26-5964

No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
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SUPREME COURT, U.S.

CHARLES F. CHELEDEN,
Petitioner,
v.
FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Florida law entitles a licensee who disputes material facts in a disciplinary proceeding to a formal evidentiary hearing before an administrative law judge. Petitioner invoked that right; the Department referred his case to the Division of Administrative Hearings, and a final evidentiary hearing was scheduled. After the parties reported a settlement, the administrative law judge closed the files. In 2024, the Department resumed prosecution, obtained an informal hearing on the premise that the material facts were undisputed, received Petitioner's evidence only for mitigation, and revoked his license based on contested findings of professional connection, gross misconduct, and harm.

The question presented is:

Whether the Due Process Clause of the Fourteenth Amendment permits a State, after referring a professional-discipline case for a formal evidentiary hearing on disputed material facts, to revoke the licensee's existing professional license through an informal proceeding without ever providing a meaningful opportunity to test those facts on the merits.

LIST OF PARTIES

Petitioner Charles F. Cheleden was the respondent in the Florida Department of Business and Professional Regulation disciplinary proceedings and the appellant in the District Court of Appeal of Florida, Fourth District.

Respondent Florida Department of Business and Professional Regulation ("DBPR" or "the Department") was the petitioner in the administrative proceedings and the appellee in the Fourth District.

Petitioner is an individual and Respondent is a state agency; no corporate disclosure statement is required.

RELATED CASES

Florida Department of Business and Professional Regulation v. Charles F. Cheleden, DBPR Case Nos. 2020-046642 and 2020-052266. Final Order filed March 10, 2025.

Department of Business and Professional Regulation v. Charles F. Cheleden, DOAH Case Nos. 22-0645PL and 22-0646PL. Order Closing Files and Relinquishing Jurisdiction entered September 28, 2022.

Cheleden v. Department of Business and Professional Regulation, No. 4D2025-1015 (Fla. 4th DCA). Per curiam affirmance entered April 30, 2026; panel rehearing, rehearing en banc, and written opinion denied August 5, 2026; mandate issued September 16, 2026.

Cheleden v. Florida Department of Business and Professional Regulation, No. 26A374 (U.S.). Emergency application for stay docketed September 18, 2026; application denied September 23, 2026.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Charles F. Cheleden respectfully petitions for a writ of certiorari to review the final judgment of the District Court of Appeal of Florida, Fourth District.

OPINIONS BELOW

The Fourth District Court of Appeal affirmed DBPR's Final Order by per curiam decision entered April 30, 2026. The decision is reproduced at App. 1a. The court denied Petitioner's motion for panel rehearing, rehearing en banc, and written opinion on August 5, 2026. That order is reproduced at App. 16a.

DBPR's Final Order was filed March 10, 2025 and ordered that CAM34177 "is Revoked." The Final Order and incorporated Hearing Officer's Recommended Order are reproduced at App. 2a–11a.

The September 28, 2022 DOAH Order Closing Files and Relinquishing Jurisdiction cancelled the scheduled formal hearing after the parties reported settlement and closed the files with leave to request reopening if the settlement was disapproved. It is reproduced at App. 14a–15a. DBPR's later Order Granting the Department's Motion for Informal Hearing—styled below as 'Petitioner's Motion' because DBPR was the petitioner in the agency proceeding—appears at App. 12a–13a.

JURISDICTION

The Fourth District entered judgment on April 30, 2026. Petitioner filed his motion for panel rehearing, rehearing en banc, and written opinion on May 13, 2026 —13 days later and within Florida Rule of Appellate Procedure 9.330(a)(1)'s 15-day period. The Fourth District denied that timely motion on August 5, 2026. Under Supreme Court Rules 13.1 and 13.3, the 90-day period therefore runs from August 5, making November 3, 2026 the deadline for this Petition.

This Court has jurisdiction under 28 U.S.C. § 1257(a). The Fourth District's August 5, 2026 order denying rehearing left its April 30 affirmance final. Because the

unelaborated affirmance supplied no basis for ordinary Florida Supreme Court conflict review, the Fourth District was the highest Florida court in which a decision could be had in this posture. See Jenkins v. State, 385 So. 2d 1356, 1359 (Fla. 1980). The Fourteenth Amendment Due Process claim was squarely presented to that court and again on rehearing.

Petitioner does not contend that the PCA itself violates Due Process. Its significance is finality. This Court has reviewed federal constitutional questions arising from Florida district-court judgments in comparable final postures. See Palmore v. Sidoti, 466 U.S. 429 (1984); Ibanez v. Florida Department of Business & Professional Regulation, Board of Accountancy, 512 U.S. 136 (1994).

This Petition seeks review of the Fourth District's final judgment, not direct review of Florida administrative law in the abstract. The federal constitutional injury alleged, however, arose in the DBPR proceeding whose Final Order the Fourth District left in force. Petitioner therefore relies on the agency proceedings to establish the preserved Fourteenth Amendment violation while asking this Court to vacate the state appellate judgment that made the deprivation final.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment provides in pertinent part: "No State shall ... deprive any person of life, liberty, or property, without due process of law." DBPR is a Florida state agency, and the challenged adjudicatory choices and license revocation were state action subject to that guarantee.

Pertinent Florida provisions include Fla. Stat. §§ 120.569, 120.57, 120.68, 455.225, 455.227, and 468.436. The pertinent constitutional and statutory text, limited to the subsections material to the question presented and using the applicable versions identified there, is reproduced at App. 17a–20a.

STATEMENT OF THE CASE

A. Petitioner held an existing professional license, and the State revoked it.

Florida issued Petitioner Community Association Manager license CAM34177 in 2009. This was an existing occupational credential by which he could lawfully practice in a regulated profession, not an application for a future benefit. The Final Order directed that CAM34177 "is Revoked."

