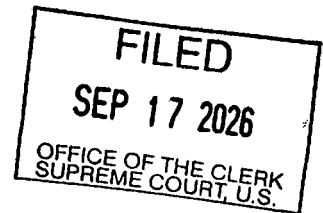


26 - 5869
No. _____



IN THE SUPREME COURT OF THE UNITED STATES

PETER VALLECILLO,

Petitioner,

v.

VERONICA GONZALEZ,

Respondent.

PETITION FOR WRIT OF CERTIORARI

TO THE FOURTH COURT OF APPEALS OF TEXAS

Peter Vallecillo

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Petitioner, Pro Se

QUESTIONS PRESENTED

1. Whether the Fourteenth Amendment permits a State that provides appellate review to make review of a civil evidentiary appeal effectively unavailable by applying a partial-reporter's-record rule so strictly that, after an appellant who could not afford the entire transcript obtained substantial portions of the record, the parties briefed the appeal, and no concrete prejudice from the missing statement of issues was identified, the appellate court was required to presume that evidence it did not review supported the judgment.

2. Whether a court of appeals may dismiss an appeal under Texas Rule of Appellate Procedure 34.6(c) without reaching the merits when the Appellant has identified the issues for review, supplied the testimony forming the evidentiary basis for the judgment, and made a bona fide effort to obtain Appellate review.

3. Whether the Fourteenth Court of Appeals violated Petitioner's due process rights as guaranteed by the Constitution Fourteen Amendment due process Clause.

PARTIES TO THE PROCEEDING AND RELATED CASES

Petitioner Peter Vallecillo, pro se, was the Appellant in the Texas Fourth Court of Appeals and the Petitioner in the Supreme Court of Texas. Respondent Veronica Gonzalez was the Appellee in the Fourth Court and the Respondent in the Supreme Court of Texas.

Vallecillo v. Gonzalez, No. 04-25-00037-CV, Fourth Court of Appeals, San Antonio, Texas, Memorandum Opinion, Entered January 28, 2026.

Vallecillo v. Gonzalez, No. 26-0244, Supreme Court of Texas, Petition for Review Denied April 24, 2026.

Vallecillo v. Gonzalez, No. 25A1443, Supreme Court of the United States; Application to extend time granted June 26, 2026, extending the filing deadline to September 21, 2026.

CORPORATE DISCLOSURE STATEMENT

Petitioner is an individual. No corporate disclosure statement is required.

TABLE OF CONTENTS

OPINONS BELOW.....	1
JURISDICTION.....	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....	1
STATEMENT OF THE CASE.....	1-3
REASONS FOR GRANTING THE WRIT.....	10
CONCLUSION.....	11

INDEX OF APPENDICES

APPENDIX A-Memorandum Opinion of the Fourth Court of Appeals of Texas, No. 04-25-00037-CV, filed January 28, 2026.

APPENDIX B-Order of the Supreme Court of Texas denying Petition for Review, No. 26-0244, April 24, 2026.

APPENDIX C-Final Judgment of the 37th Judicial District Court, Bexar County, Trial Court No. 2022-CI-06199.

APPENDIX D-Court-reporter correspondence concerning the cost and filing of the reporter's record.

APPENDIX E-Supreme Court of the United States docket/order in No. 25A1443 reflecting the extension of the filing deadline to September 21, 2026.

TABLE OF AUTHORITIES

<i>Bennett v. Cochran</i> , 96 S.W.3d 227 (Tex. 2002) (per curiam).....	Pg. 7, 8
<i>Griffin v. Illinois</i> , 351 U.S. 12 (1956).....	Pg. 4, 6, 10
<i>Lindsey v. Normet</i> , 405 U.S. 56, 77 (1972).....	Pg. 4, 9
<i>Logan v. Zimmerman Brush Co.</i> , 455 U.S. 422, 428–37 (1982).....	Pg. 6, 8
<i>Mathews v. Eldridge</i> , 424 U.S. 319, 335 (1976).....	Pg. 8
<i>Mayer v. City of Chicago</i> , 404 U.S. 189 (1971).....	Pg. 4
<i>M.L.B. v. S.L.J.</i> , 519 U.S. 102 (1996).....	Pg. 4, 5, 6, 7
<i>Ortwein v. Schwab</i> , 410 U.S. 656 (1973).....	Pg. 9
<i>United States v. Kras</i> , 409 U.S. 434 (1973).....	Pg. 9
Sup. Ct. R.13.....	Pg.1
Fourteenth Amendment.....	Pg. 10
28 U.S.C. § 2101(c).....	Pg.1
28 U.S.C. § 1257(a).....	Pg.1
Texas Rule of Appellate Procedure 34.6(c).....	Pg.1, 3, 5, 7, 10
Texas Rule of Appellate Procedure 34.6(c)(1).....	Pg.1
Texas Rule of Appellate Procedure Rule 34.6(c)(4).....	Pg.1

OPINIONS BELOW

The memorandum opinion of the Fourth Court of Appeals is reproduced in Appendix A. The court affirmed the take-nothing judgment because Petitioner did not provide a complete reporter's record and did not file a statement of points or issues under *Texas Rule of Appellate Procedure 34.6(c)*. The Supreme Court of Texas denied review on April 24, 2026. Its order is reproduced in Appendix B.

