NO. 25-_____ October Term, 2026

In The

Supreme Court of the United States

FRANK POLO (Pro Se),

Applicant,

v.

THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA IN AND FOR MIAMI-DADE COUNTY, FLORIDA, and MERLIN HERNANDEZ,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI FROM THE FLORIDA THIRD DISTRICT COURT OF APPEALS, CASE NO. 3D2026-0507

PETITION FOR WRIT OF CERTIORARI

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Petitioner

Fla. 3D DCA Case No. 12-17787

QUESTIONS PRESENTED FOR REVIEW

1. Whether the First and Fourteenth Amendments permit a state court to impose and enforce a filing restriction against an indigent self-represented litigant without notice or hearing, where the only stated path to filing requires review by a member of the state bar and no alternative mechanism exists for jurisdictional, constitutional, emergency, or judicial-disqualification motions.

2. Whether a state appellate court denies meaningful access to court and procedural due process when it disposes of preserved constitutional access-to-courts challenges through unexplained denials or minimally explained orders, thereby preventing further review and leaving in place an ongoing filing restriction entered without notice or hearing.

3. Whether filing restrictions imposed and enforced without notice, hearing, neutral standards, or meaningful appellate review present an issue of exceptional national importance when they burden judicial-relief filings by an indigent litigant who also engaged in protected petitioning activity and public criticism of alleged judicial corruption.

LIST OF PARTIES TO THE PROCEEDING

4. Petitioner Frank E. Polo was the petitioner in the Third District Court of Appeal and the respondent/father in the underlying family-court proceeding.

5. Respondent The Eleventh Judicial Circuit of Florida in and for Miami-Dade County, Florida was the named respondent in the mandamus proceeding below.

6. Respondent Merlin Hernandez was listed by the Third District Court of Appeal docket as a respondent and was the petitioner/mother in the underlying family-court proceeding.

7. Manuel A. Segarra, III was listed on the Third District Court of Appeal docket as counsel/representation and was not a respondent party.

8. Judge Spencer Multack was the lower-tribunal judge whose disqualification and reassignment were the subject of the mandamus petition. The Third DCA's order permitted the respondent judge to respond through General Counsel. Judge Multack did not file a response; respondent Merlin Hernandez filed a response, and Petitioner filed a reply.

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OPINIONS BELOW

1. The order of the Florida Third District Court of Appeal denying Petitioner's pro se Petition for Common Law Writ of Mandamus was entered on **April 7, 2026**, in Case No. **3D2026-0507**. The order is unpublished and reproduced at **Appx. 001–003**. It states, in full, that "[u]pon consideration of the pro se 'Petition for Common Law Writ of Mandamus,' and the Response and Reply thereto," the petition was denied. Chief Judge Scales and Judges Miller and Gooden concurred. **Appx. 002**.

2. The Florida Third District Court of Appeal's order denying Petitioner's Motion for Rehearing and Request for Written Opinion was entered on **April 23, 2026**. The order is unpublished and reproduced at **Appx. 004–006**. It states that, "[u]pon consideration," Petitioner's motion was denied. Chief Judge Scales and Judges Miller and Gooden concurred. **Appx. 005**.

3. There is no written opinion explaining the denial of mandamus, the denial of rehearing, or the denial of Petitioner's request for a written opinion. **Appx. 001–006**.

BASIS FOR JURISDICTION

4. The Florida Third District Court of Appeal entered its order denying Petitioner's pro se Petition for Common Law Writ of Mandamus on **April 7, 2026**. **Appx. 001–003**. The Third District Court of Appeal denied Petitioner's timely

Motion for Rehearing and Request for Written Opinion on **April 23, 2026**. **Appx. 004–006**.

5. This Court has jurisdiction under **28 U.S.C. § 1257(a)** because this petition seeks review of a final judgment rendered by the highest state court in which a decision could be had on Petitioner's federal constitutional claims. Petitioner raised federal constitutional issues concerning access to courts, procedural due process, equal access for an indigent litigant, and the right to obtain adjudication of a judicial-disqualification motion by a neutral tribunal. The Third District Court of Appeal necessarily rejected those claims when it denied mandamus and then denied rehearing and a written opinion, leaving in place the filing restriction and the clerk's refusal to docket Petitioner's verified motion to disqualify as a motion seeking judicial relief. **Appx. 001–006**.

6. The Third District Court of Appeal was the highest Florida court in which a decision could be had. Under Florida law, the Florida Supreme Court generally lacks discretionary jurisdiction to review a district court of appeal's unelaborated per curiam affirmance or unexplained disposition where there is no written opinion establishing express and direct conflict. In **Jenkins v. State**, 385 So. 2d 1356 (Fla. 1980), the Florida Supreme Court held that it lacks conflict jurisdiction over a district court decision that merely affirms without opinion because there is no written statement of law on the face of the decision from which express conflict may be determined. The Florida Supreme Court has reaffirmed that jurisdictional

limitation in later cases, including **Gandy v. State**, 846 So. 2d 1141 (Fla. 2003), and **Wells v. State**, 132 So. 3d 1110 (Fla. 2014).

