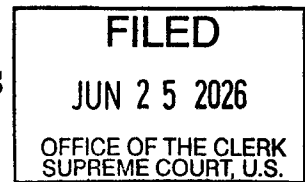


26-5936

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



No. _____

KEFIM DEXTER DAVID,
Petitioner,

v.

CHARLOTTE A. BURROWS, CHAIR,
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, et al.,
Respondents.

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

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QUESTIONS PRESENTED

1. Congressional Oversight Safeguards and Article III Review

Whether Article III permits dismissal at the pleading and screening stage of record-dependent civil-rights claims where Congress has enacted statutory and oversight safeguards requiring the creation, preservation, and review of governmental records, yet decisive records remain exclusively within executive custody at the time of dismissal and are unavailable to test legality.

2. Separation of Powers and Procedural Due Process Under Record Insulation

Whether courts violate Article III and the Fifth Amendment by presuming executive compliance with statutory safeguards and terminating adjudication at screening and on reconsideration, before any adversarial process occurs, where administrative processes restrict access to decisive records, such that dismissal rests on evidentiary absence created by Government control rather than factual insufficiency.

LIST OF ALL PARTIES

Petitioner

Kefim Dexter David, proceeding pro se.

Respondents

Charlotte A. Burrows, Chair, Equal Employment Opportunity Commission;
Dr. Christopher Scolese, former Director, National Reconnaissance Office; and
Bill Nelson, Administrator, National Aeronautics and Space Administration.

Additional Persons, Entities, and Unidentified Personnel

Petitioner's proposed amended complaint identified additional persons and entities not named in the original operative complaint. Because the proposed amended complaint did not become the operative pleading, those persons and entities are not listed here as Respondents or as parties to the proceeding below. The Fourth Circuit subsequently held that the District Court "erred in failing to consider the amended complaint," but deemed the error harmless on futility grounds.

Petitioner's allegations also concern unidentified federal personnel and contractors whose identities, employers, affiliations, and roles could not be determined before dismissal. Petitioner contends that administrative discovery was inadequate or inaccessible and that the District Court dismissed the action before service or discovery, leaving those identities and affiliations undeveloped.

The allegations arose in part within the National Reconnaissance Office ("NRO"), a jointly staffed Department of Defense and Intelligence Community environment that includes federal, military, intelligence-community, and contractor personnel. Petitioner does not contend that every agency, organization, or contractor represented within the NRO participated in the challenged conduct; rather, Petitioner contends that discovery was necessary to identify the persons allegedly involved, their employing or parent organizations, relevant records and communications, and their respective roles, if any.

UNDERLYING ADMINISTRATIVE PROCEEDING

Equal Employment Opportunity Commission — Washington Field Office
EEOC Hearing No. 570-2023-00182X
Agency No. NRE-0002-2022
EEOC Appeal No. 2024002849

The administrative proceeding arose from Petitioner's discrimination and retaliation claims concerning his employment at the National Reconnaissance Office. On February 7, 2024, EEOC Administrative Judge Zachary Wright entered a Decision Without a Hearing and Order Entering Summary Judgment in favor of the Agency. The NRO issued its Final Agency Order on March 1, 2024.

Petitioner pursued administrative appellate review before the EEOC Office of Federal Operations. On August 7, 2025, OFO dismissed EEOC Appeal No. 2024002849 pursuant to 29 C.F.R. § 1614.409 because Petitioner filed a federal civil action raising the same claims; the administrative appeal was therefore dismissed rather than adjudicated on its merits.

CORPORATE DISCLOSURE STATEMENT

Not applicable. Petitioner is an individual, and no non-governmental corporation is a party to proceedings.

LIST OF DIRECTLY RELATED PROCEEDINGS

1. Underlying Administrative Proceedings — NRO / EEOC

Agency No. NRE-0002-2022
EEOC Hearing No. 570-2023-00182X
EEOC Appeal No. 2024002849

Petitioner's NRO discrimination and retaliation claims proceeded through the federal-sector EEO process. The EEOC Administrative Judge entered summary judgment for the Agency on February 7, 2024; the NRO issued its Final Agency Order on March 1, 2024; and the EEOC Office of Federal Operations dismissed Petitioner's appeal on August 7, 2025, pursuant to 29 C.F.R. § 1614.409 following commencement of the related federal action.

2. *Kefim Dexter David v. Equal Employment Opportunity Commission et al.*

U.S. District Court for the District of Maryland
No. 1:25-cv-00211-SAG

Action dismissed February 5, 2025, before service or District Court discovery. Reconsideration denied April 11, 2025. The Fourth Circuit later held that the District Court "erred in failing to consider the amended complaint," but deemed the error harmless because the amendment was futile.

3. *Kefim Dexter David v. Charlotte A. Burrows et al.*

**U.S. Court of Appeals for the Fourth Circuit
No. 25-1538**

Judgment entered March 31, 2026, affirming the District Court. The Fourth Circuit held that failure to consider Petitioner's amended complaint was error but deemed the error harmless because the amendment was futile.

4. *In re Kefim Dexter David*

**U.S. Court of Appeals for the Fourth Circuit
No. 25-2100**

Mandamus proceedings arising from the District Court proceedings in No. 1:25-cv-00211-SAG; dismissed November 7, 2025, for failure to prosecute pursuant to Local Rule 45.

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OPINIONS, ORDERS, AND ADMINISTRATIVE DECISIONS BELOW

EEOC Administrative Proceedings

Petitioner's employment-discrimination complaint against the National Reconnaissance Office proceeded as Agency No. NRE-0002-2022, EEOC Hearing No. 570-2023-00182X, and EEOC Appeal No. 2024002849.

On February 7, 2024, the EEOC Administrative Judge entered a Decision Without a Hearing and Order Entering Summary Judgment for the Agency. The NRO issued its Final Agency Order on March 1, 2024. On August 7, 2025, the EEOC Office of Federal Operations dismissed Appeal No. 2024002849 pursuant to 29 C.F.R. § 1614.409 following Petitioner's filing of a civil action concerning the same claims.

District Court Proceedings

In *David v. Burrows*, No. 1:25-cv-00211-SAG (D. Md.), the United States District Court for the District of Maryland entered a Memorandum Opinion and Order on February 5, 2025, dismissing Petitioner's complaint without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). The Memorandum Opinion and Order are unreported and are reproduced in Appendix A.

On April 11, 2025, the District Court entered an Order denying Petitioner's motion for reconsideration. *David v. Burrows*, No. 1:25-cv-00211-SAG (D. Md. Apr. 11, 2025). The Order is unreported and is reproduced in Appendix A.

Fourth Circuit Proceedings

In *David v. Burrows*, No. 25-1538 (4th Cir. Mar. 31, 2026) (unpublished per curiam), the United States Court of Appeals for the Fourth Circuit affirmed the District Court's orders. The Fourth Circuit held that the District Court "erred in failing to consider the amended complaint," but concluded that the error was harmless because the amendment was futile. The opinion is unpublished and is reproduced in Appendix A.

Fourth Circuit Mandamus Proceeding

In *In re Kefim Dexter David*, No. 25-2100 (4th Cir. Nov. 7, 2025), Petitioner sought a writ of mandamus arising from the underlying District Court proceeding. The Fourth Circuit dismissed the proceeding for failure to prosecute. The dismissal order is reproduced in Appendix C.

STATEMENT OF JURISDICTION

On February 5, 2025, the United States District Court for the District of Maryland dismissed Petitioner's complaint without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim. The District Court subsequently denied Petitioner's motion for reconsideration by order entered on April 11, 2025. Petitioner timely appealed to the United States Court of Appeals for the Fourth Circuit, No. 25-1538.

On March 31, 2026, the United States Court of Appeals for the Fourth Circuit entered judgment affirming the District Court's disposition. Petitioner seeks review of that judgment. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves U.S. Const. art. III; amends. I, V, VII, and XIII; Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*; the Rehabilitation Act of 1973, 29 U.S.C. §§ 791, 794; the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*; the Privacy Act of 1974, 5 U.S.C. § 552a; the Freedom of Information Act, 5 U.S.C. § 552; the Foreign Intelligence Surveillance Act, 50 U.S.C. § 1801 *et seq.*; and 28 U.S.C. § 1915(e)(2)(B). The relevant provisions are reproduced or identified in Appendix E.

IMPERATIVE PUBLIC IMPORTANCE

This Petition presents an issue of imperative public importance concerning the constitutional role of Article III courts where record-dependent civil-rights claims are dismissed before discovery or record development while material records remain within exclusive Government control. Congress has established oversight structures and statutory safeguards requiring the creation, preservation, and review of governmental records to guard against secret, compartmentalized, or undisclosed governmental decision-making. Yet Petitioner's claims were terminated at screening and reconsideration without access to the records allegedly necessary to test the legality of the challenged conduct.

Review is warranted because the asserted injury concerns not merely the ultimate disposition of Petitioner's claims, but whether meaningful judicial adjudication can occur when dismissal precedes access to Government-controlled evidence necessary to develop those claims. Petitioner contends that this informational asymmetry prevented development of an adequate factual and appellate record and permitted

dismissal based, in material part, on evidentiary gaps that meaningful discovery could have tested.