Petitioner does not dispute Florida's power to regulate community association managers or to discipline proven statutory violations. His federal claim concerns the process used when revocation of the existing license was made to depend on factual and profession-specific predicates that he continued to dispute.

B. The condominium encounter was genuinely disputed and depended on credibility and objective evidence.

The disciplinary case arose from events immediately following a September 28, 2020 condominium board meeting. The setting matters because it explains why credibility and motive were material, not because this Court must decide the underlying quarrel. Petitioner testified that the building faced significant deferred-maintenance and capital needs and that management and the board had presented a financing plan of approximately $1.5 million—roughly $20,000 to $25,000 per unit—with financing available over ten years. Tr. 23:6-11. He testified that resident Valerie Oshniuk strongly opposed the proposed assessment and had pursued recall efforts against the board. Tr. 23:12-20.

Petitioner testified that the board meeting itself lasted approximately two minutes and ended after a replacement director was appointed. Tr. 25:7-12. He then walked toward the exit. According to his sworn testimony, Oshniuk followed him as he changed directions several times trying to leave, while holding a phone toward him. Tr. 25:13-26:6.

The physical encounter was sharply contested. Petitioner testified that, as he tried to return through the meeting-room doorway, Marjorie "Midge" Zanger grabbed him by the throat; that he moved her wrist away; and that she then moved past him, caught a raised threshold, and fell forward onto a chaise lounge. Tr. 26:7-23. Petitioner testified that Zanger initially told police he had thrown her "like a sack of potatoes," but later stated in deposition, "I fell," and described falling onto the chaise. Tr. 27:1-3; 29:24-30:2.

Petitioner also testified that Oshniuk initially told police she "didn't see anything," then, after standing near the officer while Zanger gave her account, later supplied a substantially similar version. Tr. 27:22-28:1; 30:3-12. He relied on the police report's notation of no phone damage, photographs he said showed no visible shoulder mark, the cell-phone recording, police body-camera footage, depositions, and other materials as inconsistent with portions of the accusations. Tr. 28:22-29:20.

Those assertions were not adjudicated findings. They illustrate the point: the case contained competing witness accounts, alleged changes in those accounts, motive evidence, physical evidence, and recordings. It was a credibility case. The constitutional significance lies in whether the procedure actually used was capable of testing those disputes before they became predicates for professional-license revocation.

C. Florida placed those disputes on the formal-hearing track.

Petitioner disputed the allegations from the outset. He filed a petition for an administrative hearing involving disputed material facts and selected formal adjudication under Fla. Stat. § 120.57(1). R. 18-30. DBPR referred the contested cases to DOAH. R. 730-34. After DBPR amended the charges, Petitioner again requested formal adjudication and identified disputed material facts. R. 1180-85.

An Administrative Law Judge was assigned. A case-management conference was scheduled for November 7, 2022 and a final evidentiary hearing for November 10,

2022. Thus the safeguard later sought was not hypothetical or administratively novel: the State had already activated the forum designed to hear evidence and resolve disputed facts.

D. Settlement interrupted the formal hearing; it did not adjudicate the merits.

Before the scheduled final hearing, the parties reported settlement and jointly moved for relinquishment. On September 28, 2022, the ALJ entered an Order Closing Files and Relinquishing Jurisdiction. The order cancelled the conference and final hearing and closed the files "with leave to request the Division to re-open the cases, should the settlement be disapproved by the Regulatory Council of Community Association Managers."

The formal hearing therefore disappeared because settlement was reported—not because the ALJ found that material disputes had ceased to exist, not because Petitioner withdrew his factual denials, and not because any tribunal resolved witness credibility or the audiovisual evidence. The certified record identified no written Council disapproval and no motion requesting DOAH reopening before DBPR later resumed prosecution.

The record also contains a later 2024 written settlement providing for probation, a $500 fine, and $650.30 in investigative costs. R. 116-19. It likewise did not become the final disposition. These settlement efforts do not decide enforceability here; they underscore that the case remained unresolved on the merits before DBPR later imposed revocation.

E. DBPR later resumed prosecution through an informal forum without returning the unresolved disputes to DOAH.

After the formal case had been closed on settlement grounds, DBPR did not return the unresolved disputes to a DOAH evidentiary hearing. It affirmatively

moved for an informal hearing under § 120.57(2), asserting that no relevant and material factual disputes remained. R. 44-51.

Petitioner objected before the hearing. His August 29, 2024 Response stated that every allegation remained disputed and that there were "numerous relevant and material factual disputes as well as violations of Due Process." R. 52-57. His amended response again invoked disputed material facts and Due Process. R. 76-82.

The significance is objective and does not depend on speculation about motive. The return to an internal informal process was an affirmative procedural act documented by DBPR's own motion and the resulting order. The federal question is whether, after the State had already referred the case for formal evidentiary adjudication of disputed material facts, the later informal process supplied a meaningful opportunity to test those unresolved facts before revocation.

F. The January 13, 2025 transcript exposes the contradiction.

At the informal hearing, Andrew Fier stated: "I am serving as the Department's informal hearing officer." Tr. 4:9-10. DBPR prosecutor Alvan Balent Jr. then explained the forum: the case was being heard informally "because the material facts are undisputed." Tr. 6:15-19.

Petitioner immediately requested return to DOAH, described the prior formal case and settlement-based closing order, and stated that material facts remained disputed. Tr. 13:5-14:7. The hearing officer denied the request:

> "I don't see how that can be contested. I have the police report tying right back to it. I show that this was at an HOA meeting. I show that this is within the scope of the work. So, on those issues, I'm not going to grant your motion. You are welcome to present your explanation or mitigation." Tr. 15:13-20.

Petitioner renewed his objection to the informal hearing and explained that he had requested a Zoom proceeding so the videos could be shown. Tr. 15:23-16:14. He

expressly disputed DBPR's position that there were no relevant and material factual disputes. Tr. 16:17-25.

