No. 26A85

IN THE

SUPREME COURT OF THE UNITED STATES

CATHLEEN HANENBERG PEREZ AND ALEJANDRO PEREZ,
Applicants/Petitioners,
v.
JPMORGAN CHASE BANK, NATIONAL ASSOCIATION,
Respondent.

On Petition for a Writ of Certiorari to the Supreme Court of New Jersey

EMERGENCY APPLICATION FOR IMMEDIATE ADMINISTRATIVE STAY AND STAY OF BERGEN COUNTY SHERIFF'S SALE, SHERIFF'S NO. 26000304, PENDING FILING AND DISPOSITION OF CORRECTED PETITION FOR WRIT OF CERTIORARI

TO THE HONORABLE SAMUEL A. ALITO, JR., ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE THIRD CIRCUIT

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EMERGENCY APPLICATION

INTRODUCTION

Applicants Cathleen Hanenberg Perez and Alejandro Perez respectfully apply to Justice Alito, as Circuit Justice for the Third Circuit, for an immediate administrative stay and a stay pending filing and disposition of their corrected petition for writ of certiorari. The relief requested is narrow: stay Bergen County Sheriff's Sale No. 26000304, Docket No. F01339818, scheduled for July 17, 2026 at 12:00 p.m., and stay any deed delivery, title transfer, writ enforcement, writ of possession, eviction, or sale-related transfer concerning 236 Mabel Ann Avenue, also known as 236 Mable Ann Avenue, Franklin Lakes, New Jersey.

The requested stay does not ask this Court to decide the foreclosure merits, calculate a mortgage balance, compel refinancing, compel reinstatement, decide servicing disputes, or vacate the March 15, 2021 pre-filing order in the first instance. It asks only to preserve the home and this Court's certiorari jurisdiction while the corrected petition is filed and considered.

The emergency is concrete. The Bergen County Sheriff has processed the sale from June 12, 2026 to July 17, 2026 at 12:00 p.m., at 2 Bergen County Plaza, Hackensack, New Jersey, under Sheriff's No. 26000304 and Docket No. F01339818. E. App. 1a. No state-court stay protects the home. The Appellate Division denied temporary stay and related status-quo relief, and the Supreme Court of New Jersey denied emergent relief. E. App. 2a-6a.

The stay is necessary because respondent is treating a non-merits appellate dismissal as practical finality. The first appeal from the foreclosure judgment was dismissed for alleged brief-and-appendix deficiencies after the Appellate Division's own deficiency notice identified a procedure to move to accept the filing as submitted. E. App. 46a-51a. The corrected petition presents the federal question whether that unexplained refusal to reinstate a timely first appeal from a home-foreclosure judgment was an adequate state procedural ground and comported with due process.

The harm is compounded by an unstable execution record. Respondent twice attempted to obtain alias writs adding $311,234.98 in additional interest and escrow advances and commanding sale for more than $707,000. The New Jersey Office of Foreclosure rejected both proposed writs because they did not match the original writ. E. App. 14a-23a. The July 2, 2025 alias writ later issued on different terms, commanding sale to raise $397,381.91. E. App. 10a-13a. The scheduled sale therefore is not merely ministerial enforcement after full merits review; it is enforcement after a non-merits appellate dismissal, through a writ path that itself reflects materially disputed and revised sale figures.

STATEMENT UNDER RULES 22 AND 23

This application is addressed to Justice Alito because this case arises from New Jersey, which is within the Third Circuit. See Sup. Ct. R. 22.3. It is filed with the Clerk for transmission to the Circuit Justice under Rule 22.1 and is prepared on 8.5-by-11-inch paper under Rule 33.2. The original and two copies should be filed with proof of service under Rules 22.2 and 29.

This Court has jurisdiction over the corrected petition under 28 U.S.C. Sec. 1257(a). The Supreme Court of New Jersey denied certification from the Appellate Division's dismissal and refusal to reinstate applicants' first appeal. The Clerk of this Court returned the original petition for correctable format defects and later advised that the petition must be corrected and resubmitted within the Rule 14.5 correction period. E. App. 7a-9a. Applicants are submitting the corrected paid petition contemporaneously with this application, including 40 booklet-format copies, one unbound 8.5-by-11-inch copy, the $300 docketing fee, and proof of service.