I. STATEMENT OF THE CASE

This case does not involve allegations of criminal conduct, terrorism, or national-security offenses by Petitioner. Petitioner is a disabled combat veteran who sought federal civilian employment and the protections afforded by federal civil-rights statutes. After exhausting the administrative process, Petitioner filed suit alleging discrimination, retaliation, disability accommodation violations, and records access violations under Title VII of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Freedom of Information Act, and the Privacy Act. (*See Appendices A–F.*)

The underlying events span more than fifty years of statutory, institutional, and procedural development. Proceeding pro se, Petitioner has condensed that history within the practical limitations of a petition of approximately thirty-three pages. Nothing in this Petition challenges legitimate national-security interests. Rather, Petitioner submits that transparency, lawful oversight, and adherence to constitutional safeguards strengthen public confidence, preserve the separation of powers, and promote a more effective national-security framework. (*See Appendices G, K, L, and M.*)

Petitioner's federal civilian employment, including service at the National Aeronautics and Space Administration ("NASA"), and the administrative proceedings culminating in the denial of disability accommodations occurred within statutory systems governing federal records, information security, intelligence oversight, and administrative accountability. Those systems governed the creation, preservation, retention, and accessibility of records central to Petitioner's administrative proceedings and the claims presented in this litigation. (*See Appendices A–F.*)

This dispute also arises against the backdrop of congressional oversight investigations into the exercise of intelligence and investigative authority within the Executive Branch. During the 1970s, Congress conducted extensive inquiries through the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the "Church Committee"), the House Select Committee on Intelligence, chaired by Representative Otis Pike (the "Pike Committee"), and the Rockefeller Commission. Those investigations documented structural deficiencies involving domestic intelligence activities, executive control of investigative information, and inadequate institutional oversight. In response, Congress established permanent intelligence oversight committees and enacted enduring statutory safeguards governing surveillance, federal records, intelligence accountability, and administrative procedures. (*See Appendices G, K, L and M*)

Among the historical matters examined by Congress were domestic surveillance of political organizations, intelligence relationships with members of the news media, and broader information environments—subjects frequently discussed in public

reporting under the umbrella term "Operation Mockingbird"—assassination plots directed at foreign leaders, and behavioral or psychological research conducted without adequate safeguards or disclosure. As used throughout this Petition, references to "Operation Mockingbird" denote the historical body of congressional oversight materials, public reporting, and scholarship concerning intelligence-agency relationships with portions of the media and the broader informational environment examined during the 1970s. These materials are cited solely as legislative-fact context illustrating Congress's recognition that concentrated governmental influence over information systems, investigative records, and public communications creates structural risks requiring statutory oversight and meaningful judicial review. They are not offered as evidence establishing liability or the existence of any present-day intelligence operation affecting this case. (See *Appendices G, L, and M.*)

Congressional enactments, oversight investigations, judicial developments, and contemporaneous public events collectively provide the legislative and historical context in which Petitioner's claims arose. These materials explain the statutory framework governing the creation, maintenance, preservation, and review of governmental records, as well as the constitutional importance of independent judicial review when those records remain under exclusive executive control. (See *Appendices E, G, K, L, and M.*)

Yet no court meaningfully reviewed the operative record. No discovery was permitted. No adversarial factual development occurred. The district court dismissed the complaint at the pleading stage pursuant to Federal Rule of Civil Procedure 12(b)(6) and 28 U.S.C. § 1915(e)(2)(B) before service of process or development of the evidentiary record. At the time of dismissal, the personnel files, investigative materials, accommodation documentation, comparator evidence, Reports of Investigation ("ROI"), and related agency records necessary to evaluate Petitioner's claims remained exclusively within Executive Branch control. The court therefore evaluated the plausibility of record-dependent allegations while the evidence necessary to test those allegations remained unavailable to Petitioner. (See *Appendices A–F.*)

Because the case was terminated before discovery, Petitioner compiled a comprehensive chronological record documenting the temporal relationship among congressional oversight materials, agency proceedings, publicly documented governmental actions, and the administrative record. Those materials are not offered as substitutes for adjudication or as evidence of causation. Rather, they provide legislative-fact context explaining the statutory and institutional environment in which Petitioner's claims arose and why Congress enacted procedural safeguards designed to prevent executive control over governmental records from insulating official action from meaningful judicial review. (See *Appendices G, K, L, and M.*)

This Court has repeatedly recognized that governmental authority involving surveillance, investigative information, political activity, and executive recordkeeping remains subject to constitutional limitations, due process, and meaningful judicial review. The constitutional issue presented is therefore straightforward: whether record-dependent civil-rights claims may be dismissed at the pleading stage, while the Government retains exclusive control over the evidence necessary to evaluate those claims, before any adversarial process has occurred.

Petitioner has compiled a chronological record of congressional investigations, statutory enactments, judicial developments, governmental reports, and contemporaneous public materials beginning in the late 1970s and continuing through the present. Those materials, reproduced principally in Appendices G, K, L, and M, are included solely as legislative-fact context describing the institutional and constitutional environment surrounding Petitioner's claims. The employment claims themselves rest upon the allegations pleaded below, the administrative record, and the proceedings reproduced in Appendices A–F.

Petitioner respectfully seeks review so that this Court may determine whether dismissal of record-dependent civil-rights claims at the pleading stage—while the decisive evidence remained exclusively within Executive Branch control—comports with Article III, the Due Process Clause of the Fifth Amendment, and the procedural safeguards governing federal adjudication.

II. PROCEEDINGS IN THE UNITED STATES DISTRICT COURT

A. Dismissal at the Pleading Stage

Petitioner filed this action in the United States District Court for the District of Maryland, *David v. Burrows et al.*, No. 1:25-cv-00211-SAG, on January 22, 2025. The complaint alleged discrimination, retaliation, and disability-related violations under Title VII of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and the Americans with Disabilities Act, and pleaded administrative exhaustion and the issuance of right-to-sue notices. (*Appendices A–F.*)

On February 5, 2025, the district court dismissed the complaint at the screening stage pursuant to 28 U.S.C. § 1915(e)(2)(B) and Federal Rule of Civil Procedure 12(b)(6) before service of process, discovery, or adversarial record development. (*Appendix A.*) The dismissal occurred while the operative personnel, investigative, and accommodation records remained exclusively within Executive Branch control—materials that ordinarily include internal communications, investigative files, accommodation determinations, comparator data, and administrative findings, and that are typically unavailable to a plaintiff before discovery. (*Appendices D and F.*)

Because the dismissal occurred solely on the pleadings, the question presented is purely legal: whether the district court properly applied the Rule 12(b)(6) plausibility standard to the well-pleaded allegations of the complaint. Pleading standards require plausibility, not proof, and screening does not authorize dismissal based on the absence of evidence plausibly controlled by the defendant. This Court has specifically rejected heightened pleading requirements in employment discrimination cases, confirming that plaintiffs need not plead detailed evidentiary facts to survive dismissal. *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 511–12 (2002); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555–56 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Neitzke v. Williams*, 490 U.S. 319, 325–28 (1989); *Denton v. Hernandez*, 504 U.S. 25, 32–33 (1992). Appellate review of such dismissals is *de novo*, making this case a clean procedural vehicle for resolving the pleading-stage issue presented.

Following entry of judgment, Petitioner timely sought reconsideration and submitted additional materials bearing on the claims. The district court denied reconsideration on April 11, 2025, without permitting discovery, evidentiary development, or amendment to test the agency-controlled evidence central to the claims. (*Appendix A.*)

Petitioner appealed. On March 31, 2026, the United States Court of Appeals for the Fourth Circuit entered its Notice of Judgment, issued an unpublished per curiam opinion affirming the dismissal, and entered Judgment. (*Appendix A.*) The court concluded that any error in denying the amendment was harmless because the proposed amendment was futile, and it declined to remand for discovery or further factual development. (*Appendices A and C.*)

Because appellate review proceeded upon the record developed below, termination at the screening stage—followed by denial of reconsideration and affirmance without record development—precluded meaningful judicial testing of record-dependent claims and substantially increased the risk of erroneous deprivation of statutory and constitutional rights identified in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). (*Appendices A, C, and F.*)

B. Federal Jurisdiction and Venue Were Properly Invoked

The complaint invoked multiple independent bases for federal jurisdiction, including 28 U.S.C. § 1331, 42 U.S.C. § 2000e-5(f)(3), and 5 U.S.C. § 552(a)(4)(B), and alleged proper venue under 28 U.S.C. § 1391(b). (*Appendices B and F.*)

The district court did not question subject-matter jurisdiction or venue. Instead, the district court dismissed the action at the pleading stage under Federal Rule of Civil Procedure 12(b)(6), leaving the case's jurisdictional basis undisputed. (*Appendices A and B.*)

C. The Complaint Pleaded Administrative Exhaustion

The complaint identified the administrative exhaustion milestones required for federal employment litigation, including the issuance of right-to-sue notices and related Equal Employment Opportunity Commission activity. The pleading alleged, among other facts, that a right-to-sue notice was issued on June 9, 2022, concerning the National Reconnaissance Office; that a right-to-sue notice was issued on September 1, 2015, concerning the National Aeronautics and Space Administration; that additional EEOC activity occurred on April 1, 2024; and that a discovery-related due-process issue arose on October 1, 2023. (*Appendix F*; see also *Appendix C*.) See also 42 U.S.C. § 2000e-5(f)(1).

These allegations established that the statutory prerequisites to suit had been satisfied. Administrative exhaustion doctrines do not require adherence to procedures that are unavailable, ineffective, or incapable of providing meaningful relief. *McCarthy v. Madigan*, 503 U.S. 140, 146–48 (1992). When exhaustion is pleaded but an action is dismissed before discovery or development of the adversarial record, the case presents a recurring procedural question: whether courts effectively require plaintiffs to present evidentiary proof at the pleading stage that they cannot reasonably obtain before gaining access to agency-controlled records. See Fed. R. Civ. P. 8(a); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). (*Appendices A, C, and F*.)

D. The Complaint Pleaded Established Federal Causes of Action

The complaint alleged violations of several longstanding federal statutory schemes governing employment discrimination and workplace protections. Specifically, the pleading asserted claims under Title VII of the Civil Rights Act of 1964, including retaliation, hostile work environment, discrimination in promotion, and retaliatory termination. 42 U.S.C. §§ 2000e-2, 2000e-3. (*Appendices E and F*.)

The complaint also alleged disability-related violations under the Americans with Disabilities Act, including failure to accommodate and disability discrimination. 42 U.S.C. § 12112. Related disability-discrimination claims were asserted under the Rehabilitation Act of 1973, governing federal employment. 29 U.S.C. § 794. (*Appendices E and F*.)

In addition, the complaint alleged unequal pay during May–June 2021 in violation of the Equal Pay Act. 29 U.S.C. § 206(d). (*Appendices E and F*.)