Petitioner offered nineteen defense exhibits plus B-11. DBPR argued that "the guilt was determined by the plea." Tr. 19:4-11. The hearing officer responded that he was "not here to relitigate it" and stated: "I'm allowing it for mitigation purposes." Tr. 19:12-19. No complaining witness testified.

The central audiovisual evidence was not played. Petitioner explained that the Department's electronic system accepted only about 20 MB, that "the videos are not getting through," and testified that he had previously delivered a thumb drive containing videos, photographs, and other evidence to DBPR Chief Counsel. Tr. 34:18-35:5. The documented point is that Petitioner reported the transmission problem and prior thumb-drive delivery, and the hearing proceeded without the central recordings being played; Petitioner does not ask this Court to infer intentional destruction from facts not established below.

G. The Final and Recommended Orders resolved profession-specific disputes and imposed revocation.

The court records themselves label both May 12, 2022 dispositions "Plea: BEST INTEREST" and "Court Action: ADJUDICATION WITHHELD." The Recommended Order, by contrast, characterized them as pleas of guilty. Petitioner does not ask this Court to resolve that state-law labeling dispute. For purposes of the federal question, the Court may assume the dispositions supplied whatever independent disciplinary predicate Florida law validly gives them.

What matters is what DBPR decided beyond the bare existence of those dispositions. The Recommended Order expressly found "clear and convincing evidence" that the alleged battery occurred "at or about the time that Respondent was providing professional services as a Community Association Manager"; concluded that the plea "related to the practice of his profession"; and separately

concluded that the conduct qualified as "gross misconduct in connection with the profession." Recommended Order ¶¶ 17-19.

The Recommended Order also resolved the disputed reporting issue by concluding that Petitioner's notice to DOAH was not notice to the Department. Id. ¶ 20. It then made aggravating findings that Petitioner caused physical harm, that the event was directly related to his profession, that he had not made significant efforts toward rehabilitation, and that there was "no semblance of contrition or acceptance of responsibility." Id. ¶¶ 22-24. It recommended revocation on the profession-related plea count and the gross-misconduct counts, but expressly recommended no penalty for the reporting violation because DBPR ultimately had notice through Petitioner's filing. Id. ¶¶ 25-27.

The Final Order incorporated the Recommended Order by reference, adopted its Findings of Fact and Conclusions of Law, imposed a $1,000 administrative fine plus $650.30 in investigative costs, and ordered that "Respondent's license, license number CAM34177 is Revoked." Thus, the revocation did not rest mechanically on a court-event form alone; the agency adopted additional contested findings about professional connection, gross misconduct, harm, rehabilitation, contrition, and sanction.

H. Appellate review did not recreate the factual adjudication that never occurred.

Petitioner sought a complete appellate record, moved to compel, and later sought supplementation and correction. The January 13 transcript was ultimately added. The principal audiovisual materials were not made part of the merits record. The Fourth District required an agency-clerk response to a record-correction motion and later denied correction.

The Fourth District could review agency action on the record transmitted to it; it could not become the first trier of the unresolved encounter. It could not call the

complaining witnesses, authenticate and play the recordings as first-instance merits evidence, observe demeanor, or make the credibility determinations for which the formal hearing had been scheduled.

Petitioner's Amended Initial Brief and Reply Brief expressly raised the formal-hearing issue, the disputed facts, evidentiary restrictions, professional nexus, reporting issue, settlement/DOAH sequence, and federal Due Process. The Fourth District affirmed by PCA on April 30, 2026 and denied rehearing, rehearing en banc, and a written opinion on August 5, 2026.

I. Preservation of the Federal Question.

The federal issue was preserved through every material stage. In his August 29, 2024 response to DBPR's motion for an informal hearing, Petitioner wrote that "every allegation ... remains in dispute" and that there were "numerous relevant and material factual disputes as well as violations of Due Process," and he requested a DOAH hearing. R. 52-57. In his September 4 amended response he again stated that every allegation remained disputed, quoted § 455.225(5)'s formal-hearing trigger, and stated: "Respondent will dispute issues of material fact, legal deficiency and Due Process, should an Informal Hearing be held." R. 76-82. At the January 13 hearing he requested return to DOAH, disputed the "undisputed facts" premise, objected to the informal and telephone-only format, and identified the unplayed audiovisual evidence. Tr. 13:5-17:1; 34:18-35:16.

The operative Amended Initial Brief expressly cited the Fourteenth Amendment and argued that use of § 120.57(2) despite disputed material facts denied the formal hearing, sworn testimony, evidence presentation and rebuttal, subpoenas, and cross-examination needed to test the allegations. Amended Initial Br. 32-36. The Reply Brief expressly applied Mathews to "Appellant's ability to work," "the risk of erroneous deprivation," and "the obvious value" of DOAH, video, live testimony, and cross-examination. Reply Br. 21-23. The May 13, 2026 rehearing motion contained a

section titled "Appellant Preserves His Federal Constitutional Due-Process Claims," expressly invoked the Fourteenth Amendment, and identified the missing DOAH hearing, disputed facts, unreviewed videos/body-camera/911 evidence, and mitigation-only treatment. Reh'g Mot. 29-30. Respondent joined the issue on the merits by arguing that an informal hearing was proper because there were no material factual disputes and that the unplayed audiovisual evidence was irrelevant. Answer Br. 9-19. The Fourteenth Amendment claim was therefore squarely presented, fully contested, and rejected by the judgment affirming the revocation and the subsequent denial of rehearing; the absence of a written opinion does not transform it into a new issue first raised here.