This application seeks a stay of enforcement of the state judgment and sale process under Rule 23, 28 U.S.C. Sec. 2101(f), and, to the extent necessary to protect this Court's jurisdiction, 28 U.S.C. Sec. 1651(a). Rule 23 is satisfied because stay relief was first sought in the state courts and denied. The Appellate Division denied temporary stay/status-quo relief and related relief in

M-005521-25 and M-005888-25. E. App. 3a-6a. The Supreme Court of New Jersey denied permission to file an emergent motion and any related temporary stay. E. App. 2a. No other court can provide timely relief before the July 17, 2026 noon sale.

RELEVANT BACKGROUND

A. The matter was contested in substance, although the final judgment was treated as uncontested.

The property is applicants' family home. The Chancery docket reflects a February 15, 2023 entry for an 'Uncontested Order for Final Judgment and Taxed Cost Sheet,' followed by a March 31, 2023 notice of appeal. E. App. 52a. Applicants do not ask this Court to decide the foreclosure merits on this emergency application. The point is narrower: the case has been contested in substance, and the state appellate dismissal prevented merits review of the judgment and related enforcement consequences.

Respondent's later state-court papers confirm that it is relying on the dismissal of applicants' first foreclosure appeal to oppose plenary review and to proceed with enforcement. In May 2026, respondent argued that the current appeal could not revive pre-judgment challenges because the prior foreclosure appeal had been dismissed, and that applicants were not entitled to plenary review of the judgment. E. App. 37a-45a. That is precisely why a stay is needed: respondent is converting a non-merits procedural dismissal into practical enforcement of the foreclosure judgment.

B. Respondent invoked federal abstention in favor of state foreclosure proceedings, then relied on the state appellate dismissal to avoid meaningful review.

Before the state appellate dismissal, respondent moved in federal court for Colorado River abstention. The District of New Jersey granted that motion and dismissed the federal action without prejudice pending the state foreclosure action, reasoning that the federal and state matters were parallel and that the state foreclosure forum had advanced sufficiently to protect the parties' interests. E. App. 24a-36a. The federal order summarized the same mortgage-modification and payment-crediting allegations that applicants sought to litigate. E. App. 24a-36a.

The result is a procedural trap. In federal court, respondent obtained abstention by pointing to the state foreclosure process. In state court, respondent later relied on the dismissal of the first appeal to argue that applicants could not obtain plenary review. E. App. 37a-45a. Applicants do not ask this Court to review the federal abstention order. The order matters because it shows why meaningful state appellate review was central, not collateral. Once the state appellate forum dismissed the timely first appeal without merits review, the state process no longer performed the role for which the federal forum deferred.

C. The first appeal was dismissed for non-merits appellate-format deficiencies.

The Appellate Division's January 10, 2025 final deficiency notice identified curable brief-and-appendix issues: a table of contents, table of judgments, font size, inclusion of trial-court briefs, and related-cases formatting. E. App. 46a-51a. The notice did not identify a jurisdictional defect in the notice of appeal. It also identified a route to seek acceptance of the filing as submitted. Applicants invoked that procedure. The Appellate Division nevertheless denied the motion to accept the brief and appendix and dismissed the appeal because applicants allegedly failed to satisfactorily correct the deficiencies. E. App. 46a-51a.

The order did not explain which deficiency remained, why any remaining deficiency was jurisdictional, why respondent was prejudiced, why a lesser corrective measure would not suffice, or why a timely first appeal from a home-foreclosure judgment should be extinguished without merits review. The New Jersey Supreme Court denied certification, and this Court's

Clerk later returned the timely certiorari petition for correctable format defects, with a Rule 14.5 correction period. E. App. 7a-9a.

D. State emergency relief has been exhausted.

Applicants sought state emergency relief. The Appellate Division denied reconsideration, leave to reply nunc pro tunc, relaxation of the pre-filing order as applied, record completion/correction under Rule 2:5-5, temporary stay, and limited remand with retained jurisdiction. E. App. 3a-4a. The Appellate Division separately granted only leave to file a reply while denying temporary status-quo relief. E. App. 5a-6a. The Supreme Court of New Jersey then denied permission to file an emergent motion and any related temporary stay or other relief, stating only that applicants had failed to make a preliminary showing of entitlement to emergent relief. E. App. 2a.