These claims arise under statutory frameworks that Congress expressly authorized federal courts to adjudicate. The question presented by the screening-stage dismissal, therefore, concerns not the ultimate merits of the claims, but whether the complaint plausibly alleged the statutory elements such that discovery and adversarial testing should have been permitted. See Fed. R. Civ. P. 8(a); *Bell Atl.*

Corp. v. Twombly, 550 U.S. 544 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). (Appendices A, B, and F.)

E. The Complaint Alleged a Plausible Retaliation Timeline

The complaint alleged a chronology of protected activity followed by adverse employment actions. According to the pleadings, Petitioner filed an Equal Employment Opportunity Commission complaint in July 2021. During July through September 2021, the complaint alleged retaliatory treatment, including restrictions on leadership access and adverse performance-related actions. The complaint further alleged that Petitioner's employment was terminated on October 28, 2021. (Appendix F.)

Temporal proximity between protected activity and adverse action is widely recognized as a basis for plausibly alleging retaliation under federal employment law. On the face of the pleadings, the complaint therefore alleged protected activity followed by materially adverse employment actions within months. See 42 U.S.C. § 2000e-3(a); *Clark Cnty. Sch. Dist. v. Breeden*, 532 U.S. 268, 273 (2001). (Appendix F.)

F. The Complaint Also Raised Procedural Deficiencies

The complaint further alleged procedural irregularities in the administrative process. Among other allegations, the pleading asserted that Petitioner was denied due process regarding discovery-related issues on October 1, 2023, and that the administrative proceedings failed to comply with procedures governing federal-sector employment complaints under 29 C.F.R. Part 1614. The complaint also alleged that the administrative process misapplied the evidentiary framework governing discrimination claims recognized in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). (Appendix F; see also Appendix C.) This Court has likewise recognized that liability may arise where adverse employment actions are influenced by biased actors operating through formal decision structures. See *Staub v. Proctor Hosp.*, 562 U.S. 411, 418–22 (2011).

These allegations bear directly on the sufficiency of the pleadings at the Rule 12(b)(6) stage. At that stage, courts must accept well-pleaded allegations as true and may not resolve factual disputes or weigh evidence. See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007). Where procedural defects are plausibly alleged, those issues are ordinarily resolved through adversarial proceedings rather than dismissal at the screening stage. (Appendices A, C, and F.)

G. FOIA and Privacy Act Claims Demonstrate Record Dependence

The complaint also asserted violations of the Freedom of Information Act, 5 U.S.C. § 552, and the Privacy Act of 1974, 5 U.S.C. § 552a, including allegations that federal agencies failed to produce requested records and maintained deficient data practices during the administrative proceedings. (*Appendices D and F.*)

Because federal agencies maintain the relevant records, these claims illustrate the litigation's record-dependent nature. The dismissal of the action at the screening stage prevented the development of the evidentiary record necessary to adjudicate claims in which the Government controls the underlying documents. See 5 U.S.C. § 552(a)(4)(B); 5 U.S.C. § 552a(g)(1). (*Appendices A, D, and F.*)

III. POST-JUDGMENT PROCEEDINGS: RULE 60(b) RECONSIDERATION, PROPOSED AMENDMENT, AND ACCESS-TO-COURT ISSUES

A. Post-Judgment Proceedings and Motion for Reconsideration

Following dismissal, Petitioner timely filed a motion for reconsideration on February 21, 2025, pursuant to Federal Rule of Civil Procedure 60(b) and Local Rule 105.10, seeking relief from the judgment and leave to amend the complaint. The motion asserted newly discovered evidence and extraordinary circumstances and sought to clarify the roles of the named defendants and the statutory bases for relief. (*Appendices A and B.*)

The motion also raised issues concerning Petitioner's ability to access the court's electronic filing system and case materials while litigating pro se and while experiencing homelessness and related access limitations. Petitioner requested reasonable accommodation to electronically view and file case documents, citing accessibility concerns under Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, and principles governing meaningful access to the courts. See *Tennessee v. Lane*, 541 U.S. 509 (2004). (*Appendix B.*)

B. The Motion Presented Issues Concerning Rule 60(b) Relief and Amendment After Dismissal

The motion for reconsideration sought relief from the judgment pursuant to Federal Rule of Civil Procedure 60(b), leave to amend the complaint to clarify the institutional relationships of the named defendants and the statutory bases for relief, and reasonable accommodation to obtain electronic access to court filings necessary to litigate the case. (*Appendices A and B.*)

This procedural posture raises issues concerning the interplay among Rule 60(b), post-judgment amendment practice, and meaningful access to court procedures, in which a pro se litigant asserts that limitations on access to documents and filing systems affected the ability to present evidence and plead claims with specificity.

See Fed. R. Civ. P. 60(b); Fed. R. Civ. P. 15(a); *Foman v. Davis*, 371 U.S. 178, 182 (1962); *Tennessee v. Lane*, 541 U.S. 509 (2004). (*Appendices A, B, and C.*)

C. The Motion Asserted Newly Discovered Evidence and Extraordinary Circumstances

The motion for reconsideration invoked Federal Rule of Civil Procedure 60(b) on the grounds of newly discovered evidence and extraordinary circumstances, asserting that certain materials were not previously available at the time of the initial pleading. Petitioner further alleged that practical barriers, including limited access to documentation and litigation resources, impeded earlier compilation of the information referenced in the motion. (*Appendix B.*)

Whether such circumstances warrant relief under Rule 60(b) and whether the district court applied the correct legal framework in addressing those claims present procedural issues that frequently arise when litigants seek reconsideration after dismissal before discovery. See Fed. R. Civ. P. 60(b); *Gonzalez v. Crosby*, 545 U.S. 524, 528–29 (2005). (*Appendices A and B.*)

D. The Requested Amendment Sought to Clarify Institutional Relationships

The motion for reconsideration also sought leave to amend the complaint to clarify the institutional relationships among several defendants, including federal agencies and private entities alleged to have partnered with government institutions. The proposed amendment sought to refine the classification of defendants and the statutory theories associated with those relationships. (*Appendix B.*)

This request presents a procedural issue concerning the scope of amendment following dismissal, in which a litigant seeks to clarify the pleadings in conjunction with a motion for relief from judgment under Federal Rule of Civil Procedure 60(b). See Fed. R. Civ. P. 15(a); *Foman v. Davis*, 371 U.S. 178, 182 (1962); Fed. R. Civ. P. 60(b). (*Appendices A, B, and C.*)

Following the district court's denial of reconsideration, Petitioner appealed. On March 31, 2026, the United States Court of Appeals for the Fourth Circuit entered its Notice of Judgment, issued an unpublished per curiam opinion, and entered Judgment affirming the dismissal. (*Appendix A.*) The appellate proceedings are further reflected in the Fourth Circuit docket and related filings. (*Appendix C.*)

E. The Motion Also Referenced FOIA and Privacy Act Claims

The proposed amended pleading referenced jurisdiction under the Freedom of Information Act, 5 U.S.C. § 552(a)(4)(B), and raised allegations concerning access to

government-held records. The proposed amendment also referenced related issues under the Privacy Act of 1974, 5 U.S.C. § 552a. (*Appendices B, D, and F.*)

These allegations further underscore the record-dependent nature of the claims, as federal agencies maintain the relevant documents and they were not available to Petitioner prior to discovery. See 5 U.S.C. § 552(a)(4)(B); 5 U.S.C. § 552a(g)(1). (*Appendices D and F.*)

F. The Case Therefore Presents a Procedural Access Question

The procedural history presents a legal question independent of the ultimate merits of the claims: whether dismissal at the pleading stage—followed by denial of reconsideration and leave to amend—may preclude meaningful development of the record in civil-rights claims where government agencies maintain the relevant evidence. (*Appendices A, B, and C.*)

Because the case was terminated before discovery or adversarial testing of the allegations, the issue concerns the proper application of pleading-stage standards and post-judgment relief procedures when access to the underlying records is limited. See Fed. R. Civ. P. 8(a); Fed. R. Civ. P. 60(b); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). (*Appendices A, B, C, D, and F.*)

G. District Court Orders and Record Materials

The orders and filings relevant to the procedural posture of this case are reproduced in the Appendix. The district court dismissed the complaint on February 5, 2025, and directed closure of the case in a memorandum of opinion accompanying the order. Petitioner subsequently filed a motion for reconsideration, seeking leave to amend the complaint and requesting reasonable accommodation necessary to litigate the matter. The district court denied reconsideration on April 11, 2025. (*Appendices A and B.*)

The district court record reproduced in the Appendix includes the complaint filed on January 22, 2025; the dismissal order and accompanying memorandum dated February 5, 2025; the motion requesting filing accommodation due to homelessness filed on February 21, 2025; and the court's April 2, 2025, paperless order denying that accommodation request. The Appendix also includes the district court docket sheet and clerk entries reflecting subsequent notice issues, including an entry documenting returned mail recorded in July 2025. (*Appendix B.*)

Petitioner represents that he was initially able to view only a brief reference to the memorandum opinion through an internet search of his name and did not obtain the full document until July 2025, which affected his ability to review and respond to the order earlier in the proceedings. (*Appendices A and B.*)

Even after Petitioner submitted documentary evidence generated by the agencies themselves, namely Reports of Investigation ("ROIs") prepared by the National Reconnaissance Office and the National Aeronautics and Space Administration, the district court dismissed the case. (*Appendices A and F.*)

On March 31, 2026, the United States Court of Appeals for the Fourth Circuit entered its Notice of Judgment, issued an unpublished per curiam opinion, and entered Judgment affirming the district court's disposition. (*Appendix A.*) The appellate docket and related filings are reproduced in Appendix C.