REASONS FOR GRANTING THE PETITION

This case presents a narrow question about the constitutional minimum of process before a State revokes an existing professional license. Florida had already referred this professional-discipline case for a formal evidentiary hearing on disputed material facts. Settlement interrupted that hearing without adjudicating those facts. DBPR later resumed prosecution through an informal proceeding and ultimately revoked the license without ever providing a meaningful opportunity to test the disputed factual predicates on the merits.

That sequence matters under the Fourteenth Amendment. No emergency required final action without merits testing, and the State had already activated a practicable evidentiary mechanism capable of resolving the disputes. The federal question is not whether Florida was required, as a matter of federal law, to use DOAH by name; it is whether the process actually provided was constitutionally adequate before final occupational deprivation.

I. SUPREME COURT DUE PROCESS PRECEDENT REQUIRES MEANINGFUL FACTUAL TESTING BEFORE REVOCATION ON CONTESTED PROFESSIONAL PREDICATES.

A. Roth, Barry, and Bell establish the protected occupational property interest.

The Due Process Clause applies when a State deprives a person of "life, liberty, or property." U.S. Const. amend. XIV. Once a State confers an entitlement that may be retained absent specified grounds, the interest can constitute property protected by Due Process. Board of Regents v. Roth, 408 U.S. 564, 577 (1972). An existing occupational license is a familiar example. In Bell v. Burson, the Court held that continued possession of a driver's license could not be taken through procedures that failed to address the issue made relevant to suspension. 402 U.S. 535, 539-42 (1971). In Barry v. Barchi, the Court recognized a horse trainer's existing license as protected property and treated the licensee's interest in avoiding suspension as substantial. 443 U.S. 55, 64-66 (1979).

Petitioner held CAM34177 for years before the challenged proceeding. Florida did not deny an initial application; it revoked an existing credential that supplied legal authority to practice in a regulated occupation. That places this case within the core procedural Due Process framework rather than at the margins of a discretionary licensing application.

B. Loudermill makes the constitutional minimum a question of federal law, not the State's procedural label.

Cleveland Board of Education v. Loudermill supplies the governing division of responsibility. State law may define the substantive entitlement, but once the property interest exists, the State cannot define away federal Due Process by attaching inadequate procedures to the entitlement. 470 U.S. 532, 541 (1985). The constitutional adequacy of the procedure is a federal question.

That principle matters here because DBPR's defense begins with a state procedural characterization: an informal hearing was proper because the material facts were supposedly undisputed. But a State cannot answer the Fourteenth Amendment question merely by calling the proceeding "informal" or by labeling contested facts "undisputed." Federal Due Process looks to the procedure actually supplied and the factual predicates actually used to impose the deprivation.

Loudermill also rejects the idea that later procedures necessarily excuse the absence of constitutionally necessary process at the decisive stage. The Court held that a person with a protected property interest is ordinarily entitled to some meaningful opportunity to respond before a significant deprivation becomes effective, with later review serving as a supplement rather than the definition of the federal minimum. 470 U.S. at 542-46. The point here is not that every professional-license case requires the same pre-deprivation procedure. It is that Florida could not make the existence of disputed facts immaterial to Due Process simply by choosing a forum whose premise was that those disputes did not exist.

C. Bell requires the hearing to reach the factual issue the State makes material to deprivation.

Bell is important because it rejects procedural form without substantive function. Georgia provided a hearing before suspending the driver's license, but the hearing did not consider the driver's fault even though fault was relevant to the statutory basis for suspension. This Court held that Due Process required a hearing "appropriate to the nature of the case" before the State could suspend the license. 402 U.S. at 541-42. The constitutional defect was not the total absence of a proceeding; it was the failure of the proceeding to adjudicate the factual issue on which the deprivation properly depended.

That is the closest functional analogy here. Petitioner did receive something called a hearing. But the hearing officer told him he was "not here to relitigate" the

underlying matters, allowed substantial defense material "for mitigation purposes," and did not hear the complaining witnesses or play the central recordings. DBPR then adopted findings about professional connection, gross misconduct, physical harm, reporting, rehabilitation, and contrition before revoking the license. Bell supports the proposition that the procedure must actually reach the facts the State itself makes material to deprivation.

The resemblance to Bell is especially strong because the defect in both cases lies in the mismatch between the factual basis for deprivation and the function of the hearing. In Bell, the State could not make potential liability relevant to suspension while structuring the hearing so that liability was not meaningfully considered. Here, DBPR could not use "undisputed" as the reason to withhold formal factual testing and then adopt disputed findings about professional nexus, gross misconduct, physical harm, reporting, rehabilitation, and contrition as reasons supporting revocation. The constitutional problem is functional, not semantic: a proceeding is not adequate merely because the State calls it a hearing.

Bell also supplies an important limiting principle. The Court did not require a full civil trial before license suspension; it required an inquiry appropriate to the factual issue the State made relevant. 402 U.S. at 541-42. Petitioner likewise does not demand a judicial trial or any particular state forum as a constitutional entitlement. He asks for a process capable of testing the genuinely disputed predicates that DBPR itself made material to revocation.

D. Willner, Goldberg, and Greene explain why credibility-dependent livelihood decisions require meaningful confrontation and rebuttal.

Willner v. Committee on Character & Fitness, 373 U.S. 96 (1963), is particularly instructive because it arose in professional licensing. The State denied admission to a profession based on adverse character material without giving the applicant an adequate opportunity to confront and rebut the sources. The Court emphasized that

procedural Due Process must be satisfied before a State excludes a person from professional practice and recognized the particular value of confrontation and cross-examination where livelihood may turn on another person's word. Id. at 102-05.

Goldberg v. Kelly, 397 U.S. 254 (1970), does not impose a universal trial-type hearing on every administrative decision. It does, however, explain why oral presentation and cross-examination have special value when veracity and credibility are central. Id. at 269-70. Written submissions can be a poor vehicle for exposing error where the decision depends on whose factual account is believed. Greene v. McElroy, 360 U.S. 474 (1959), likewise reflects the traditional importance of confrontation and the ability to know and answer adverse evidence when governmental action seriously affects the ability to pursue one's occupation.

