26-6186

(Signature)

No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

FILED
NOV 12 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

_____

Leslie Day — PETITIONER
(Your Name)

vs.

Gregory Day — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of Virginia

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Leslie Day
(Your Name)

1646 Montmorency Dr. Vienna, Va 2218
(Address)

703-755-5545

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

LEZLIE A. DAY, Petitioner

v.

GREGORY E. DAY, Respondent

On Petition for a Writ of Certiorari to the Supreme Court of Virginia

PETITION FOR A WRIT OF CERTIORARI

Lezlie A. Day, Pro Se

Mailing Address: 1646 Montmorency Drive
Vienna, VA 22182

Telephone: 703-755-5545

Email: lezlieday5@gmail.com

QUESTIONS PRESENTED

1. Whether the Supreme Court of Virginia applied an independent and adequate state procedural ground when it dismissed a petition raising federal due-process and access-to-courts claims for failure to file a separate notice of appeal under Rule 5:14(a), after acknowledging the petition and inviting correction of other filing defects, in the circumstances presented here.

2. Whether a state court may foreclose appellate consideration of a preserved federal access-to-courts claim without meaningful consideration of state-controlled filing barriers and disability-related access requests, when those barriers are alleged to have interfered with compliance with appellate procedure.

PARTIES AND DIRECTLY RELATED PROCEEDINGS

Petitioner Lezlie A. Day was the appellant in the Supreme Court of Virginia. Respondent Gregory E. Day was the appellee. Neither was represented as a corporate party in that proceeding.

Directly related proceedings: Day v. Day, Fairfax County Circuit Court, No. CL-2019-4587 (order appealed from the Circuit Court, August 2025); Day v. Day, Court of Appeals of Virginia, No. 1626-25-4 (dismissed December 19, 2025; rehearing denied January 9, 2026); Day v. Day, Supreme Court of Virginia, No. 260125 (dismissed June 30, 2026).

TABLE OF CONTENTS

OPINIONS BELOW 1

JURISDICTION 1

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 1

STATEMENT OF THE CASE 2

I. WHETHER THE STATE PROCEDURAL DISMISSAL ADEQUATELY FORECLOSES REVIEW OF FEDERAL CONSTITUTIONAL CLAIMS 3

II. PETITIONER RAISED DUE-PROCESS AND DISABILITY-RELATED COURT-ACCESS CONCERNS IN THE TRIAL COURT AND ON APPEAL 4

III. THE CASE PRESENTS A BROADER DUE-PROCESS QUESTION, NOT A REQUEST TO REDECIDE DIVORCE MERITS 5

CONCLUSION 5

Appendix Index ..... following petition

TABLE OF CITED AUTHORITIES

Boddie v. Connecticut, 401 U.S. 371 (1971) 4

Lee v. Kemna, 534 U.S. 362 (2002) 3

NAACP v. Alabama ex rel. Patterson, 357 U.S. 449 (1958) 3

Tennessee v. Lane, 541 U.S. 509 (2004) 4

U.S. Const. amend. XIV, § 1 ..... 1, 4

28 U.S.C. § 1257(a) 1

Virginia Supreme Court Rule 5:14(a) 1, 3

Supreme Court Rules 10, 13, 14 5

OPINIONS BELOW

The Supreme Court of Virginia entered an unreported order on June 30, 2026, dismissing the petition for appeal because Petitioner failed to file a notice of appeal in the Court of Appeals under Rule 5:14(a). App. A. The Court of Appeals of Virginia entered an unreported order on December 19, 2025, dismissing the underlying appeal because the notice of appeal had not been timely filed with the trial court. App. B. It denied a petition for rehearing on January 9, 2026. App. C. These two distinct procedural grounds must not be conflated.

JURISDICTION

The Supreme Court of Virginia entered the judgment sought to be reviewed on June 30, 2026. App. A. Petitioner did not seek rehearing of that order. On October 1, 2026, the Chief Justice granted Petitioner's application for an extension of time (No. 26A433) to file a petition for a writ of certiorari until November 12, 2026. This petition invokes 28 U.S.C. § 1257(a). The adequacy of the state procedural ground is a threshold jurisdictional issue.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment provides, in relevant part: "nor shall any State deprive any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV, § 1.

Virginia Rule 5:14(a) provides: "No appeal from a judgment of the Court of Appeals which is subject to appeal to this Court will be allowed unless, within 30 days after entry of final judgment or order denying a timely petition for rehearing, a notice of appeal is filed with the clerk of the Court of Appeals, as provided for in Rule 5A:1."

28 U.S.C. § 1257(a) provides: "Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States."

Petitioner also documented disability-related barriers to participation and requests for accommodation. These matters provide context for her principal Fourteenth Amendment procedural due-process claim; this petition does not assert a separate, unverified Title II cause of action.

STATEMENT OF THE CASE

This petition concerns the loss of state appellate review through successive procedural dismissals, not the merits of the underlying divorce, support, or property disputes.