IV. PROCEEDINGS IN THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

A. Appeal to the United States Court of Appeals for the Fourth Circuit

Petitioner filed a notice of appeal on May 12, 2025, initiating appellate proceedings in the United States Court of Appeals for the Fourth Circuit, docketed as Case No. 25-1538. On the same date, Petitioner filed a motion requesting appointment of counsel pursuant to 28 U.S.C. § 1915(e)(1), citing homelessness, disability, and the complexity of the constitutional and procedural issues presented. (*Appendix C.*)

The court of appeals opened the case on May 13, 2025, issued an informal briefing order governing the pro se appeal, and granted Petitioner leave to proceed in *forma pauperis*. (*Appendix C.*)

Petitioner thereafter filed an informal opening brief on June 12, 2025. While the appeal remained pending, Petitioner submitted additional motions seeking interim relief, including a motion for injunctive relief and a motion for protective order filed July 3, 2025, and an emergency motion requesting expedited consideration and immediate relief filed July 25, 2025. Subsequent filings included a motion requesting review of pending motions submitted November 24, 2025, and a Federal Rule of Appellate Procedure 28(j) notice of supplemental authorities filed January 13, 2026. (*Appendix C.*)

On March 31, 2026, the United States Court of Appeals for the Fourth Circuit entered its Notice of Judgment, issued an unpublished per curiam opinion, and entered Judgment affirming the district court's dismissal. (*Appendix A.*)

The current docket of the Fourth Circuit proceedings, including Petitioner's appellate filings and the court's orders, is reproduced in the Appendix for verification of the appellate posture. (*Appendix C.*)

B. Mandamus Proceedings

While the appeal remained pending, Petitioner filed a petition for a writ of mandamus in the United States Court of Appeals for the Fourth Circuit on September 15, 2025, docketed as Case No. 25-2100. The court docketed the petition the following day and subsequently dismissed the mandamus proceeding on November 7, 2025. (*Appendix C.*)

The mandamus petition, docket entries, and orders resolving the proceeding are reproduced in the Appendix. (*Appendix C.*)

C. Record of Electronic Access and Notice Issues

The Appendix also contains materials documenting Petitioner's attempts to obtain electronic access to court systems and filings during the litigation. These materials include notices reflecting the rejection of CM/ECF registration requests, as well as related electronic service entries, submitted during the district court proceedings in February and April 2025. (*Appendix B; see also All Writs Appendix A-2.*)

These materials are included solely to document the case's procedural access posture and to permit verification of the filing history reflected in the docket entries. (*Appendix B; see also All Writs Appendix A-2.*)

D. Procedural Posture of the Case

The case arrives before this Court following dismissal of the complaint at the pleading stage, denial of reconsideration and leave to amend in the district court, and affirmance by the United States Court of Appeals for the Fourth Circuit through its Notice of Judgment, unpublished per curiam opinion, and Judgment entered on March 31, 2026. The procedural materials reproduced in the Appendix document the jurisdictional facts and filing history relevant to the petition. (*Appendices A, B, and C.*)

These filings included a motion for injunctive relief and a motion for protective order filed July 3, 2025, and an emergency motion requesting expedited consideration and immediate relief filed July 25, 2025. Additional filings included a motion requesting review of pending motions submitted November 24, 2025, and a Federal Rule of Appellate Procedure 28(j) notice of supplemental authorities filed January 13, 2026. (*Appendix C.*)

These filings collectively reflect Petitioner's continuing efforts to obtain review of unresolved procedural matters, including requests for counsel, interim relief, and clarification of pending motions during the pendency of the appeal. The Fourth Circuit docket reproduced in the Appendix permits verification of the appellate proceedings and the filings submitted therein. (*Appendix C.*)

On March 31, 2026, the United States Court of Appeals for the Fourth Circuit entered its Notice of Judgment, issued an unpublished per curiam opinion, and entered Judgment affirming the district court's disposition. (*Appendix A.*) The appellate docket reflects the procedural history of the appeal and the parties' filings through entry of judgment. (*Appendix C.*)

V. ADMINISTRATIVE PROCEEDINGS BEFORE THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Administrative Proceedings Before the Equal Employment Opportunity Commission

Prior to filing suit in federal court, Petitioner pursued administrative remedies through the Equal Employment Opportunity Commission concerning employment-related claims arising from his federal employment with the National Reconnaissance Office. (*Appendix F.*)

Petitioner filed an administrative complaint assigned Agency Case No. NRE-0002-2022, later docketed by the Commission as EEOC No. 570-2023-00182X. Pursuant to 29 C.F.R. § 1614.108(g), Petitioner submitted a request for a hearing before an EEOC Administrative Judge, which was received by the Commission's Washington Field Office on November 10, 2022. (*Appendix F.*)

During the pendency of the administrative proceedings, several events materially affected Petitioner's ability to participate in the process. Petitioner's legal representation withdrew from the matter, Petitioner's residence was destroyed in a fire, and Petitioner subsequently lost his civilian employment position with Booz Allen Hamilton. The EEOC Administrative Judge sent communications to Petitioner's personal email account rather than through the Commission's formal service systems. Petitioner identified this method of communication as inconsistent with EEOC procedures governing service, record maintenance, and administrative proceedings under 29 C.F.R. Part 1614, including §§ 1614.108, 1614.109, and 1614.605. (*Appendix F.*)

The administrative complaint alleged discrimination, retaliation, a hostile work environment, and denial of reasonable accommodation under Title VII of the Civil Rights Act of 1964 and the Rehabilitation Act of 1973. See 42 U.S.C. §§ 2000e-2, 2000e-3; 29 U.S.C. § 794. (*Appendix F.*)

On September 20, 2023, Petitioner submitted interrogatories in the administrative proceedings before the Equal Employment Opportunity Commission. In those submissions, Petitioner cited historical parallels he believed relevant to the circumstances of his case, including comparisons to events and social conditions of the civil rights era. These observations were presented as contextual background accompanying the filings. (*Appendix F.*)

B. Contemporaneous National and International Context Referenced During Administrative Proceedings

On June 12, 2024, Petitioner filed **Complainant's Reply to Agency's Reply** with the Equal Employment Opportunity Commission in EEOC No. 570-2023-00182X (Agency No. NRE-0002-2022), arising from his employment with the National Reconnaissance Office. (*Appendix F.*)

The filing argued that the Administrative Judge's dismissal lacked evidentiary support and that the agency failed to address key allegations of discrimination, retaliation, hostile work environment, unequal pay, and failure to accommodate disability under Title VII of the Civil Rights Act of 1964 and the Rehabilitation Act of 1973. See 42 U.S.C. §§ 2000e-2, 2000e-3; 29 U.S.C. § 794. Petitioner also asserted procedural deficiencies in the investigation and hearing process, including failure to consider evidence, denial of discovery, investigator bias, and unresolved requests for agency records. The submission also raised due process concerns and issues under the Privacy Act of 1974. See 5 U.S.C. § 552a. (*Appendices D and F.*)

Petitioner requested reversal of the Administrative Judge's decision and remand for full adjudication, asserting that unresolved factual disputes and newly available information warranted further proceedings. (*Appendix F.*)

During the administrative proceedings, Petitioner also referenced historical materials examined by the United States Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the "Church Committee"). These references were presented as legislative fact context concerning historically documented risks associated with concentrated governmental control over information systems and investigative records. The filings did not assert the operation of any specific intelligence program but cited these materials as contextual background regarding institutional information environments. See *Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities*, S. Rep. No. 94-755 (1976); S. Rep. No. 94-465 (1975). (*Appendices G, K, L-1 through L-4, and M-1.*)

The referenced legislative materials were cited to describe institutional intelligence and information-management structures historically examined by Congress, including those involving agencies such as the Central Intelligence Agency, responsible for intelligence analysis and reporting coordination within the United States Intelligence Community, and the National Reconnaissance Office, responsible for the development and operation of satellite-based reconnaissance systems supporting national intelligence collection. The National Aeronautics and Space Administration operates as a civilian aerospace agency responsible for space-based engineering and satellite support technologies, historically associated with federal space and national security infrastructure. These references were presented solely as institutional and legislative context concerning environments in which

classified or regulated records may be generated, maintained, or controlled across interconnected federal systems. See S. Rep. No. 94-755, Book I, at 1-3 (1976); 50 U.S.C. § 3036; Department of Defense Directive 5105.23; 51 U.S.C. §§ 20102, 20112. (*Appendices G, K, and M-1.*)

Petitioner's administrative submissions also described a series of developments he believed occurred following protected EEO activity involving the National Aeronautics and Space Administration and his subsequent employment with the National Reconnaissance Office. These allegations included asserted interference with employment opportunities, reputational harm, privacy intrusions, and actions affecting investigative or security-clearance processes. Petitioner asserted that these events implicated statutory protections, including Title VII, the Privacy Act of 1974, the Equal Pay Act, the Americans with Disabilities Act, and civil rights provisions, including 42 U.S.C. § 1985, as well as constitutional protections under the First, Fourth, Fifth, and Fourteenth Amendments. (*Appendices D and F.*)

As reflected in Table K4 — Public and Institutional Events Coincident with Enactment and Implementation of FISA (1978–1979), Congress established enduring intelligence and record-management frameworks. Within that established structure, Petitioner's filings noted several national and international developments occurring contemporaneously with the administrative proceedings in this case. (*Appendix K.*)

Petitioner's filings referenced contemporaneous publicly reported events during the administrative proceedings, including reporting dated July 13, 2024. These references were included solely to document the timing of publicly available information during the pendency of the administrative process and were not presented as evidence of a causal connection to the claims asserted in this case. (*Appendices L and M.*)

In addition, Petitioner referenced historical concerns examined during the investigations of the United States Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities regarding intelligence-related influence activities affecting media and public communications. In those submissions, Petitioner referenced materials sometimes colloquially described as "Operation Mockingbird," solely as legislative-fact context reflecting historically documented concerns regarding governmental influence within information environments. These references were not presented as allegations of specific intelligence activity, but as context drawn from publicly reported congressional findings. See S. Rep. No. 94-755 (1976); S. Rep. No. 94-465 (1975). (*Appendices G, L-1 through L-4, and M-1.*)