Those concerns are not abstract here. The underlying dispute involved competing eyewitness accounts, alleged changes between initial statements and later testimony, asserted motive, photographs, cell-phone video, police body-camera footage, depositions, and disputed professional nexus. No complaining witness testified. The recordings capable of testing the competing accounts were never played. A mitigation narrative did not perform the truth-testing function emphasized in Willner and Goldberg.

Petitioner does not read Willner, Goldberg, or Greene as establishing an automatic constitutional right to cross-examination in every administrative case. Their importance is contextual. They identify the procedural value of confrontation, oral presentation, and meaningful rebuttal precisely where the State's decision depends on disputed human accounts. Those are the circumstances presented here.

E. Mathews strongly favors the fact-testing safeguards Petitioner invoked.

Mathews v. Eldridge identifies three considerations: the private interest affected; the risk of erroneous deprivation under the procedure used and the probable value of additional safeguards; and the government's interest, including administrative

burdens. 424 U.S. 319, 335 (1976). Each factor strongly favors meaningful factual testing in the circumstances presented.

First, the private interest was substantial. Petitioner faced revocation of an existing professional license and official findings of serious misconduct affecting his ability to work and professional standing.

Second, the risk of error was unusually high. The case turned on credibility-dependent facts; the complaining witnesses did not testify; substantial defense evidence was treated principally as mitigation; the central audiovisual evidence was not played; the court-event forms did not themselves adjudicate the profession-specific nexus and gross-misconduct findings later adopted; and the agency drew aggravating conclusions about rehabilitation and contrition while Petitioner continued to deny factual allegations he had never been permitted to test in formal factfinding.

Third, the probable value of the missing safeguards was concrete. A formal evidentiary proceeding could receive and authenticate the recordings, hear the adverse witnesses, permit cross-examination, distinguish admissible evidence from hearsay, resolve the reporting and professional-nexus disputes, and make findings on a completed evidentiary record.

The governmental burden was correspondingly modest. Florida had already created the formal mechanism, Petitioner had already elected it, DBPR had already referred the cases to DOAH, an Administrative Law Judge had been assigned, and a final evidentiary hearing had been scheduled. No emergency required immediate final action. The hearing disappeared because settlement was reported, not because the factual disputes disappeared. Few cases present so concrete a showing that the safeguard was both available and administratively practicable.

The Mathews factors therefore weigh strongly in favor of meaningful factual testing. The private interest was an existing occupational credential; the risk of error

was magnified by unresolved credibility disputes and unplayed direct evidence; the omitted safeguards directly addressed those risks; and the State had already activated the very evidentiary mechanism capable of testing them.

F. Hicks, Logan, and Zinermon reject loss of protected interests through predictable procedural failure when pre-deprivation safeguards are practicable.

Loudermill establishes the federal floor. Hicks v. Oklahoma, 447 U.S. 343, 346 (1980), illustrates a related principle: where state law gives a person a substantial and legitimate expectation that a prescribed decisionmaking process will be followed, arbitrary denial of that process cannot simply be dismissed on the theory that the same result might ultimately have been reached. Hicks does not federalize every state procedural rule, but it underscores that process can itself matter when the State makes it part of the mechanism protecting a substantive interest.

Logan v. Zimmerman Brush Co., 455 U.S. 422 (1982), rejected the notion that a State may extinguish a protected interest through operation of its own adjudicatory machinery without constitutionally adequate process. There, a protected claim was lost when the State's commission failed to provide the hearing contemplated by law. The Court held that the State could not finally terminate the protected interest without a meaningful opportunity for merits consideration. Id. at 428-37.

Zinermon v. Burch, 494 U.S. 113 (1990), sharpens the answer to an anticipated post-deprivation-remedy argument. Post-deprivation remedies may suffice for truly random and unauthorized losses that the State cannot practicably prevent in advance. But Zinermon refused to treat later remedies as automatically sufficient where the deprivation was foreseeable, the officials exercising state authority were in a position to provide pre-deprivation safeguards, and those safeguards were practicable. Id. at 132-39.

This case falls on that side of the line. The alleged deprivation did not result from an unpredictable rogue act. It occurred through an organized disciplinary process at the exact point when DBPR officials controlled forum selection, evidentiary scope, and recommended disposition. The risk was foreseeable because Petitioner repeatedly identified disputed facts and requested DOAH. And the pre-deprivation safeguard was not hypothetical: it had already been elected, referred, assigned, and scheduled. Appellate review could review the record that existed; it could not retroactively create sworn testimony, confrontation, authentication, video presentation, demeanor evidence, or first-instance credibility findings that the omitted merits hearing would have produced.

The distinction from Parratt-type cases is critical. Nothing about the alleged deprivation was random in the sense that the State could not know when or how it would occur. The forum decision was made deliberately within the disciplinary case; Petitioner objected before the informal hearing, again at the hearing, and again on appeal; and the officials making the procedural choice had authority to provide or restore the missing process. Zinermon therefore supports looking to the adequacy of the process available before revocation rather than treating later judicial review as an automatic constitutional cure.

Logan is similarly useful because the protected interest there was lost through the operation of the State's own adjudicatory machinery. The Court rejected the proposition that the State could extinguish the interest and then point to the very procedural failure that caused the loss. 455 U.S. at 428-37. Here, Petitioner's point is not that Florida violated a filing deadline; it is that, after settlement interrupted the previously invoked formal adjudication without resolving the disputes, the State resumed prosecution through an informal process that assumed away those disputes and then used findings on those disputes to support revocation.

