foreclosure and possession proceedings continued while the federal litigation remained pending, and Petitioner ultimately lost possession of the property and became homeless while attempting to continue litigating the action pro se.

These circumstances substantially impaired Petitioner's practical ability to comply with litigation deadlines and continue developing her claims. During the same proceedings, Petitioner sought discovery and compulsory process, including a subpoena pursuant to Federal Rule of Civil Procedure 45, to obtain evidence she

maintained was relevant to the development and presentation of her claims. Those efforts were denied before the action was finally resolved.

After Respondents had served responsive pleadings, Petitioner filed a Notice of Voluntary Dismissal seeking to terminate the action. Petitioner had also raised concerns regarding judicial impartiality during the proceedings. Because responsive pleadings had already been served, Petitioner does not contend that her filing automatically terminated the action under Rule 41(a)(1)(A)(i). Rather, the attempted voluntary dismissal forms part of the procedural sequence presented for review. Petitioner maintains that the district court treated the filing as requiring judicial action, denied voluntary dismissal, and, in the same order, dismissed the operative claims with prejudice.

The district court entered a final order dismissing Petitioner's Third Amended Complaint with prejudice. Petitioner appealed.

On December 9, 2025, the United States Court of Appeals for the Eleventh Circuit issued an unpublished decision in Case No. 24-14033. The court affirmed the district court in substantial part. As to Respondents Victoria M. Calvert and Linda T. Walker, however, the court vacated the dismissal with prejudice and remanded for dismissal without prejudice because of lack of service. The court also concluded that McCalla Raymer Leibert Pierce, LLC had waived a service defense by appearing and moving on Rule 12(b)(6) grounds.

Petitioner timely sought panel rehearing and rehearing en banc. The Eleventh Circuit denied rehearing on January 21, 2026. Petitioner now seeks review of the December 9, 2025 judgment.

The petition does not ask this Court merely to reweigh the facts underlying the mortgage dispute. It presents procedural questions arising from the manner in which the federal action was terminated, including the interaction among pleading-

stage dismissal, requests for factual development, the Notice of Voluntary Dismissal, and dismissal with prejudice.

REASONS FOR GRANTING THE WRIT

I. THIS CASE PRESENTS AN IMPORTANT QUESTION CONCERNING PROCEDURAL DUE PROCESS AND DISMISSAL WITH PREJUDICE BEFORE MEANINGFUL FACTUAL DEVELOPMENT.

The Fifth Amendment requires constitutionally adequate procedures before the Federal Government deprives a person of a protected interest. In Mathews v. Eldridge, 424 U.S. 319, 333-35 (1976), this Court explained that the process due in a particular setting depends on the private interest affected, the risk of erroneous deprivation under the procedures used and the probable value of additional safeguards, and the government's interests.

Related decisions emphasize the importance of a meaningful opportunity to be heard. See Fuentes v. Shevin, 407 U.S. 67, 80-82 (1972); Goldberg v. Kelly, 397 U.S. 254, 267-68 (1970). Petitioner does not contend that those cases create a categorical constitutional right to discovery before every Rule 12(b)(6) decision. They instead supply the general due-process principles against which Petitioner asks the Court to assess the combined procedures used here.

Logan v. Zimmerman Brush Co., 455 U.S. 422, 428-33 (1982), is particularly relevant to the question presented. There, this Court recognized that a state-created cause of action could constitute a protected property interest and held that a claimant could not be deprived of that interest through constitutionally inadequate procedures. Petitioner relies on Logan for that general principle, not for the proposition that its facts are identical to this case.

Here, Petitioner sought discovery and related procedures before the operative complaint was dismissed with prejudice. Petitioner contends that evidence

controlled by opposing parties was material to her ability to develop and present the claims. The district court denied those requests and resolved the case at the pleading stage.

Petitioner's efforts to develop the factual record were not limited to general discovery requests. She also sought compulsory process through a subpoena under Federal Rule of Civil Procedure 45. Petitioner does not contend that Rule 45 creates an unconditional right to every subpoena requested by a litigant. Rather, she submits that the denial of the requested compulsory process, considered together with the denial of discovery and the subsequent dismissal with prejudice, forms part of the procedural sequence relevant to whether she received a meaningful opportunity to develop and present her claims before they were permanently extinguished.