C. EEOC Administrative Appeal

Following issuance of the agency's Final Agency Decision on March 1, 2024, Petitioner filed an administrative appeal with the Equal Employment Opportunity Commission on April 28, 2024, pursuant to 29 C.F.R. § 1614.403. The appeal continued the administrative review of the discrimination and retaliation claims arising from Petitioner's federal employment. (*Appendix F.*)

Petitioner submitted a response brief on May 28, 2024, and thereafter filed Complainant's Reply to Agency's Reply on June 12, 2024, addressing the agency's representations and the evidentiary record. (*Appendix F.*)

Petitioner subsequently submitted additional materials in support of the appeal, including evidentiary submissions and status inquiries filed on August 20, 2024. (*Appendix F.*)

After Petitioner initiated a civil action in the United States District Court for the District of Maryland, the pending EEOC administrative appeal was dismissed by the Commission because of the initiation of judicial proceedings. (*Appendices A and F.*)

Contemporaneous national and international developments occurred alongside Petitioner's administrative and procedural efforts. These developments are referenced solely to document the timing of publicly reported events during the pendency of Petitioner's filings and are not presented as evidence of a causal connection to the claims asserted in this case. (*Appendices L and M.*)

VI. ADMINISTRATIVE RECORD EXCERPTS REFLECTING PROCEDURAL OMISSIONS IN NASA AND NATIONAL RECONNAISSANCE OFFICE PROCEEDINGS

The administrative investigation referenced in the complaint reflects several alleged procedural deficiencies in the agency's handling of discrimination and retaliation allegations. Because the action was dismissed at the pleading stage, prior to service of process or discovery, these investigative issues were neither incorporated into the judicial record nor subjected to adversarial testing. The omissions identified below describe evidentiary gaps that discovery would ordinarily examine. (*Appendices A and F.*)

A. Absence of Evidence Preservation and Record Integrity Controls

The investigative materials referenced in the complaint indicate that Petitioner's contemporaneous notes and supporting emails were taken on the day of removal. The investigative file contains no documented inventory, preservation protocol, or chain-of-custody record for those materials. The record also contains no certification of evidentiary completeness or indication that the investigative record was formally preserved for adjudicative review. (*Appendix F.*)

B. Absence of Defined Investigative Scope and Amendment Handling

The investigative scope reflected in the file was derived from the EEO Counselor's report rather than the full complaint narrative. The materials contain no written explanation identifying why certain allegations were excluded from the scope of investigation. The investigative materials acknowledge Petitioner's request to amend the complaint but contain no revised issue framing, supplemental investigation, or written determination addressing that request. (*Appendix F.*)

C. Absence of Analytical Findings and Comparator Review

The investigative materials include witness statements but contain no documented credibility determinations or written explanations resolving conflicting accounts. The file also contains no analysis addressing similarly situated employees or comparator information relevant to the discrimination allegations. In addition, the materials contain no documented factual findings explaining the basis for the adverse determinations. (*Appendix F.*)

D. Absence of Employer-Controlled Evidence and Accommodation Documentation

The investigative file does not reflect the collection or analysis of employer-controlled materials, including IT access logs, portal modification records, promotion criteria, accommodation tracking records, or comparator data. Although the materials acknowledge Petitioner's PTSD and TBI conditions, the file contains no documentation reflecting an interactive accommodation process or written accommodation determinations. The record further reflects that access to investigative materials was restricted or delayed during the administrative process in response to requests under the Freedom of Information Act and the Privacy Act. (*Appendices D and F.*)

VII. RECORD ACCESS LIMITATIONS AND PROCEDURAL POSTURE PRIOR TO DISMISSAL

The administrative process concluded without live testimony, cross-examination, credibility findings, or certification that the investigative record was complete. (*Appendix F.*)

The complaint was subsequently dismissed at the pleading stage under Federal Rule of Civil Procedure 12(b)(6). Because the action was terminated before service of process or discovery, the parties never entered adversarial record development. Materials necessary to evaluate Petitioner's claims, including agency records, investigative materials, and internal documentation, remained within the control of federal agencies and were therefore unavailable to Petitioner at the time of dismissal. As a result, the absence of documentary evidence in the judicial record

reflects the case's procedural posture rather than the absence of underlying materials. See Fed. R. Civ. P. 12(b)(6); *Ashcroft v. Iqbal*, 556 U.S. 662 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007); *Neitzke v. Williams*, 490 U.S. 319 (1989). (*Appendices A, D, and F.*)

Petitioner, a disabled veteran proceeding *pro se*, faced homelessness and significant barriers accessing court filings, docket materials, and relevant records, limiting his ability to assemble supporting evidence before dismissal at the pleading stage. (*Appendices B, D, and F; see also All Writs Appendix A-2.*)

VIII. REASONS FOR GRANTING THE PETITION

- The Decision Below Conflicts with This Court's Precedent
- The Question Presented is Recurring
- Judicial Contextualization of Established Temporal and Procedural Alignment
- The Issue Produces Structural Injury

IX. THE DECISION BELOW CONFLICTS WITH THIS COURT'S DUE PROCESS AND ARTICLE III PRECEDENTS

The Fifth Amendment guarantees a meaningful opportunity to be heard before a claim is extinguished by judicial action. Due process requires more than formal access to a court; it requires procedures capable of testing the facts on which adjudication turns. This Court has therefore held that the "fundamental requirement" of due process is an opportunity to be heard "at a meaningful time and in a meaningful manner," and that a claimant may not be deprived of a protected claim through procedural mechanisms that terminate the matter before a fair opportunity exists to develop and present the basis for relief. See *Mathews v. Eldridge*, 424 U.S. 319, 333–35 (1976); *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 433–37 (1982). *Goldberg v. Kelly* confirms that due process requires procedures that ensure a meaningful opportunity to present claims before governmental action extinguishes protected interests. 397 U.S. 254, 267–68 (1970). Even where governmental interests implicate national security, constitutional protections remain operative and require meaningful judicial review. *Hamdi v. Rumsfeld*, 542 U.S. 507, 533 (2004).

Article III reinforces the same principle. The Constitution's separation-of-powers structure safeguards judicial independence and prevents encroachment by coordinate branches. *Humphrey's Executor v. United States*, 295 U.S. 602, 629 (1935); *INS v. Chadha*, 462 U.S. 919, 951 (1983); *Stern v. Marshall*, 564 U.S. 462, 482–84 (2011). Federal courts adjudicate concrete disputes through adversarial testing of facts and law. This Court has emphasized that Article III obligations cannot be circumvented by procedural shortcuts that resolve substantive questions without lawful adjudication. *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 94–95 (1998). That function cannot be meaningfully performed where a case is

terminated before the relevant evidence can be examined. This Court made that point explicit in *United States v. Nixon*, holding that executive control of information cannot override "the primary constitutional duty of the Judicial Branch to do justice" through examination of evidence necessary to resolve the case, 418 U.S. 683, 707 (1974). *United States v. U.S. District Court (Keith)* reinforces the essential role of judicial review even when governmental interests implicate confidentiality or internal executive operations. 407 U.S. 297, 320–21 (1972).

That structural problem is presented here. Petitioner alleged discrimination, retaliation, disability-accommodation violations, and related records-access violations arising from federal employment. Claims of that kind are inherently record-dependent. Their fair evaluation ordinarily turns on materials maintained by the employer or agency, including personnel files, internal communications, investigative records, comparator information, accommodation documentation, and other agency-controlled evidence. This Court has long recognized that modern adjudication depends on access to relevant evidence, and it has specifically rejected imposing evidentiary pleading demands on employment-discrimination plaintiffs at the complaint stage. See *Hickman v. Taylor*, 329 U.S. 495, 507 (1947); *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 511–12 (2002). (*Appendices D and F.*)

Yet the complaint was dismissed under Rule 12(b)(6) and 28 U.S.C. § 1915(e)(2)(B) before service of process, before discovery, and before any adversarial development of the record. At that stage, the materials necessary to confirm or refute the allegations remained exclusively within Government control. The dismissal, therefore, required Petitioner to plead record-dependent claims with specificity while denying access to the records needed to supply that specificity. As a result, the action was terminated before the evidentiary field could be opened. (*Appendices A, D, and F.*)

To be sure, *Bell Atlantic Corp. v. Twombly* and *Ashcroft v. Iqbal* require plausibility. But those decisions do not transform Rule 8 into a demand for pre-discovery proof, nor do they eliminate the distinction between factual sufficiency and evidentiary possession. *Twombly* rejected speculation, not claims whose critical details are contained in the defendant's records; *Iqbal* required factual content supporting a reasonable inference of liability, not evidentiary material that a plaintiff cannot access before process issues; and *Swierkiewicz* remains clear that employment-discrimination claims are not subject to a heightened evidentiary pleading rule.

The constitutional defect arises from the combination of pleading-stage dismissal and the executive's exclusive control of decisive evidence. When the Government possesses both the necessary records to evaluate a claim and can obtain dismissal before any mechanism exists to obtain or test those records, the procedure ceases to function as a neutral framework for adjudication and instead becomes a device that insulates underlying facts from judicial review. *Mathews* and *Logan* forbid procedures that create an excessive risk of erroneous deprivation. *Nixon* confirms

that the judiciary cannot perform its constitutional function where control over necessary evidence defeats meaningful adjudication. (*Appendices A, D, and F.*)

This case, therefore, presents a recurring and important question: whether record-dependent federal civil-rights claims may be dismissed at the pleading stage when the facts necessary to evaluate plausibility remain exclusively within the Government's control, and no adversarial process has yet occurred.