REASONS FOR GRANTING A STAY

To obtain a stay pending filing and disposition of a petition for certiorari, applicants must show a reasonable probability that four Justices will grant certiorari, a fair prospect that the Court will reverse or vacate the judgment below, and a likelihood of irreparable harm. Hollingsworth v. Perry, 558 U.S. 183, 190 (2010). In close cases, the Circuit Justice or Court balances the equities and weighs the relative harms. Ibid. Each requirement is met here.

I. The Hollingsworth standard is satisfied.

A. There is a reasonable probability that certiorari will be granted.

The corrected petition does not seek foreclosure error correction. It presents a federal procedural question: whether an unexplained refusal to reinstate a timely first appeal from a final home-foreclosure judgment, after nonjurisdictional and curable brief-and-appendix deficiencies and an as-filed acceptance procedure, is an adequate state procedural ground and comports with due process.

That question is certworthy under this Court's adequate-state-ground decisions. Adequacy is a federal question. Cruz v. Arizona, 598 U.S. 17, 26-27 (2023). A generally valid state procedural rule may be inadequate when applied exorbitantly in the circumstances of a particular case. Lee v. Kemna, 534 U.S. 362, 376 (2002). This Court has also recognized that due process protects meaningful access to a state-created adjudicatory process once the State creates it. Logan v. Zimmerman Brush Co., 455 U.S. 422, 433-34 (1982); Evitts v. Lucey, 469 U.S. 387, 393 (1985); Mathews v. Eldridge, 424 U.S. 319, 333 (1976); Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950).

The issue is not whether self-represented litigants are exempt from rules. They are not. McNeil v. United States, 508 U.S. 106, 113 (1993). The issue is whether a nonjurisdictional, curable, nonprejudicial formatting or appendix issue may be converted, without a reasoned explanation, into the forfeiture of a timely first appeal from a home-foreclosure judgment. This is the narrow Lee/Cruz question.

Respondent may invoke Beard v. Kindler, 558 U.S. 53 (2009), and Walker v. Martin, 562 U.S. 307 (2011), which recognize that discretionary state procedural rules can be adequate when firmly established and regularly followed. Those cases do not defeat review. Applicants do not challenge New Jersey's authority to enforce rules. They challenge the unexplained, disproportionate application of those rules after the court's own notice identified an as-filed acceptance procedure and after applicants invoked it.

B. Applicants have a fair prospect of vacatur and remand.

Applicants have at least a fair prospect of obtaining vacatur and remand because the dismissed appeal was not academic. It affected review of the foreclosure judgment and related monetary/enforcement consequences. After dismissal of the first appeal, respondent attempted twice to obtain alias writs including the $311,234.98 additional-sums component. The Office of

Foreclosure rejected both proposed writs because they did not match the original writ. E. App. 14a-23a. The final July 2, 2025 alias writ then issued on different terms. E. App. 10a-13a. That record reinforces why meaningful appellate review was necessary and why respondent should not be permitted to convert a non-merits appellate dismissal into forced sale before this Court can review whether the dismissal was constitutionally adequate.

The New Jersey Office of Foreclosure twice rejected JPMorgan Chase's proposed alias writ forms that attempted to include the $311,234.98 additional-sums component, because the proposed writs did not match the original writ. E. App. 14a-23a. Respondent's state-court position was that the rejected prior alias-writ forms were irrelevant because a later alias writ issued and because the prior appeal had been dismissed. E. App. 37a-45a. That response underscores the problem. The issue is not that this Court should decide the correct amount due. The issue is that enforcement is proceeding while respondent uses a non-merits appellate dismissal as though it resolved the amount-due, additional-sums, payoff, writ, and sale issues.

A vacatur-and-remand remedy would be narrow and administrable. This Court need not decide the foreclosure merits. It may stay the sale, grant certiorari, vacate the judgment below, and remand for New Jersey to provide meaningful appellate review or a reasoned, nonarbitrary determination identifying any lawful procedural bar actually relied on by the state appellate court.