This Court's pleading decisions also recognize the distinction between pleading and proof. In Swierkiewicz v. Sorema N.A., 534 U.S. 506, 511-14 (2002), the Court rejected a heightened pleading requirement not contained in the Federal Rules. Petitioner recognizes that later decisions govern modern plausibility pleading and does not rely on Swierkiewicz to avoid applicable pleading requirements. She relies on it only for the principle that pleading rules should not be converted into evidentiary requirements beyond those authorized by the Rules.

The question presented is therefore deliberately narrow. Petitioner does not ask this Court to hold that discovery must precede every dismissal. She asks whether the combination of procedures used in this case, culminating in dismissal with prejudice, afforded constitutionally adequate process under the circumstances reflected in the record.

II. PETITIONER'S ATTEMPT TO VOLUNTARILY DISMISS THE ACTION FORMS AN IMPORTANT PART OF THE PROCEDURAL SEQUENCE LEADING TO DISMISSAL WITH PREJUDICE.

Petitioner does not ask this Court to hold that Rule 41(a)(1) gave her an unconditional right to unilateral dismissal after responsive pleadings had been served. Instead, she asks the Court to consider whether the procedures culminating in dismissal with prejudice afforded a meaningful opportunity to be heard before her claims were permanently extinguished.

Petitioner sought voluntary dismissal after repeated requests for interim relief had been denied, after she had lost possession of the property and become homeless, and after efforts to obtain discovery and compulsory process under Rule 45 had been denied. Petitioner had also raised concerns regarding judicial impartiality during the proceedings.

Rather, Petitioner's contention concerns what occurred after she sought voluntary dismissal. The district court treated Petitioner's filing as requiring judicial action, denied voluntary dismissal, and, in the same order, dismissed Petitioner's operative claims with prejudice.

After Respondents had served responsive pleadings, Petitioner filed a Notice of Voluntary Dismissal seeking to terminate her action. Because responsive pleadings had already been served, Petitioner does not contend that the filing necessarily operated as an automatic dismissal under Federal Rule of Civil Procedure 41(a)(1)(A)(i).

III. THE COMBINED PROCEDURAL RULINGS PRESENT A QUESTION THAT SHOULD BE CONSIDERED AS A WHOLE.

Petitioner's argument does not rest on any one ruling viewed in isolation. The asserted constitutional concern arises from the sequence: requests for discovery and related factual development were denied; Petitioner filed a Notice of Voluntary Dismissal; the Notice was not given the effect Petitioner contends Rule 41 required; and the operative claims were dismissed with prejudice.

Petitioner does not contend that the denial of any individual request for a stay, standing alone, establishes a constitutional violation. Rather, the four denials of interim relief are relevant to the procedural circumstances in which Petitioner's claims were ultimately dismissed with prejudice. The constitutional question arises from the procedures considered as a whole and the ultimate permanent disposition of Petitioner's claims. See Mathews v. Eldridge, 424 U.S. 319, 333-35 (1976); Logan v. Zimmerman Brush Co., 455 U.S. 422, 428-33 (1982).

The distinction between dismissal with and without prejudice is significant because dismissal with prejudice ordinarily operates as a final adjudication barring the same claims. The Eleventh Circuit itself altered that consequence as to Respondents Calvert and Walker, vacating the dismissal with prejudice and directing dismissal without prejudice because service had not been accomplished.

Petitioner respectfully submits that the remaining dismissal with prejudice should be reviewed against the entire procedural sequence rather than treating each ruling as unrelated. The petition asks this Court to clarify the procedural safeguards that apply when those rulings combine to permanently terminate federal civil claims.

IV. THIS CASE IS AN APPROPRIATE VEHICLE FOR REVIEW.

The judgment under review is final. The Eleventh Circuit entered judgment on December 9, 2025, and denied timely rehearing on January 21, 2026. The relevant events—the discovery rulings, the Notice of Voluntary Dismissal, the district court's dismissal with prejudice, and the appellate disposition—are matters of record.

The petition also presents legal questions capable of resolution without revisiting the underlying mortgage facts. The Court can address the governing procedural principles and, if appropriate, remand for their application to the record.

Petitioner recognizes that certiorari is discretionary and is not granted merely to correct alleged error in an individual case. She respectfully submits that the interaction of due process, dismissal with prejudice, and Rule 41 presented here warrants this Court's consideration.

CONCLUSION

For the foregoing reasons, the Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

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Date: _____