Earlier hearing requests. Petitioner repeatedly sought a hearing on alleged fraud and noncompliance with existing orders. After an April 25 indication that emergency matters would be addressed at Term Day, a May 9 motion was scheduled for May 16 but removed from that docket by a May 14 order. Petitioner sought extended hearing time on May 27. A June 23 Term Day proceeding resulted in a three-hour August 14 setting; in July she requested earlier and longer consideration. At the August 13 proceeding, the Circuit Court dismissed the motions as multifarious without deciding the underlying allegations. App. G.

1. The appeal from the Fairfax County Circuit Court. On August 13, 2025, the Circuit Court dismissed several post-divorce motions without prejudice as multifarious. App. G. Petitioner sought appellate review. On September 12, 2025, she attempted to file her Notice of Appeal in person before the courthouse's scheduled 4:00 p.m. closing time. The side entrance she had customarily used was restricted to attorneys and court personnel. Instead of turning right through security, she was directed to continue straight, descend by staircase or elevator, pass through the Adult Detention Center, exit the building, and walk around the exterior and uphill to the front entrance. This substantial detour delayed her arrival. When she reached the front entrance, security personnel were closing the doors. Petitioner protested that it was not yet 4:00 p.m., but a guard informed her that the courthouse was closing for an event that afternoon.

Petitioner then mailed appellate materials to Fairfax and Richmond. On September 15, 2025, she emailed Fairfax Circuit Court's CCR File Review office, documenting her September 12 mailing, courthouse-access difficulties, and request for indigency-related filing guidance. The September 12, 5:19 p.m. USPS receipt was submitted with her reconsideration motion. App. F, Ex. A. USPS tracking for the Fairfax-addressed item reported "Delivered, Individual Picked Up at Post Office" on September 13 at 11:16 a.m. App. I. The trial-court Notice of Appeal bears a September 19, 2025, 10:49 a.m. filing stamp. App. H. On December 19, 2025, the Court of Appeals dismissed the appeal because the notice was not timely filed with the trial court. App. B.

2. Efforts to obtain reconsideration. On December 29, 2025, Petitioner moved for reconsideration, invoking postal evidence and disability-related access barriers. App. F. The Court of Appeals denied rehearing on January 9, 2026, without discussing those contentions. App. C.

3. Presentation of the federal question. Petitioner's February 7, 2026 petition for appeal to the Supreme Court of Virginia specifically asserted, as its assignment of error, that the Court of Appeals had dismissed the appeal despite court-created barriers, disability-related limitations, and unresolved indigency, "in violation of due process and the right of access to the courts." App. E, at 1. The petition described the asserted access barriers and unresolved accommodation requests. App. E, at 1–2.

4. The state supreme court's deficiency letter. On February 10, 2026, Deputy Clerk Melissa Layman acknowledged receipt of the petition for appeal on February 9, assigned Record No. 260125, and identified an omitted filing fee or in forma pauperis affidavit and issues with the Rule 5:17(i) eCertificate. The letter invited correction of those items. It did not mention a missing Rule 5:14(a) notice of appeal. App. D. The letter did not purport to waive any procedural rule or promise that no other defects existed.

5. The independent ground of the judgment now before this Court. On June 30, 2026, the Supreme Court of Virginia dismissed the petition for appeal because Petitioner had failed to file a notice of appeal in the Court of Appeals under Rule 5:14(a). App. A. That required filing was separate from the 2025 notice in the trial court underlying the December 19 dismissal. Petitioner's February 7 petition for appeal is not, without more, proof of the timely separate notice required by Rule 5:14(a). The available documents do not establish that a separate notice was filed by the applicable deadline.

REASONS FOR GRANTING THE PETITION

I. WHETHER THE STATE PROCEDURAL DISMISSAL ADEQUATELY FORECLOSES REVIEW OF FEDERAL CONSTITUTIONAL CLAIMS.

When a state-court judgment rests on an independent and adequate state procedural ground, this Court ordinarily cannot review the federal question. But whether a state procedural ground is adequate is itself a federal question. An exceptional application of a procedural rule may be inadequate to bar review. NAACP v. Alabama ex rel. Patterson, 357 U.S. 449, 457–58 (1958); Lee v. Kemna, 534 U.S. 362, 376–86 (2002).

Virginia Rule 5:14(a) required Petitioner to file a separate notice of appeal with the clerk of the Court of Appeals within 30 days of the January 9, 2026 order denying rehearing. That was a different filing from her September 2025 trial-court notice. Petitioner does not claim that the later petition for appeal necessarily satisfied Rule 5:14(a). She asks whether the state court's application of that rule was adequate in light of its processing of a petition raising federal due-process claims and its selective identification of other filing defects.