G. Barry, Dixon, Mackey, and Mallen define the limited circumstances in which abbreviated process may suffice.

Petitioner does not contend that Due Process always requires a full evidentiary hearing before every temporary license action. Barry v. Barchi, 443 U.S. 55 (1979), Dixon v. Love, 431 U.S. 105 (1977), Mackey v. Montrym, 443 U.S. 1 (1979), and FDIC v. Mallen, 486 U.S. 230 (1988), show that abbreviated or delayed process may be permissible when the State acts on objective or reliable predicates, faces urgent regulatory interests, or provides prompt merits review.

Those features are absent here. DBPR was not responding to an emergency, the sanction was revocation rather than a temporary stopgap, and the material predicates included credibility-dependent professional-nexus and misconduct findings. Florida had already referred the matter to a formal evidentiary forum. These contrast cases therefore reinforce the narrowness of Petitioner's claim: Due Process does not require maximum procedure in every case, but it does require procedure suited to testing the facts on which final deprivation actually depends.

H. Murchison and Withrow reinforce fair decisionmaking without creating a per se rule against agency adjudication.

In re Murchison, 349 U.S. 133, 136 (1955), states that a fair tribunal is a basic requirement of Due Process. Withrow v. Larkin, 421 U.S. 35 (1975), at the same time rejects a categorical rule that combining investigative and adjudicative functions within an agency is unconstitutional. Petitioner therefore does not challenge internal agency adjudication per se. The structural point is narrower: when the same agency selected an informal forum on the premise that facts were undisputed, restricted merits testing, and then resolved contested professional predicates against the licensee, those circumstances heighten the Mathews risk of error.

I. Roth, Codd, and Paul reinforce the magnitude of the private interest without creating a separate reputation claim.

The private interest extended beyond possession of a license number. DBPR's adopted findings of serious professional misconduct became part of the official record accompanying revocation. Codd v. Velger, 429 U.S. 624 (1977), and Paul v. Davis, 424 U.S. 693 (1976), help define the reputational dimension of government action when combined with alteration of legal status, while Roth supplies the underlying property-interest framework. Petitioner does not present a separate stigma-plus claim. These authorities simply reinforce the weight of the private interest under Mathews when an existing occupational license is revoked on disputed official findings.

J. Petitioner does not federalize Florida's DOAH statute; the already-invoked formal process demonstrates feasibility and value under Mathews.

The Petition does not ask this Court to constitutionalize Florida Statutes §§ 120.569 or 120.57, to hold that every licensing dispute must be heard by DOAH, or to turn every state procedural error into a Fourteenth Amendment violation. The protected property is the existing license; the federal issue is whether the procedure used before revocation was constitutionally adequate.

Florida's formal-hearing framework matters for a narrower reason. It identifies the very risk Florida itself recognized when material facts are disputed, supplies targeted safeguards for that risk, demonstrates that Petitioner invoked those safeguards, and proves that providing them was practicable because the cases had already been referred to DOAH and scheduled for a merits hearing. Those facts are directly relevant under Mathews and make this an unusually concrete vehicle for deciding the federal question.

This distinction is important to the requested rule. The Constitution need not command Florida to use DOAH in every future case. A State could satisfy Due Process through another mechanism that genuinely tests material disputed facts. What it

may not do, Petitioner submits, is revoke an existing professional license after previously referring those disputes for formal evidentiary adjudication without ever providing a meaningful opportunity to test the facts on the merits.

K. Taken together, this Court's precedents converge on the constitutional rule presented here.

The cases do not supply isolated slogans. Read together, they establish a coherent sequence. Roth, Bell, and Barry identify the protected occupational interest. Loudermill makes the constitutional minimum a matter of federal law. Bell requires the procedure to reach the factual predicate the State makes material. Willner, Goldberg, and Greene explain the value of meaningful rebuttal when credibility and livelihood intersect. Mathews directs attention to risk of error, value of safeguards, and governmental burden. Logan and Zinermon prevent predictable failure of available pre-deprivation process from being treated as automatically cured by later review. Barry, Dixon, Mackey, and Mallen show when abbreviated procedures can be constitutionally sufficient and, by contrast, why this record is different.

Applied here, those principles yield a narrow proposition. When a State has already referred a professional-discipline case for a formal evidentiary hearing on disputed material facts, no emergency requires immediate final action, and those disputes remain unresolved, Due Process requires a meaningful opportunity to test the material factual predicates before the State finally revokes the existing professional license.

II. THE RECORD PRESENTS THE FEDERAL QUESTION DIRECTLY: "UNDISPUTED" TO DENY FACTFINDING, DISPUTED FINDINGS TO REVOKE.

Rule 10 cautions against review of mere factual error or routine misapplication of law. This case presents neither. The transcript identifies DBPR's stated premise for withholding formal merits factfinding, and the Recommended Order identifies the

contested findings used to support revocation. The federal question arises from that procedural sequence, not from disagreement with a particular credibility determination.

A. The Best Interest dispositions did not themselves establish the profession-specific predicates on which revocation was recommended.

Respondent's strongest alternative-basis argument is that the May 12, 2022 court dispositions independently established the grounds for discipline. Petitioner does not ask this Court to decide the precise state-law classification or effect of those dispositions. Even assuming they supplied a valid disciplinary predicate, they did not themselves adjudicate the separate profession-specific findings DBPR later made.

The Recommended Order separately found by clear and convincing evidence that the alleged battery occurred on Association property, "at or about the time" Petitioner was providing professional CAM services, and involved Association residents. RO ¶ 17. From those findings it concluded that the disposition "related to the practice of his profession." RO ¶ 18. It separately found gross misconduct "in connection with the profession." RO ¶ 19. The hearing officer then recommended revocation on the § 455.227(1)(c) count and on the gross-misconduct counts. RO ¶¶ 25–26. By contrast, the reporting count carried no penalty. RO ¶ 27. The Final Order adopted those findings and conclusions and revoked CAM34177.