JURISDICTION

The Fourth Court of Appeals entered judgment on January 28, 2026. The Supreme Court of Texas denied review on April 24, 2026, a copy of that decision appears as "Appendix B". On June 26, 2026, Justice Alito granted Petitioner's application extending the time to file a Petition for a Writ of Certiorari to September 21, 2026, a copy of that decision appears as "Appendix E". This petition is timely. See 28 U.S.C. § 2101(c); *Sup. Ct. R. 13*. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND PROCEDURAL PROVISIONS INVOLVED

The Fourteenth Amendment provides: "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."

Texas Rule of Appellate Procedure 34.6(c)(1) requires an appellant requesting a partial reporter's record to include a statement of the points or issues to be presented. Rule 34.6(c)(4) provides that, when the rule is satisfied, the appellate court presumes that the partial record constitutes the entire record for purposes of reviewing the stated points or issues.

STATEMENT OF THE CASE

A. The underlying trial

Petitioner sued Respondent in the 37th Judicial District Court of Bexar County, Texas, asserting defamation claims and claims arising from Respondent's complaints to the Texas Ethics Commission. The case was tried to a jury in December 2024. The jury answered "No" to whether Respondent's complaints were defamatory and "No" to whether her February 14, 2022, and February 15, 2022, complaints were frivolous. The trial court entered a take-nothing judgment. Petitioner timely appealed and challenged the legal and factual sufficiency of the evidence supporting the jury's findings.

B. The reporter's-record problem

After the appeal was pending, the court reporter notified the Fourth Court that the reporter's record was late because Petitioner had not paid or made arrangements to pay for it. The reporter quoted approximately \$3,633 for the entire trial transcript and \$1,407 for the portion beginning with Respondent's testimony and continuing through the end of trial. Petitioner communicated with the reporter and considered arranging payment for the portion he could afford.

The reporter ultimately filed a substantial but incomplete record. The Fourth Court described a master index, a volume from the first day of trial, and a volume from the second day. The record did not include the trial exhibits, Petitioner's testimony during his case-in-chief, or the testimony of Guillermo Osorio and Joseph Nazaroff. The court estimated that approximately half of the trial record was missing, including Petitioner's entire case-in-chief.

The Fourth Court also stated that the clerk's record did not contain Petitioner's request for a reporter's record and that Petitioner had not filed a separate statement of points or issues in the appellate court.

C. The appeal was briefed, but the court did not review the sufficiency issues

The parties filed appellate briefs. Neither party noted the partial reporter's record in briefing. Petitioner presented five issues, all concerning the legal or factual sufficiency of the evidence supporting the jury's findings.

The Fourth Court did not decide whether the evidence actually supported the verdict. Instead, it held that because Petitioner had not filed a *Rule 34.6(c)* statement, it could not apply the rule's presumption that the designated portions constituted the entire record for the stated issues. It therefore applied the contrary presumption that the missing portions contained evidence supporting the judgment and overruled all five sufficiency issues.

The court affirmed on January 28, 2026. The Supreme Court of Texas denied review on April 24, 2026.

REASONS FOR GRANTING THE WRIT

This petition presents a narrow federal constitutional question. Petitioner does not contend that every violation of *Rule 34.6(c)* violates the Constitution, that every civil litigant has a constitutional right to an appeal, or that Texas must provide a free transcript in every civil case. The question is whether the Fourteenth Amendment permits the State, after creating appellate review, to apply a record-designation rule in a manner that makes review of an evidentiary appeal effectively unavailable where

the Appellant faced substantial transcript costs, obtained substantial portions of the record, the appeal was fully briefed, and the appellate court identified no concrete prejudice caused by the missing statement.

The decision below is important because the procedural defect did not merely limit briefing or delay review. It dictated the outcome. The Fourth Court expressly held that it could not review the sufficiency challenges and dismissed the Appeal on a technically and instead presumed that unseen evidence supported the judgment.