That question warrants review because the decision below permits pleading-stage termination to do what due process and Article III do not allow: extinguish a record-dependent claim before the claimant has any meaningful opportunity to obtain, present, and test the evidence on which the legality of the Government's conduct depends. See *Mathews*, 424 U.S. at 333–35; *Logan*, 455 U.S. at 433–37; *Nixon*, 418 U.S. at 706–07. (*Appendices A, D, and F.*)

X. THE QUESTION PRESENTED IS RECURRING

Although individual oversight findings may appear limited in isolation, collectively they reflect a persistent institutional pattern that identifies enduring structural features of executive information control, which have been repeatedly examined through institutional oversight and reform. This historical record reflects a recurring constitutional tension between concentrated executive control of information and the Judiciary's obligation to provide meaningful review consistent with due process and Article III. Cf. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Greene v. McElroy*, 360 U.S. 474, 496–97 (1959). (*Appendices G, K, L, and M.*)

A. Consistent Contextual, Legislative, Institutional, Procedural, and Temporal Alignment (1934–Present)

From 1934 to the present, publicly documented legislative developments, executive actions, and administrative procedures occurred within defined temporal periods during which relevant records were generated and preserved. These materials, including statutory enactments, oversight investigations, intelligence reforms, communications regulations, and recordkeeping frameworks, are presented solely as legislative-fact context demonstrating the continuity of record-dependent governance and judicial reliance on agency-maintained information. (*Appendices E, G, K, L, and M.*)

The federal regulatory structure governing communications and information systems originated with the Communications Act of 1934, Pub. L. No. 73-416, 48 Stat. 1064 (codified as amended at 47 U.S.C. §§ 151 et seq.), which established federal authority over broadcast and telecommunications systems and required transparency in the dissemination of publicly transmitted information. This statutory framework established the foundational regulatory framework governing

information distribution and accountability for communication across federal and private systems. (*Appendices E and K.*)

Congress subsequently enacted the Foreign Agents Registration Act of 1938, Pub. L. No. 75-583, 52 Stat. 631 (codified as amended at 22 U.S.C. §§ 611 et seq.), requiring disclosure of foreign influence activities within domestic information systems and establishing early statutory safeguards designed to promote transparency in the source and sponsorship of informational content. (*Appendices E and K.*)

Structural constitutional safeguards exist not merely to preserve institutional boundaries, but to ensure accountability in the exercise of governmental authority. Those structural protections help maintain democratic accountability and transparency in government action. *Buckley v. Valeo*, 424 U.S. 1, 121–22 (1976); *Free Enterprise Fund v. Public Company Accounting Oversight Board*, 561 U.S. 477, 498 (2010).

The modern federal administrative framework was further defined by the Administrative Procedure Act of 1946, Pub. L. No. 79-404, 60 Stat. 237 (codified as amended at 5 U.S.C. §§ 551 et seq.), which established uniform procedures governing agency adjudication, record development, and judicial review, ensuring that administrative determinations occur through defined evidentiary processes subject to Article III oversight. The APA established the procedural framework through which federal agencies generate administrative records that later become subject to judicial review. (*Appendices E and K.*)

Following these developments, Congress enacted the United States Information and Educational Exchange Act of 1948 (Smith–Mundt Act), Pub. L. No. 80-402, 62 Stat. 6 (codified as amended at 22 U.S.C. §§ 1431 et seq.), establishing statutory limitations governing the domestic dissemination of certain federally produced informational materials and reinforcing legislative oversight of government-controlled information systems. (*Appendices E and K.*)

Subsequent transparency and accountability statutes expanded this procedural foundation. The Freedom of Information Act of 1966 established public access rights to federal records, followed by the Omnibus Crime Control and Safe Streets Act of 1968, Title III (Wiretap Act), Pub. L. No. 90-351, 82 Stat. 197 (codified as amended at 18 U.S.C. §§ 2510 et seq.), which introduced statutory regulation of electronic surveillance practices and defined conditions under which investigative monitoring could occur. Congress further strengthened protections governing personal information through the Privacy Act of 1974, which requires agencies to maintain accurate records and restricts unauthorized disclosure of personal data. (*Appendices E and K.*)

Building on these developments, Congress enacted the Foreign Intelligence Surveillance Act of 1978 (FISA), introducing judicial authorization requirements for

certain intelligence surveillance activities and reinforcing the judiciary's role in overseeing sensitive information practices. In the same year, the Inspector General Act of 1978, Pub. L. No. 95-452, 92 Stat. 1101 (codified as amended at 5 U.S.C. app.), created independent internal oversight mechanisms within federal agencies, institutionalizing investigative review designed to identify procedural irregularities, preserve records, and ensure administrative accountability. (*Appendices E, K, L, and M.*)

Taken together, these enactments reflect a sustained legislative effort to ensure that governmental authority operates through documented procedures, preserved records, and independent review structures capable of supporting meaningful judicial oversight. (*Appendices G, K, L, and M.*)

B. Post-Church Committee Institutional Oversight and Development of Procedural Safeguard Frameworks

Congressional investigations conducted by the United States Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the "Church Committee") in 1975–1976 identified structural deficiencies in oversight, transparency, and institutional accountability affecting governmental systems. See S. Rep. No. 94-755 (1976); S. Rep. No. 94-465 (1975). (*Appendices G, K, and M-1.*)

In subsequent decades, federal oversight efforts expanded beyond intelligence systems to examine institutional procedures affecting access to protections, disciplinary practices, and accommodation-related decision-making across federal and federally influenced systems. These developments included federal civil-rights guidance addressing nondiscriminatory disciplinary administration issued on January 8, 2014, and later federal review findings documenting disparities affecting Black individuals and persons with disabilities. See U.S. Dep't of Educ. & U.S. Dep't of Justice, *Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline* (Jan. 8, 2014); U.S. Gov't Accountability Office, *Discipline Disparities for Black Students, Boys, and Students with Disabilities*, GAO-18-258 (2018). These materials are cited solely as legislative-fact context reflecting contemporaneous institutional oversight activity occurring during the period in which Petitioner entered federal civilian service, including service at the National Aeronautics and Space Administration ("NASA"), and later experienced disability-accommodation disputes, illustrating the temporal convergence between oversight guidance and the procedural conditions affecting access to accommodations and administrative protections. These materials are relevant for their temporal proximity to Petitioner's federal employment at NASA and to the administrative actions that culminated in the denial of disability accommodations in 2016. (*Appendices K, L, and M.*)

Following the terrorist attacks of September 11, 2001, Congress enacted the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Pub. L. No. 107-56, 115 Stat. 272, the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (codified as amended at 6 U.S.C. §§ 101 *et seq.*), and the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, 118 Stat. 3638, expanding interagency coordination and centralized information management. These statutes increased the generation and integration of federal records across interconnected government systems, reinforcing the practical reality that critical evidentiary materials are often maintained within coordinated agency frameworks rather than in isolated institutional channels. (*Appendices E, K, L, and M.*)

C. Consistent Contextual, Legislative, Institutional, Procedural, and Temporal Alignment (Post-1976 Oversight Continuity)

Subsequent oversight repeatedly revisited these structural risks across varied contexts, including the *Challenger* investigation (1986), the 9/11 Commission (2004), the Senate Intelligence Committee detention study (2009–2014), post-2013 FISA oversight, election-interference investigations (2017–2020), pandemic-response oversight (2020–2023), the January 6 investigation (2021–2022), and related congressional inquiries. These examples are cited not to establish causation but to demonstrate continuity: across decades, Congress has repeatedly identified the same structural concern—that concentrated control of information creates conditions in which meaningful review depends on procedural safeguards capable of exposing the evidentiary basis of governmental action. (*Appendices G, K, L, and M.*)

More recent legislative reforms, including the Federal Records Act Amendments of 2014, Pub. L. No. 113-187, 128 Stat. 2003, and the Federal Information Security Modernization Act of 2014, Pub. L. No. 113-283, 128 Stat. 3073, addressed electronic record preservation, cybersecurity accountability, and agency obligations to maintain retrievable governmental records. These enactments reflect Congress's continued recognition that accurate recordkeeping remains indispensable to lawful administrative action and meaningful judicial review. (*Appendices E, K, and M.*)

D. Established Alignment of Historical, Legislative, and Procedural Facts with Contemporaneous Government Activity

(*Appendices I, J, and K.*)

Following the historical and institutional framework described above, the record identifies defined chronological periods during which relevant information was generated, maintained, or preserved. These defined intervals—set forth in Appendix I (Chronological Information Windows and Temporal Alignment)—are presented solely as legislative-fact context to evaluate whether meaningful opportunities existed to obtain and preserve evidence before the procedural termination. The

identified periods correspond to documented governmental actions, statutory enactments, judicial developments, public incidents, and Petitioner's professional transitions occurring within time-bound environments in which records would reasonably have existed in accessible or retrievable form. See U.S. Const. art. III; U.S. Const. amend. V; Fed. R. Evid. 201.

To the extent the proceedings below characterize certain materials as consisting of generalized or global information, Petitioner clarifies that those materials were presented as legislative-fact context to confirm temporal convergence already reflected within the EEOC and district court records. The referenced public and institutional materials were used to corroborate the timing of documented governmental actions and procedural developments occurring within the same defined chronological periods identified in Appendix I, rather than to introduce unrelated subject matter. (*Appendices A, F, and I.*)

These temporal windows work with the procedural sequence summarized in Appendix J (Procedural Timeline Leading to District Court Proceedings), which reflects the chronological progression of filings, agency actions, administrative responses, and judicial decisions affecting the availability of evidence. Taken together, these materials show that the timing of record generation and procedural termination must be evaluated as interdependent because due process protections require a meaningful opportunity to develop the evidentiary record before adjudication forecloses access. See U.S. Const. amend. V; *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 437 (1982). (*Appendices A, J, and F.*)

Appendix K (Legislative and Historical Context Materials Bearing on Record Dependency, Executive Secrecy, and Structural Due-Process Concerns) reinforces this framework by summarizing longstanding institutional findings on the risks associated with concentrated control over records and procedural limitations on judicial review. Viewed collectively, Appendices I, J, and K demonstrate that record generation, procedural timing, and legislative history operate as interrelated components of a unified structural framework governing evidentiary access, reflecting recurring institutional conditions rather than isolated circumstances. See U.S. Const. art. III; U.S. Const. amend. V; *Logan*, 455 U.S. at 437.