C. Irreparable harm is concrete and imminent.

Irreparable harm is no longer prospective. The Bergen County Sheriff has processed the sale of applicants' family home under Sheriff's No. 26000304, Docket No. F01339818, from June 12, 2026 to July 17, 2026 at 12:00 p.m., at 2 Bergen County Plaza, Hackensack, New Jersey. E. App. 1a. No state-court stay protects the home. E. App. 2a-6a.

If the sale proceeds, applicants will suffer more than ordinary litigation prejudice. The sale will place title into the sheriff-sale process, create third-party purchaser equities, compress remaining redemption or objection remedies, impair or terminate pending refinancing and account-resolution efforts, and convert a non-merits appellate dismissal into practical enforcement of the foreclosure judgment.

The harm is compounded by the unstable execution record. Respondent twice attempted to obtain alias writs adding $311,234.98 in additional sums and commanding sale for more than $707,000. The Office of Foreclosure rejected both proposed writs because they did not match the original writ. The July 2, 2025 alias writ later issued on different terms, commanding sale for $397,381.91. The scheduled sheriff sale therefore is not merely ministerial enforcement after full merits review; it is enforcement after a non-merits appellate dismissal, through a writ path that itself reflects disputed and materially revised sale figures. E. App. 10a-23a.

The Office of Foreclosure twice rejected Chase's proposed alias writs that attempted to include additional sums because the proposed writs did not match the original writ. That confirms the execution process and sale figures were materially disputed and unstable, making a temporary stay necessary to preserve meaningful review. E. App. 14a-23a.

Applicants' declaration provides the immediate harm in practical terms: Chase attempted to obtain alias writs adding $311,234.98 in additional interest and escrow advances; the Office of Foreclosure rejected those proposed alias writs on May 6, 2025 and May 23, 2025 because the proposed writs did not match the original writ; the July 2, 2025 alias writ later issued on different terms and commanded sale to raise $397,381.91; and the sale is scheduled for July 17, 2026. Applicants need a stay because respondent and/or its servicer is treating the dismissal of the first appeal as final merits adjudication while the writ, payoff, additional-sums, and amount-due issues remain unresolved through meaningful appellate review.

Without a stay, this Court's jurisdiction may be practically defeated. The corrected certiorari petition seeks review of the procedural dismissal that made enforcement possible without appellate merits review. If sale proceeds first, the practical status quo will be destroyed before this Court can decide whether the state appellate dismissal was an adequate state ground and consistent with due process.

D. The balance of equities and public interest favor a temporary stay.

The balance of harms favors applicants. A temporary stay preserves the status quo while this Court considers the corrected petition. Denial allows the home to be sold. Respondent remains protected by its recorded mortgage position, judgment, and asserted writ process, subject to whatever conditions this Court deems appropriate. Applicants are willing to comply with reasonable conditions preserving the property and respondent's secured position, including maintaining insurance, avoiding waste, and complying with any reasonable security condition the Court may impose under 28 U.S.C. Sec. 2101(f) and Rule 23.4.

The public interest favors a stay. The public has a strong interest in orderly foreclosure enforcement, but not in a forced sale based on a non-merits appellate dismissal before this Court can decide whether that dismissal was constitutional. A short stay prevents irreversible enforcement while imposing only delay on respondent. The public interest is served by preserving the status quo long enough for this Court to decide whether the state appellate process may extinguish a timely first appeal through an unexplained procedural disposition.

II. An immediate administrative stay is necessary.

The sheriff's sale is scheduled for July 17, 2026 at 12:00 p.m. E. App. 1a. The ordinary time for a response would not protect this Court's jurisdiction or the property. Applicants therefore request an immediate administrative stay pending further order of Justice Alito or the Court. The Court may then request a prompt response on whatever schedule it deems appropriate.

Administrative stays are especially appropriate where, as here, the requested order does not decide the merits and merely preserves jurisdiction long enough for meaningful consideration. The requested administrative stay would not adjudicate foreclosure, payoff, reinstatement, refinance, servicing, or state-law merits. It would simply prevent sale, deed delivery, transfer, writ enforcement, possession, eviction, and sale-related transfer until this emergency application and corrected certiorari petition can be considered.