That sequence defeats the suggestion that the disputed facts were immaterial to the sanction. The court-event forms did not adjudicate whether the encounter occurred in connection with CAM services, whether it constituted gross misconduct in connection with the profession, or the other contested profession-specific findings DBPR used in recommending and imposing revocation. Those were agency determinations, and the process by which they were made is the federal question here.

B. A mitigation-only opportunity cannot substitute for merits factfinding when the agency later decides the merits.

DBPR argued at the hearing that "the guilt was determined by the plea." The hearing officer stated that he was "not here to relitigate it" and admitted Petitioner's defense exhibits "for mitigation purposes." Tr. 19:4-19. That procedural framing matters because Petitioner's evidence was directed not merely to mercy, but to whether disputed professional predicates existed at all.

If the only question had truly been penalty mitigation following an objectively complete adjudication of every material element, a limited procedure might present a different constitutional case. But DBPR later relied on contested professional conclusions in deciding revocation. Due Process cannot be satisfied by limiting evidence to mitigation while using unresolved merits facts against the licensee.

C. The absence of subpoenas or additional witnesses cannot turn disputed facts into undisputed facts.

Respondent argued below that Petitioner did not attempt to subpoena witnesses or use other procedures available in the informal case. That contention reverses the constitutional sequence. The Department selected § 120.57(2) because it said no material factual dispute existed; the hearing officer told Petitioner he was not there to relitigate the matter; and substantial defense material was received principally for mitigation.

A licensee's failure to recreate a formal evidentiary proceeding inside a forum selected precisely because no factual trial was supposedly necessary cannot convert genuine disputes into agreed facts. Petitioner's claim is not that he was denied a perfect proceeding. It is that the procedure actually used was not employed to test the factual grounds on which revocation depended.

D. The audiovisual and witness evidence demonstrates why factual testing had probable value.

The value of factfinding is not speculative. Petitioner testified that Zanger's account changed from being thrown "like a sack of potatoes" to "I fell"; that Oshniuk initially said she did not see the event before later giving a materially different account; that the phone showed no damage despite the alleged violent throw; and that photographs contradicted an asserted visible injury. Tr. 27:1-3; 27:22-28:1; 28:22-29:20; 29:24-30:12.

The Court need not decide whether those assertions are correct. Their existence demonstrates why a procedure capable of evaluating the recordings, documents, and witness testimony could materially affect the reliability of the result. That is the exact concern Mathews asks courts to assess.

E. The orders show why the procedural mismatch mattered to revocation.

The State never conducted the formal evidentiary hearing that had been selected to decide the disputes. Settlement interrupted it. DBPR later characterized the material facts as undisputed and used that premise to proceed informally. The Recommended Order nevertheless resolved contested professional nexus, misconduct, and aggravation issues, and the Final Order adopted those findings and revoked the license.

Stated simply: "undisputed" was used to deny factfinding; disputed findings were then used to revoke. That is not a request to correct one bad credibility determination. It presents the constitutional question whether the procedure provided was capable of testing the factual predicates the State ultimately made material to final occupational deprivation.

III. THIS CASE PRESENTS AN IMPORTANT FEDERAL QUESTION UNDER RULE 10 AND A SUITABLE VEHICLE FOR REVIEW.

A. The question concerns the constitutional function of a hearing, not correction of a factual result.

This Petition does not depend on a conventional lower-court split. It presents an important federal question about the minimum process required when a State has already referred a professional-discipline case for formal evidentiary adjudication of disputed material facts, but later proceeds informally and makes final occupational deprivation depend on factual predicates that were never meaningfully tested on the merits.

That issue cannot be reduced to disagreement with a single agency's factfinding. DBPR's stated reason for selecting the informal forum was the supposed absence of disputed material facts. The Recommended Order then made findings concerning professional nexus, gross misconduct, harm, rehabilitation, and sanction. The question concerns the constitutional function of the hearing itself—whether it was capable of testing facts the State made material to revocation.

This Court's decisions establish the governing principles but do not squarely address this procedural configuration. Bell requires a hearing to address the factual issue made material to license deprivation; Loudermill makes the constitutional minimum a matter of federal law; Mathews evaluates error risk and the value of safeguards; Willner addresses meaningful testing where professional exclusion turns on contested adverse material; and Logan and Zinermon address predictable loss through state adjudicatory machinery.

Review would determine how this Court's Due Process principles apply to that procedural sequence: formal evidentiary adjudication of disputed facts was invoked, referred, assigned, and scheduled; settlement interrupted it without resolving those facts; prosecution later resumed through an informal proceeding; and revocation

followed without a meaningful opportunity to test the disputed predicates on the merits. That is a federal procedural question, not an invitation to decide which witness should have been believed.

The question matters beyond this case because occupational licensing conditions the legal ability to work for tens of millions of Americans. The U.S. Bureau of Labor Statistics explains that an occupational license is awarded by a government agency and conveys legal authority to work in an occupation, unlike a professional certification issued by a nongovernmental body. U.S. Bureau of Labor Statistics, Current Population Survey, Table 49, Certification and Licensing Status of the Civilian Noninstitutional Population 16 Years and Over by Employment Status, 2024 Annual Averages, https://www.bls.gov/cps/data/aa2024/cpsaat49.htm.

In 2024, BLS estimated that 40.612 million Americans age sixteen or older held a government-issued occupational license. Of those, 34.869 million were employed—21.6% of all employed Americans, or more than one worker in five. Id. Those figures do not suggest that every licensee faces revocation; they demonstrate the nationwide scale of the governmental licensing system to which the Question Presented applies.