The Supreme Court of Virginia received Petitioner's February 7, 2026 petition and sent a deficiency letter dated February 10 identifying a filing-fee or indigency-affidavit issue and an eCertificate issue. App. D. The letter did not identify the absence of the separate Rule 5:14(a) notice. The court then waited 140 days, until June 30, 2026, to dismiss the petition on that unmentioned ground, without addressing the federal due-process claims. App. A. Petitioner continued attempting to pursue review during that period.

Petitioner recognizes that the February 10 letter did not waive Rule 5:14(a), and that the ordinary period for filing the separate notice had already run by the time of that letter. The September 2025 courthouse episode also concerned the earlier trial-court notice, not the later Rule 5:14(a) notice. The available record does not establish that a separate notice was timely filed. The question is whether, in these particular circumstances, the procedural ground was adequate to foreclose federal review, not whether the clerk's letter automatically excused compliance.

II. PETITIONER RAISED DUE-PROCESS AND DISABILITY-RELATED COURT-ACCESS CONCERNS IN THE TRIAL COURT AND ON APPEAL.

Petitioner's due-process complaint is not limited to disability accessibility or physical entry into a courthouse. She maintains that she was repeatedly denied a meaningful opportunity to present evidence, obtain consideration of motions, enforce existing orders, and pursue appellate review. In the Fairfax County Circuit Court, she sought a stay of discovery on medical grounds following four surgeries on her dominant hand. She also objected that discovery had previously been used by opposing counsel to identify and correct weaknesses in their own case, increasing the prejudice of proceeding while she was medically impaired. The stay was denied.

On September 30, 2025, Petitioner sent a formal ADA grievance to Virginia court officials concerning both Fairfax County courts. It documented her earlier requests for assistance, denied medically based stay, and asserted denial of due process. This correspondence predates the appellate dismissals; it is not offered as proof that every underlying allegation was adjudicated. On November 10 and 17, 2025, Petitioner sought accommodations and additional filing time in Court of Appeals Record No. 1626-25-4, explaining the effects of limited hand function, medical limitations, and unstable access to equipment.

Petitioner raised the constitutional substance of these concerns in her December 29, 2025 motion for reconsideration, which supplied postal evidence and described barriers to timely filing. App. F. Her February 7, 2026 petition to the Supreme Court of Virginia expressly invoked "due process and the right of access to the courts." App. E, at 1–2. A meaningful opportunity to be heard is a central due-process concern. See Boddie v. Connecticut, 401 U.S. 371, 377–79 (1971). Title II of the Americans with Disabilities Act also protects access to public court services. See Tennessee v. Lane, 541 U.S. 509, 531–34 (2004). The ADA correspondence reinforces the due-process context; Petitioner does not present an independently preserved Title II claim here.

The June 30 order made no findings on these underlying allegations. Petitioner asks whether the procedural ground foreclosing review of the preserved federal claims was adequate under the circumstances; she does not contend that disability alone excused the separate Rule 5:14(a) notice requirement.

III. THE CASE PRESENTS A BROADER DUE-PROCESS QUESTION, NOT A REQUEST TO REDECIDE DIVORCE MERITS.

This petition raises a question of general importance about meaningful judicial review, not a request to decide the merits of a divorce or property dispute. See Sup. Ct. R. 10. Petitioner has spent years attempting to obtain enforcement of orders, consideration of material evidence, and a meaningful opportunity to be heard. Those underlying disputes explain the consequences of losing appellate review, but the judgment presented here is the Supreme Court of Virginia's June 30, 2026 dismissal. The constitutional question is whether the state procedural ground was adequate as applied to a petition expressly asserting due process and denial of meaningful access to judicial review.

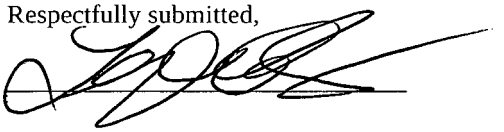
Petitioner submits that courts should adopt a consistent approach to deficiency notices: either identify all reasonably ascertainable filing deficiencies and provide a meaningful opportunity to cure them, subject to applicable jurisdictional deadlines, or refrain from issuing selective notices that reasonably suggest the identified deficiencies are the only obstacles to review. A system that invites correction of some defects while withholding notice of another defect later deemed fatal risks undermining meaningful access to appellate review. Petitioner offers this as a proposed safeguard, not as an assertion that existing law requires a clerk to identify every defect.

Petitioner does not ask this Court to decide property titles, recalculate support, or review unrelated allegations. She seeks review of the federal constitutional question presented in the proceedings leading to the June 30 judgment.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the petition for a writ of certiorari be granted. The Declaration of Independence affirms the unalienable rights to "Life, Liberty and the pursuit of Happiness" and declares that governments are instituted to secure those rights. Petitioner invokes that founding principle as context, not as an independent cause of action, and asks this Court to safeguard the Fourteenth Amendment guarantee of due process by examining whether the state procedural dismissal improperly foreclosed review of her federal constitutional claims.

Respectfully submitted,



Lezlie A. Day, Petitioner, Pro Se

Dated: 11-12-2026