RELIEF REQUESTED

Applicants respectfully request that Justice Alito enter an immediate administrative stay and, after any response the Court may request, a stay pending filing and disposition of the corrected petition for writ of certiorari, staying Bergen County Sheriff's Sale No. 26000304, Docket No. F01339818, scheduled for July 17, 2026 at 12:00 p.m., and staying any sheriff's deed delivery, title transfer, writ enforcement, writ of possession, eviction, or sale-related transfer concerning 236 Mabel Ann Avenue, also known as 236 Mable Ann Avenue, Franklin Lakes, New Jersey, until further order of this Court.

In the alternative, applicants request that Justice Alito refer this application to the full Court and enter an administrative stay pending that referral and disposition.

Respectfully submitted,

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Dated: July 3, 2026

CERTIFICATE OF COMPLIANCE WITH RULE 33.2

I certify that this emergency application is prepared on 8.5-by-11-inch paper, is double-spaced except for headings, indented quotations, tables, certificates, and signature blocks, is legible, and is intended to comply with Rules 22, 23, 29, 33.2, and 34. This certificate is provided to assist the Clerk and does not assert a word-limit requirement for this Rule 22/23 application.

C Perez
Cathleen Hanenberg Perez
Alex Perez
Alejandro Perez
Dated: July 3, 2026

No. ________

IN THE SUPREME COURT OF THE UNITED STATES

CATHLEEN HANENBERG PEREZ AND ALEJANDRO PEREZ, Applicants/Petitioners,

v.

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, Respondent.

DECLARATION OF CATHLEEN HANENBERG PEREZ AND ALEJANDRO PEREZ IN SUPPORT OF EMERGENCY APPLICATION

We, Cathleen Hanenberg Perez and Alejandro Perez, declare under penalty of perjury under 28 U.S.C. Sec. 1746 as follows:

1. We are the homeowners of 236 Mabel Ann Avenue, also known as 236 Mable Ann Avenue, Franklin Lakes, New Jersey 07417. This is our family home.

2. Bergen County Sheriff's Sale No. 26000304, Docket No. F01339818, is scheduled for July 17, 2026 at 12:00 p.m. at 2 Bergen County Plaza, Hackensack, New Jersey.

3. We sought emergency relief in the New Jersey Appellate Division and the Supreme Court of New Jersey. No state-court stay presently protects the home.

4. We are submitting a corrected paid petition for writ of certiorari contemporaneously with the emergency stay application, within the Rule 14.5 correction period stated by the Supreme Court Clerk's May 20, 2026 correspondence.

5. Respondent and/or its servicer is treating the Appellate Division's dismissal of our first appeal as final practical authority to proceed with enforcement, even though that dismissal was not a merits adjudication of our claims, defenses, payment-crediting issues, loan-modification issues, additional-sums objections, payoff/reinstatement issues, or writ issues.

6. Chase attempted to obtain alias writs adding $311,234.98 in additional interest and escrow advances. The New Jersey Office of Foreclosure rejected those proposed alias writs on May 6, 2025 and May 23, 2025 because the proposed writs did not match the original writ. The July 2, 2025 alias writ later issued on different terms and commanded sale to raise $397,381.91.

7. We need a stay because the sale is scheduled for July 17, 2026, and respondent/servicer is treating the dismissal of our first appeal as final merits adjudication while the writ, payoff, additional-sums, and amount-due issues remain unresolved through meaningful appellate review.

8. Without a stay, the sheriff's sale will place our home into the forced-sale process, create third-party purchaser equities, compress remaining redemption or objection rights, impair or terminate refinance/account-resolution efforts, and practically defeat Supreme Court review before the Court can decide whether the state appellate dismissal was constitutional.

9. We do not ask the Supreme Court to decide the foreclosure merits, calculate the mortgage balance, compel a loan modification, order refinance approval, or decide servicing disputes in the first instance. We request only a temporary stay preserving the status quo while the corrected certiorari petition is considered.

10. We are willing to maintain the property, maintain insurance to the extent available, avoid waste, and comply with any reasonable condition this Court may impose to protect respondent's secured position during a temporary stay.

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

Executed on July 3, 2026, at Franklin Lakes, New Jersey.

C Perez

Cathleen Hanenberg Perez

Alex Perez

Alejandro Perez