E. Federal Healthcare Continuity and Patient Protection Framework

This recurring structural framework extends to federally administered healthcare systems, where Congress has enacted safeguards governing continuity of care, record integrity, patient privacy, and protection of patient welfare. These protections include the Privacy Act of 1974, 5 U.S.C. § 552a; federal human-subject protections codified at 45 C.F.R. Part 46; and statutory medical-care obligations under 38 U.S.C. § 1710, implemented through 38 C.F.R. §§ 17.33–17.38.

The legislative framework is reflected in Petitioner's documented interactions with the Department of Veterans Affairs regarding continuity of care, Community Care referrals, treatment delays, privacy requests, medical record access, and administrative safeguards. (*Appendix L-8; see also Appendices L-8.1 through L-8.6.*)

Collectively, these enactments and materials reflect Congress's continuing recognition that meaningful medical care, accurate recordkeeping, continuity of treatment, and timely access to governmental records are indispensable to accountability, due process, and effective judicial review where federally maintained records bear directly on protected rights. See also Appendix K.

F. Contemporary Information Environment, Social Engineering, and Environmental Context

Congress has repeatedly recognized that modern information environments, public communications, and institutional information systems bear upon governmental accountability, record integrity, and meaningful oversight. See S. Rep. No. 94-755, Book I, at 1-24 (1976); S. Rep. No. 94-465 (1975); 47 U.S.C. §§ 151 *et seq.*; 22 U.S.C. §§ 1431 *et seq.* These materials are presented solely as legislative-fact context and not as evidence establishing liability or causation.

The materials reproduced in Appendix L-9 (see also Appendices L-9.1 through L-9.4, L-10, L-11, and L-12) document contemporaneous housing conditions, environmental stressors, reported concerns involving third-party address associations, property-management correspondence, a reported stalking complaint, issues affecting disabled veterans and homelessness, public discourse concerning hate crimes and the political environment, and a historical chronology. These materials are included solely to illustrate the contemporary information environment and social conditions in which Petitioner's administrative proceedings, medical care, and litigation occurred.

Consistent with the legislative and historical materials reproduced in Appendices G, K, and M, these contextual materials are offered only to help the Court understand the broader informational environment, the timing of relevant events, and the importance of preserving meaningful access to governmental records and judicial review. See *Mathews v. Eldridge*, 424 U.S. 319, 333-35 (1976); *Greene v. McElroy*, 360 U.S. 474, 496-97 (1959).

XI. JUDICIAL CONTEXTUALIZATION OF ESTABLISHED TEMPORAL AND PROCEDURAL ALIGNMENT

A. Institutional Timing of Supreme Court Appointments Within Defined Legislative Periods

The record reflects that Supreme Court nominations and confirmations occurred within the structured temporal and institutional intervals identified throughout this Petition. As reflected in Appendix I, each identified nomination and confirmation period falls within those defined intervals, during which legislative activity, executive action, public disclosures, governmental oversight, and the generation, maintenance, or preservation of potentially relevant records also occurred.

Those nomination and confirmation periods—including 1991, 2005–2006, 2009–2010, 2017–2018, 2020, and 2022—are not presented as isolated dates, but as events falling within the structured information windows established by the chronology. Five Presidents across successive administrations made the nominations resulting in these confirmations, collectively accounting for all nine currently sitting Justices of the Supreme Court of the United States. *See Biographies of Current Justices*, Supreme Court of the United States.

As summarized in Appendix K, those institutional intervals correspond to recurring legislative and oversight periods, including reforms following the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (Church Committee) (1975–1976); enactment of the Foreign Intelligence Surveillance Act of 1978, Pub. L. No. 95-511, 92 Stat. 1783; intelligence restructuring following the September 11, 2001, terrorist attacks; and continuing congressional oversight through the Senate Select Committee on Intelligence in the modern statutory era. *See* S. Rep. No. 94-755 (1976); National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report* (2004); Senate Select Committee on Intelligence, *Study of the CIA's Detention and Interrogation Program* (2014).

Petitioner presents these temporal alignments solely as legislative fact and historical context, not, standing alone, as evidence of causation, coordination, participation, knowledge, or substantive influence by any Justice, President, or other identified individual. Their relevance is limited to identifying historically bound periods in which legislative activity, executive record generation, governmental oversight, and judicial appointments occurred within the broader institutional framework relevant to the evidentiary availability, procedural development, and preservation-of-records issues addressed in this Petition. *See* Fed. R. Evid. 201(b); *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *Greene v. McElroy*, 360 U.S. 474, 492–97 (1959); *United States v. Nixon*, 418 U.S. 683, 704–07 (1974).

B. Contemporaneous Documentation and Chronological Reliability of Record Materials

The referenced materials were documented contemporaneously and before subsequent developments, demonstrating chronological reliability rather than retrospective reconstruction. They are presented solely as legislative-fact context

illustrating the timing of record generation, availability, and procedural action, not as proof of liability or predictive or causal assertions.

For example, during defined procedural intervals, Petitioner submitted interrogatories seeking identification of records and decision-making actors associated with the challenged employment actions. See Interrogatories, EEOC No. 570-2023-00182X (Agency No. NRE-0002-2022), before Administrative Judge Zachary Wright (July 21, 2023), at 12.

During the same period, including on or about July 21, 2023, Petitioner recorded contemporaneous observations while analyzing surrounding circumstances at the National Reconnaissance Office (NRO). Certain responses included descriptive language reflecting Petitioner's contemporaneous perception of procedural vulnerability and lack of control over retained materials. For example, on page 4 of the interrogatory, Petitioner stated:

"Presently, I must surrender my documents and place my trust in a system that clearly does not prioritize my best interests, all while I am held in a socially vulnerable position. This situation recalls the phrase, 'Let no man's heart fail because of him,' and I am determined to confront these challenges head-on, as David confronted Goliath."

These statements were recorded contemporaneously to document procedural risk and lack of control over retained records. Additional references on page 12 in the interrogatory responses—including comparisons to fictional figures such as Damien Thorn from the film *The Omen*—were included solely as subjective analytical context and not as factual assertions regarding the identity of any individual.

The following entries are presented solely as recurring contextual alignments within the same defined informational periods as documented procedural actions affecting record generation, availability, and preservation. They are offered only as legislative-fact context regarding timing and the procedural environment, not as proof of causation or liability.

Table 2 — Recent Chronological Convergence of Public Events and Contemporaneous Procedural Activity (2023–2025).

Date	Event
October 7, 2023	Hamas militants attack Israel
April 5, 2024	Release of <i>The First Omen</i>
June 11, 2024	Petitioner filed a reply to the National Reconnaissance Office (NRO)
June 11, 2024	Israel proposes a ceasefire plan related to Gaza

Date	Event
June 12, 2024	Russian naval vessels arrive in Cuban waters for military exercises
July 13, 2024	Former President Donald J. Trump survives an assassination attempt
April 11, 2025	Denial of Motion to Reconsider and Motion to Proceed in Forma Pauperis
April 13, 2025	Arson attack on Pennsylvania Governor Josh Shapiro's residence

These statutory and oversight developments are reflected in corresponding public and institutional actions occurring within the same defined informational periods. See Appendix K, Table K5 — *Focal Chronological Convergence — Public Violence, Congressional Oversight, Cultural Production, and Contemporaneous Procedural Activity (1968–2024)*.

These materials illustrate the recurring relationship between record creation, record access, and procedural action within limited informational windows. The temporal relationships identified reflect the procedural environment in which record-dependent determinations were made and presented solely as contextual material, not as proof of causation or coordination.

These requests illustrate the cyclical relationship among record creation, record access, and judicial action within limited informational windows, reinforcing the structural context in which procedural determinations were made. Congressional oversight investigations have recognized these structural relationships and the risks associated with concentrated executive control over investigative records and communications. See United States Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (Church Committee), Final Report, S. Rep. No. 94-755 (1976); Interim Report, S. Rep. No. 94-465 (1975).

Courts routinely consider legislative and historical facts to evaluate procedural adequacy and risk of erroneous deprivation under established due process principles. See *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 437 (1982); Fed. R. Evid. 201(b).

C. Subsequent Government Responses Within Defined Temporal Windows

As the procedural record expanded during administrative and appellate proceedings, contemporaneous publicly reported governmental and geopolitical developments occurred within the same defined temporal periods. Petitioner submitted materials generated before later publicly reported international developments, including operations in the Caribbean, developments involving

Venezuela and President Nicolás Maduro, and related national-security matters. (*Appendices L-7, M-2, and M-3.*)

The information referenced in Petitioner's filings was derived from publicly available historical, geopolitical, and legislative materials available at the time of submission and was included solely to provide institutional and chronological context, not to assert predictive, causal, or operational relationships. Certain contextual references were documented in Petitioner's filings before subsequent publicly reported events, including the attempted assassination of a United States presidential candidate on July 13, 2024. Those references are included solely to demonstrate the chronology of Petitioner's submissions and the contemporaneous public information environment in which they were prepared. (*Appendices M-2, M-3, and M-5.*)

All referenced materials were submitted during administrative and appellate proceedings and are reproduced in the Appendix. (*Appendices F, C, L, and M.*) Because these matters involve publicly documented historical and geopolitical events that can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned, they are appropriate subjects for judicial notice. See Fed. R. Evid. 201(b).

D. Illustrative January–February 1986 Temporal Window

Petitioner uses fixed historical and personal dates solely as chronological reference points to organize the timing of documented institutional events, record generation, and procedural developments. Courts evaluate procedural adequacy by examining the timing of available process and the risk of erroneous deprivation within defined periods. See *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 437 (1982). Courts may also consider chronological facts that can be accurately determined when evaluating the procedural context. See Fed. R. Evid. 201(b); S. Rep. No. 94-755 (1976); S. Rep. No. 94-465 (1975). (*Appendices K, L-12, and M.*)

See Table K5 — Focal Chronological Convergence—Public Violence, Congressional Oversight, Cultural Production, and Contemporaneous Family Milestones (1968–2024).