7. Nor did the Third District Court of Appeal's **April 7, 2026** order provide a citation to a case then pending review in the Florida Supreme Court. **Appx. 001–003**. Under **Jollie v. State**, 405 So. 2d 418 (Fla. 1981), the Florida Supreme Court may exercise jurisdiction over a per curiam decision that cites as controlling authority a decision pending review in that court. But where, as here, the district court's order provides no written opinion and no citation creating a **Jollie** basis for review, the Florida Supreme Court is not an available forum for discretionary review.

8. Petitioner sought the only available state procedure that could have enabled further meaningful review: a timely Motion for Rehearing and Request for Written Opinion under Florida Rule of Appellate Procedure 9.330. **Appx. 061–073**. The Third District Court of Appeal denied that request on **April 23, 2026**. **Appx. 004–006**. Because the denial of a written opinion foreclosed meaningful discretionary review in the Florida Supreme Court, the Third District Court of Appeal's judgment was final for purposes of **28 U.S.C. § 1257(a)**.

9. This petition is timely under Supreme Court Rule 13. Rule 13.1 provides that a petition for writ of certiorari seeking review of a state-court judgment must be filed within 90 days after entry of the judgment. Rule 13.3 provides that, when a timely petition for rehearing is filed, the time to file a petition for writ of certiorari

runs from the date of the denial of rehearing. The Third District Court of Appeal denied rehearing and a written opinion on **April 23, 2026**. **Appx. 004–006**. This petition is filed within 90 days of that order.

STATUTORY AND CONSTITUTIONAL PROVISIONS

10. This case involves the First and Fourteenth Amendments to the United States Constitution, 28 U.S.C. § 1257(a), Supreme Court Rule 13, Article I, section 21 of the Florida Constitution, Florida Rule of General Practice and Judicial Administration 2.330, and Florida Rule of Appellate Procedure 9.330.

11. The controlling constitutional provisions and rules are reproduced below. The principal decisions interpreting those provisions are identified where relevant.

(A) U.S. Const. amend. I

12. The First Amendment provides, in relevant part: "Congress shall make no law . . . abridging the freedom of speech . . . or the right of the people . . . to petition the Government for a redress of grievances."

13. The First Amendment protects both speech on matters of public concern and the right to petition courts for redress. See **California Motor Transport Co. v. Trucking Unlimited**, 404 U.S. 508 (1972); **BE & K Construction Co. v. NLRB**, 536 U.S. 516 (2002); **NAACP v. Button**, 371 U.S. 415 (1963).

(B) U.S. Const. amend. XIV, § 1

14. The Fourteenth Amendment provides, in relevant part:

15. "No State shall . . . deprive any person of life, liberty, or property, without due process of law."

16. The Due Process Clause requires notice and an opportunity to be heard before deprivation of protected interests. See **Mathews v. Eldridge**, 424 U.S. 319 (1976). It also protects the right to a neutral tribunal. See **Tumey v. Ohio**, 273 U.S. 510 (1927); **In re Murchison**, 349 U.S. 133 (1955); **Caperton v. A.T. Massey Coal Co.**, 556 U.S. 868 (2009).

(C) 28 U.S.C. § 1257(a)

17. Section 1257(a) provides, in relevant part:

> "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 . . . any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of . . . the United States."

18. The Florida Third District Court of Appeal was the highest state court in which a decision could be had because the unexplained denial of mandamus and denial of a written opinion did not provide a basis for Florida Supreme Court review. See **Jenkins v. State**, 385 So. 2d 1356 (Fla. 1980); **Jollie v. State**, 405 So. 2d 418 (Fla. 1981); **Gandy v. State**, 846 So. 2d 1141 (Fla. 2003); **Wells v. State**, 132 So. 3d 1110 (Fla. 2014).

(D) Sup. Ct. R. 13.1

19. Supreme Court Rule 13.1 provides, in relevant part:

20. "Unless otherwise provided by law, a petition for a writ of certiorari seeking review of a judgment of a lower state court that is subject to discretionary review by the state court of last resort is timely when it is filed with the Clerk within 90 days after entry of the judgment."

(E) Sup. Ct. R. 13.3

21. Supreme Court Rule 13.3 provides, in relevant part:

22. "The time to file a petition for a writ of certiorari runs from the date of entry of the judgment or order sought to be reviewed, and not from the issuance date of the mandate . . . . But if a petition for rehearing is timely filed in the lower court by any party . . . the time to file the petition for a writ of certiorari . . . runs from the date of the denial of rehearing."

(F) Fla. Const. art. I, § 21

23. Article I, section 21 of the Florida Constitution provides:

24. "The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay."