When a State revokes an existing occupational license, it may withdraw the governmental authorization legally necessary for the licensee to continue practicing a chosen occupation. Whether the Fourteenth Amendment permits that final deprivation after the State has already referred disputed material facts for formal evidentiary adjudication, but later revokes through an informal process without meaningful merits testing, is therefore not a question unique to one Florida licensee or one profession. It concerns a form of state power exercised over the ability of tens of millions of Americans to continue earning a livelihood in regulated work.

This Court's review would clarify not whether States may regulate licensed occupations—they plainly may—but the constitutional minimum when disputed factual predicates remain unresolved after a formal evidentiary process was invoked

and referred, and the State later proceeds informally to final revocation. The breadth of occupational licensing makes that constitutional rule nationally consequential while the requested holding remains narrow.

B. Florida's own process proves that the requested safeguard was practical, familiar, and already available.

The requested safeguard imposes no speculative new federal bureaucracy. Florida already had a formal mechanism for disputed professional-license cases. It had already been invoked here. The agency had already referred the cases. An ALJ had already been assigned. A final hearing had already been scheduled.

That history is important under Mathews because it substantially weakens any claim that meaningful factual testing would have imposed prohibitive fiscal or administrative burdens. The State need not use DOAH because the Federal Constitution names that forum; rather, the existing DOAH track shows that the State had a ready mechanism capable of doing what the informal proceeding did not.

C. Florida decisions confirm recurrence and practical feasibility without supplying the federal rule.

Florida's decisions are not offered as independent grounds for certiorari. They serve only two limited functions: they show that the disputed-fact/formal-hearing distinction recurs in professional licensing, and they confirm that meaningful factfinding was a familiar and practical safeguard.

Most directly, Buchheit v. DBPR, 659 So. 2d 1220, 1221 (Fla. 4th DCA 1995), reversed an informal licensing adjudication because the applicant's denials presented disputed material facts requiring a formal hearing. Campbell v. DBPR, 868 So. 2d 1265, 1266 (Fla. 4th DCA 2004), held that once a disputed material fact arose during an informal licensing hearing, a formal hearing was required. Cora v. DBPR, 399 So. 3d 1192 (Fla. 3d DCA 2024), likewise involved competing factual accounts requiring formal evidentiary adjudication.

Those decisions do not establish the federal rule; Bell, Loudermill, Mathews, and Willner do. They simply show that the procedural setting presented here is not hypothetical and that Florida had an available mechanism for resolving disputed professional facts.

D. The federal issue is preserved and the PCA creates finality rather than a vehicle defect.

The federal claim was expressly presented to DBPR, the Fourth District, and on rehearing. The Fourteenth Amendment claim was squarely presented to the Fourth District, fully contested by Respondent, and rejected by the judgment affirming the revocation and the subsequent denial of rehearing. The absence of a written opinion does not convert the preserved claim into a new issue raised for the first time in this Court.

The Fourth District's PCA is not itself the constitutional injury. It is the final judgment leaving the challenged revocation in place. Under Jenkins, the PCA ordinarily foreclosed Florida Supreme Court conflict review. Palmore and Ibanez demonstrate that the absence of a written Florida DCA opinion does not itself prevent this Court from reviewing a preserved federal constitutional question.

The PCA identifies no independent and adequate state-law ground for the judgment. Any alternative-basis argument therefore turns on whether the agency's orders made the federal procedural question immaterial. They did not. The Recommended Order relied on contested professional-nexus and gross-misconduct findings in recommending revocation, while the separate reporting count expressly carried no penalty. RO ¶¶ 17–19, 25–27. The federal question therefore remains material to the judgment left in place.

E. Review does not require this Court to retry the condominium encounter or resolve state-law questions.

The Court need not decide who initiated the encounter, whether any witness lied, whether either settlement was enforceable, or the precise state-law label attached to the Best Interest Pleas. It can assume that the dispositions have whatever independent disciplinary consequence Florida law validly assigns them and still decide the narrower federal question: before making revocation turn on additional contested predicates, did the State provide a procedure capable of meaningfully testing them?

The case therefore presents a legal question about the constitutional sufficiency of process, supported by a transcript that records the forum-selection premise and the mitigation-only treatment in specific terms. The requested rule would not constitutionalize every state administrative procedure or require a full trial before every temporary or emergency action.

F. The requested rule and remedy are narrow.

Petitioner asks for a rule limited to final occupational deprivation: when a State has referred a professional-discipline case for formal evidentiary adjudication of disputed material facts, those disputes remain unresolved, meaningful merits testing is practicable, and no emergency makes prior testing impracticable, Due Process requires a meaningful opportunity to test the material factual predicates before revocation becomes final.

The appropriate disposition is correspondingly narrow. The Court should grant certiorari, vacate the judgment below, and remand for proceedings consistent with the Fourteenth Amendment. Florida would remain free to adjudicate the disciplinary charges through a constitutionally adequate process. This Court need not itself reinstate the license, determine the truth of the condominium encounter, or supervise Florida administrative law as such.

CONCLUSION

The State initially referred this materially disputed professional case for a formal evidentiary hearing. Settlement interrupted that hearing without adjudicating the disputed facts. DBPR later resumed prosecution through an informal proceeding, maintained that the material facts were 'undisputed,' limited substantial defense evidence to mitigation, and ultimately adopted contested findings of professional connection, gross misconduct, harm, rehabilitation, and contrition before revoking the license. The separate reporting count carried no penalty. The transcript identifies the forum-selection premise and the mitigation-only treatment; the Recommended Order identifies the contested findings used to support revocation; and this Court's Due Process cases supply the governing principles.

The petition for a writ of certiorari should be granted. The judgment of the District Court of Appeal of Florida, Fourth District, should be vacated, and the case remanded for further proceedings consistent with the Due Process Clause of the Fourteenth Amendment.

Charles F. Cheleden 10/23/2026

Respectfully submitted,

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