The January–February 1986 period reflects a defined chronological interval during which institutional, national, cultural, and personal events occurred contemporaneously and are included solely to establish temporal continuity. (*Appendices K and L-12.*)

This interval includes recurring personal temporal identifiers, including Petitioner's father's birthday (January 12–18, annually) and Petitioner's sister's birthday

(February, annually), used solely as fixed chronological reference points within the analytical timeline. (*Appendix L-12.*)

During the same period, the January 12–18, 1986, STS-61-C mission concluded shortly before the January 28, 1986, STS-51-L *Challenger* disaster, which resulted in the loss of seven crew members. The subsequent Rogers Commission documented decision-making failures, communication breakdowns, and deficiencies in risk assessment within NASA and its contractors. These materials are included solely as historical and institutional context concerning oversight, record creation, and post-incident review. (*Appendices K and L-12.*)

Additional contemporaneous events included the federal observance of Martin Luther King Jr. Day and the publication of *Superman: Crisis on Infinite Earths* No. 10 during the same period, which was included solely to document the surrounding national and cultural chronology. (*Appendix L-12.*)

Viewed collectively, these materials illustrate a defined chronological interval in which institutional activity, public observances, cultural events, and personal milestones occurred contemporaneously. They are presented solely as legislative fact and historical context within the broader temporal framework documented throughout the Appendix. (*Appendices K, L-12, and M.*)

E. Artemis II Mission Timeline and Safe Return (2026)

NASA initially identified February 2026 as the earliest projected launch opportunity for the Artemis II mission, subject to mission readiness and planning requirements. Following additional technical evaluation and schedule adjustments, the mission launched on April 1, 2026, and concluded successfully with the safe splashdown and recovery of the Orion spacecraft on April 10, 2026. These events are included solely as contemporaneous governmental chronology documenting the timing of significant federal activities occurring during the same period as Petitioner's litigation and administrative proceedings. They are not offered as evidence of any causal relationship with Petitioner's claims. (*Appendix M-5; see also Appendix L-12.*) See National Aeronautics and Space Administration (NASA), *Artemis II Mission Updates* (2026).

XII. THE ISSUE PRODUCES STRUCTURAL INJURY

A. Temporal and Legislative Context

From 1976 to the present, the record documents recurring periods when Petitioner's asserted statutory and constitutional claims arose amid broader legislative, regulatory, and institutional developments addressing comparable concerns about governmental recordkeeping, executive accountability, and procedural safeguards. Prior congressional investigations—including the findings of

the United States Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the "Church Committee")—identified structural concerns regarding the concentration of control over governmental records and investigative authority, as well as the need for meaningful oversight. See S. Rep. No. 94-755 (1976). These materials are presented solely as chronological and legislative-fact context, not as allegations of continuing covert programs or institutional continuity. Petitioner's subsequent federal employment in intelligence-supported government environments occurred under the same statutory and oversight framework developed in response to those historical findings. (*Appendices G, K, L, and M; see also Appendices I and J.*)

B. Legislative and Legal Framework on Pretext

Federal civil-rights law recognizes that unlawful discrimination and retaliation are frequently concealed behind facially neutral explanations, a practice commonly referred to as pretext. Under statutes including Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Rehabilitation Act of 1973, an employer or agency may articulate a legitimate, nondiscriminatory reason for an adverse action; however, liability may arise where that stated reason is shown to be false, inconsistent, selectively applied, or otherwise not the true basis for the action. The Supreme Court has repeatedly confirmed that proof that an employer's explanation lacks credibility permits a factfinder to infer unlawful motive. See *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973); *Texas Dep't of Community Affairs v. Burdine*, 450 U.S. 248 (1981); *St. Mary's Honor Ctr. v. Hicks*, 509 U.S. 502 (1993); *Reeves v. Sanderson Plumbing Prods., Inc.*, 530 U.S. 133 (2000).

Evidence supporting pretext may include inconsistent explanations, deviations from established procedures, unequal application of policies, temporal proximity between protected activity and adverse action, or the absence of supporting documentation. Proof of systemic or pattern-based conduct may further support an inference of unlawful motive where discriminatory practices are demonstrated across comparable actors or time periods. *International Bhd. of Teamsters v. United States*, 431 U.S. 324, 336 (1977). These principles reflect a core feature of federal employment law: courts must evaluate whether stated justifications are genuine or merely serve as cover for unlawful conduct. (*Appendices F, G, and K.*)

This Court has likewise recognized that coercive legal mechanisms that restrict occupational mobility or impose economic compulsion may affect constitutional protection against involuntary servitude. See *Bailey v. Alabama*, 219 U.S. 219, 241–42 (1911); *Pollock v. Williams*, 322 U.S. 4, 18 (1944); *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409, 441–43 (1968). Where decisive records remain exclusively within the responding agency's control, the ability to test asserted justifications is directly tied to procedural fairness and the meaningful opportunity to obtain and present evidence. (*Appendices D and F.*)

C. Structural Constitutional Injury

These proceedings present the question of whether exclusive executive control over records is necessary to evaluate the legality of governmental action may impair meaningful judicial review of record-dependent civil-rights claims. This Court has emphasized that the integrity of judicial proceedings depends on the truthful presentation of material facts and that courts retain inherent authority to remedy conduct that undermines adjudicative fairness. *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246 (1944); see also *Bulloch v. United States*, 763 F.2d 1115, 1121 (10th Cir. 1985). The materials reproduced in Appendices G through K document Congress's repeated examination of executive secrecy, record asymmetry, and concentrated control over governmental information as institutional concerns bearing upon accountability and meaningful review. See S. Rep. No. 94-755 (1976); S. Rep. No. 94-465 (1975).

Petitioner contends that this structural problem occurred here. As reflected in Appendices A, F, H, I, and J, Petitioner's record-dependent civil-rights claims were terminated before service of process, discovery, amendment, or adversarial testing, while personnel records, investigative materials, accommodation documentation, comparator evidence, and records-access materials remained exclusively within Government control. The resulting evidentiary absence reflects the procedural posture of the case rather than the absence of underlying evidence. (*See also Appendices D and F.*)

This Court has repeatedly held that meaningful judicial review depends upon an adequate evidentiary record and that executive control over decisive information cannot displace the Judiciary's constitutional function. See *United States v. Nixon*, 418 U.S. 683, 706-07 (1974); *Mathews v. Eldridge*, 424 U.S. 319, 333-35 (1976); *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 433-37 (1982). Petitioner therefore asks whether terminating record-dependent claims before any meaningful opportunity exists to obtain and test Government-controlled evidence is consistent with Article III and the Due Process Clause of the Fifth Amendment.

The asserted constitutional injury arises principally under Article III and the Fifth Amendment, which Petitioner invokes in challenging the adequacy of the adjudicative process. Petitioner also invoked the Seventh Amendment, U.S. Const. amend. VII, and the Thirteenth Amendment, U.S. Const. amend. XIII, as additional constitutional protections implicated by the allegations pleaded. Petitioner further invoked the Foreign Intelligence Surveillance Act ("FISA"), 50 U.S.C. § 1801 *et seq.*, in connection with allegations concerning intelligence-related governmental activity and records. Petitioner contends that dismissal before service, discovery, amendment, or adversarial factual development prevented development of the record necessary to test those asserted constitutional and statutory theories. See *United States v. Kozminski*, 487 U.S. 931, 942 (1988).

When executive control over decisive records intersects with pleading-stage dismissal and restricted access to evidence, the resulting injury extends beyond the individual litigant and implicates the structural integrity of the judicial process itself. This case therefore raises the recurring question of whether record-dependent civil-rights claims may be terminated at the pleading stage while decisive evidence remains exclusively under executive control, without any meaningful opportunity to obtain, present, and test that evidence in a manner consistent with Article III and the Fifth Amendment.

The record documents the compounded consequences of Petitioner's asserted structural injury and summarizes them in Appendix L, reflecting the professional, reputational, procedural, medical, and access-related consequences Petitioner attributes to the inability to obtain and test Government-controlled evidence before the action is terminated. (*See also Appendices L-8 through L-12.*)

XIII. THIS CASE IS AN IDEAL PROCEDURAL VEHICLE

This case presents a clean procedural posture for resolving whether combined administrative-record restrictions and pleading-stage dismissal are permissible when material evidence is plausibly maintained within Government control. The Court can decide the structural questions presented without resolving disputed merits, examining classified or sensitive operational details, or determining ultimate liability. The issues arise squarely from the procedural posture below and were preserved for review, making this case an appropriate vehicle for clarifying Article III limits and due process safeguards governing record-dependent constitutional claims. The question presented recurs and can be resolved on the existing record without further factual development beyond Article III requirements.

XIV — RELIEF REQUESTED

1. Grant the petition for a writ of certiorari;
2. Vacate the judgment of the United States Court of Appeals for the Fourth Circuit;
3. Remand the case for further proceedings sufficient to permit full adjudication on a developed evidentiary record; and
4. Grant such further relief as may be just and proper.

XV. CONCLUSION

For the foregoing reasons, Petitioner respectfully prays that this Court grant the petition for a writ of certiorari, vacate the judgment of the United States Court of Appeals for the Fourth Circuit, and remand the case for further proceedings

consistent with this Court's opinion, including proceedings sufficient to permit Article III adjudication on a developed record under the governing constitutional and statutory standards.

CERTIFICATE OF SERVICE

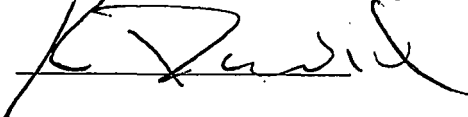
(Sup. Ct. R. 29)

I, Kefim Dexter David, declare that on this 19th day of October 2026, I served a copy of the foregoing Petition for a Writ of Certiorari by depositing it in the United States mail, first-class postage prepaid, addressed to:

D. John Sauer
Solicitor General of the United States
Office of the Solicitor General
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 19th day of October 2026.

A handwritten signature in black ink, appearing to read 'K. David', is written over a horizontal line.

Kefim Dexter David
Petitioner, Pro Se