ARGUMENT

1. The decision below presents an important and unsettled federal constitutional question.

The Federal Constitution itself does not require a State to create an appellate system. *Lindsey v. Normet*, 405 U.S. 56, 77 (1972). But that proposition does not answer the different question presented here: what constitutional limits apply when a State has created appellate review and then applies its own procedure so that the Appellant receives no merits review of the issues properly presented?

Griffin v. Illinois, 351 U.S. 12 (1956), held that Illinois could not administer its appellate system so as to deny adequate appellate review to defendants who could not afford a trial transcript. *Griffin* recognized that a State may choose the means by which effective review is supplied but may not make meaningful review depend upon ability to pay. *Mayer v. City of Chicago*, 404 U.S. 189 (1971), extended the principle to petty offenses.

M.L.B. v. S.L.J., 519 U.S. 102 (1996), applied the *Griffin* line in a civil proceeding involving termination of parental rights and transcript-related costs. Petitioner

candidly recognizes that *M.L.B.* does not establish a general right to a free transcript in ordinary civil litigation. Its significance here is narrower: it confirms that transcript-related barriers can implicate the Fourteenth Amendment when they prevent meaningful appellate consideration.

The unresolved issue is whether a similar constitutional concern arises when the State does not directly charge an Appellant a prohibitive appellate fee, but combines a substantial transcript-cost barrier with an unforgiving partial-record rule, producing an automatic presumption against the Appellant and eliminating merits review. This Court has not squarely decided that question.

2. The rule was applied here as a merits-ending barrier, not merely as a case-management requirement.

Rule 34.6(c) serves a legitimate notice function. A partial record can create uncertainty about what evidence was presented, and a statement of issues alerts the appellee to the matters the appellant intends to raise so that additional record portions may be designated. Petitioner does not challenge that purpose.

The constitutional concern is the consequence imposed here. The Fourth Court did not merely refuse to give Petitioner the favorable presumption available under *Rule 34.6(c)*. It applied the opposite presumption and affirmed without reviewing the evidence underlying Petitioner's five sufficiency issues.

Thus, the practical result was an appeal in name but not in substance. Petitioner timely invoked appellate review; a reporter's record was filed; the parties briefed the case; and the court knew what evidence was missing. Yet the court did not decide whether the jury's findings were supported by the evidence.

This Court has recognized that due process protects meaningful procedures rather than nominal opportunities. *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 428–37 (1982), held that a state-created entitlement could not be extinguished through a state procedure without constitutionally adequate safeguards. Petitioner does not claim *Logan* creates a civil appellate right. It supports the narrower proposition that a State's own procedural mechanism cannot automatically destroy a state-created adjudicatory opportunity without regard to the risk of erroneous deprivation and the adequacy of available safeguards.

3. Griffin and M.L.B. make the transcript-cost circumstances constitutionally relevant.

The Fourth Court's opinion expressly recounted the transcript estimates: approximately \$3,633 for the entire trial and \$1,407 for the portion beginning with Respondent's testimony through the end of trial. Petitioner attempted to obtain the record and considered arranging payment for a portion he could afford. He did not simply abandon the appeal.

Griffin teaches that a State cannot make meaningful appellate review depend upon the ability to purchase a transcript where the transcript is necessary to obtain review. 351 U.S. at 18–24. *Griffin* also recognized that the State may choose among lawful methods of providing effective review; the Constitution does not dictate a particular transcription system.

M.L.B. likewise recognized that transcript-related costs can operate as a barrier to appellate review in a civil proceeding, although its holding rested on the uniquely fundamental interest in preserving parental rights. Petitioner does not ask this

Court simply to transplant *M.L.B.* to all civil appeals. He asks whether the constitutional principle against making meaningful review unavailable can apply when a financial barrier and a state record rule operate together to foreclose review.

4. This case is materially different from an ordinary failure to perfect an appeal.

Respondent may argue that Petitioner simply failed to comply with *Rule 34.6(c)*. The record described by the Fourth Court shows more. Petitioner timely appealed. The appeal was docketed. A substantial reporter's record was filed. The parties briefed the appeal. Petitioner identified five issues. The appellate court possessed enough of the record to identify the missing testimony and exhibits.

The court did not dismiss the appeal for lack of jurisdiction. Instead, it affirmed because it was required to presume that evidence it never reviewed supported the judgment. Petitioner therefore lost not merely a procedural argument but review of every evidentiary sufficiency issue.

States may impose reasonable appellate procedures. The question is whether a procedural requirement may be applied so that it becomes dispositive of the merits, despite the availability of less drastic safeguards, when the result is that an otherwise invoked appeal receives no evidentiary review.

5. *Bennett* does not resolve the federal constitutional question.

Bennett v. Cochran, 96 S.W.3d 227 (Tex. 2002) (per curiam), is the principal state-law authority. *Bennett* demonstrates that *Rule 34.6(c)* has not always been applied mechanically. The Texas Supreme Court allowed a late statement of issues where it

was filed in time for the opposing party to identify additional record portions and prepare its brief, and there was no assertion of prejudice.

The Fourth Court correctly noted *Bennett's* statement that a complete failure to submit a statement of points or issues requires affirmance under Texas law. Petitioner does not ask this Court to rewrite that state-law rule. The federal question is whether the Constitution permits the severe consequence that followed in this particular setting.

Bennett also illuminates the constitutional issue because it identifies the purpose of the statement: notice and an opportunity for the opposing party to obtain additional portions of the record. Here, the parties nevertheless briefed the appeal, and the Fourth Court did not identify a concrete instance in which Respondent was prejudiced by the missing statement. Whether the Constitution permits an automatic merits-ending consequence without consideration of that purpose and prejudice is a federal question.

6. *Mathews* and *Logan* support a constitutional inquiry into the risk of erroneous deprivation and available safeguards.

Procedural due process generally considers the private interest affected, the risk of erroneous deprivation through the procedure used, the probable value of additional safeguards, and the governmental interest. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). *Logan* similarly examined the competing interests, the likelihood of governmental error, and the State's interest in the challenged procedure.

Applied cautiously here, those principles identify a serious constitutional question. Petitioner's interest was review of a final take-nothing judgment after a jury trial.

The risk of error was substantial because the appellate court did not examine the evidence supporting the verdict. The value of an additional safeguard was significant because allowing a statement of issues, permitting supplementation, or requiring a concrete prejudice showing could have reduced the risk of erroneous denial of review. Texas's interest in orderly appellate procedure is legitimate, but the Fourth Court did not identify a concrete instance in which Respondent was prejudiced by the missing record.

This does not mean every missed deadline requires a constitutional cure. Nor does it mean a court must excuse every procedural default. The narrower question is whether, under these circumstances, the Constitution permits the State to use the rule as an automatic merits-ending device without a meaningful opportunity to cure or otherwise secure review.

7. The petition does not seek a categorical constitutional right to civil appeals or free transcripts.

Petitioner recognizes Court ruling differ. *Lindsey v. Normet*, 405 U.S. 56, 77 (1972), confirms that there is no general constitutional right to an appeal in civil cases. *United States v. Kras*, 409 U.S. 434 (1973), and *Ortwein v. Schwab*, 410 U.S. 656 (1973), caution against treating every economic barrier to civil litigation as constitutionally forbidden.

Those cases do not resolve the precise question presented. Petitioner does not ask the Court to constitutionalize every civil appellate procedure. Texas chose to provide appellate review, Petitioner timely invoked it, and the State then applied a record rule in a manner that made the evidentiary appeal effectively unreviewable and

disregarded another rule that mandated opportunity to cure. The issue is the constitutional limit on the State's administration of the appellate system after review has been invoked.

Nor does Petitioner ask this Court to order Texas to furnish a complete transcript at public expense. *Griffin* recognized that a State may select lawful means of providing effective review. 351 U.S. at 20–21. The requested constitutional protection is therefore procedural: the State should not be permitted to make the merits of an invoked appeal conclusively depend upon a record the Appellant could not financially obtain in full, without a meaningful opportunity to cure or otherwise obtain review.

8. The case is a suitable vehicle for review and a limited remedy is available.

The Fourth Court expressly identified *Rule 34.6(c)* as dispositive. It expressly stated that it could not apply the partial-record presumption because Petitioner had not filed a statement of points or issues. It then applied the contrary presumption and overruled all five sufficiency issues. The constitutional question can therefore be addressed without deciding what the missing testimony would ultimately prove.

If this Court grants review and concludes that the Fourteenth Amendment required a meaningful opportunity for appellate review under these circumstances, it can vacate the judgment and remand for the Texas courts to determine an appropriate procedure. Such a ruling would not invalidate *Rule 34.6(c)*, require free transcripts in every civil appeal, or prohibit Texas from enforcing reasonable record-designation requirements.

CONCLUSION

The petition for Writ of Certiorari should be granted. The judgment of the Fourth Court of Appeals should be vacated and the case remanded for further proceedings consistent with the constitutional principles announced by this Court, including consideration of whether Petitioner can receive meaningful appellate review without making the merits of his evidentiary sufficiency challenges conclusively depend upon the omitted portions of the reporter's record.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter Vallecillo", written over a horizontal line.

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September 21, 2026