25. Florida courts have recognized that restrictions on pro se access to courts require notice and an opportunity to respond. See **State v. Spencer**, 751 So. 2d 47 (Fla. 1999); **Bolton v. SE Property Holdings, LLC**, 127 So. 3d 746 (Fla. 1st DCA 2013); **Testa v. Testa**, 171 So. 3d 244 (Fla. 4th DCA 2015).

(G) Fla. R. Gen. Prac. & Jud. Admin. 2.330

26. Florida Rule of General Practice and Judicial Administration 2.330 governs motions to disqualify trial judges. Petitioner relies on Rule 2.330 because the clerk's enforcement of the filing restriction prevented Petitioner from filing a verified motion to disqualify as a motion seeking judicial relief, and no order denying that motion was entered.

(H) Fla. R. App. P. 9.330

27. Florida Rule of Appellate Procedure 9.330 governs motions for rehearing, clarification, certification, and written opinion.

28. Petitioner relies on Rule 9.330 because, after the Third District Court of Appeal denied mandamus without explanation, Petitioner filed a timely Motion for Rehearing and Request for Written Opinion. **Appx. 061–073**. The Third District Court of Appeal denied that request on **April 23, 2026**. **Appx. 004–006**.

RELATED PROCEEDINGS IN FEDERAL COURT

29. Petitioner has been involved in related federal proceedings arising from the same broader course of events involving state-court filing restrictions, access-to-courts issues, judicial-disqualification concerns, alleged retaliatory conduct connected to the underlying family-court proceedings, and Petitioner's exercise of protected speech, including political speech.

30. The related federal district-court proceeding is **Polo v. Bernstein, No. 1:23-cv-21684, United States District Court for the Southern District of Florida**.

31. The related **federal** appellate proceeding is **Frank Polo, Sr. v. Scott Bernstein, No. 25-10016, United States Court of Appeals for the Eleventh Circuit**.

32. A petition for writ of certiorari from that federal appellate proceeding is pending in this Court as **Frank E. Polo, Sr. v. Scott Bernstein, et al., No. 25-7263**. The petition was docketed on April 28, 2026. The lower court is the United States Court of Appeals for the Eleventh Circuit, Case No. 25-10016. The Eleventh Circuit decision was entered on October 1, 2025, and rehearing was denied on November 21, 2025.

33. This petition, however, seeks review only of the Florida Third District Court of Appeal's April 7, 2026 order denying mandamus and April 23, 2026 order denying rehearing and a written opinion in **Frank E. Polo v. The Eleventh Judicial Circuit Court of Florida in and for Miami-Dade County, Florida, et al., No. 3D2026-0507**. The federal proceedings are identified only as related proceedings and are not judgments presented for review in this petition.

PETITION FOR A WRIT OF CERTIORARI

34. Petitioner Frank E. Polo respectfully petitions for a writ of certiorari to review the judgment of the Florida Third District Court of Appeal in **Frank E. Polo v. The Eleventh Judicial Circuit Court of Florida in and for Miami-Dade County, Florida, et al.**, No. **3D2026-0507**.

35. The Third District Court of Appeal denied Petitioner's pro se Petition for Common Law Writ of Mandamus on **April 7, 2026**. **Appx. 001–003**. The court then denied Petitioner's Motion for Rehearing and Request for Written Opinion on **April 23, 2026**. **Appx. 004–006**.

36. This case presents important federal questions concerning whether state courts may impose and enforce filing restrictions against an indigent self-represented litigant without notice, hearing, neutral standards, or a meaningful alternative means to file judicial-relief motions, including a verified motion to disqualify the presiding judge. The filing restriction was entered in a proceeding noticed and captioned for **"Resolution of Competing Orders,"** not for sanctions, vexatious-litigant restrictions, or deprivation of court access. **Appx. 117–121**.

37. The restriction was later enforced to prevent Petitioner from filing a verified motion to disqualify Judge Spencer Multack under Florida Rule of General Practice and Judicial Administration 2.330. Although Petitioner electronically submitted the motion, the clerk refused to docket it as a motion seeking judicial relief, stating that it was **"barred by order of court or otherwise incapable of being filed in the clerk's case maintenance system." Appx. 084–086**. Petitioner then served the motion by mail, obtained delivery confirmation, filed a notice attaching the rejected motion, and emailed chambers with the motion and supporting proof. **Appx. 087–111**. No order denying the disqualification motion was entered. **Appx. 112–113**.

38. The Third District Court of Appeal's unexplained denial of mandamus left Petitioner without a meaningful procedure to obtain adjudication of the disqualification motion, without a neutral tribunal to determine whether the presiding judge should remain on the case, and without a written decision enabling further meaningful state review. The denial also left in place a filing restriction that had been imposed without notice or hearing against a litigant who had already been declared indigent. **Appx. 001–006, 114–121**.

39. This case presents an issue of exceptional national importance: whether courts may impose and enforce filing restrictions against an indigent self-represented litigant in a manner that burdens access to judicial relief after the litigant engaged in protected petitioning activity, ran for public office, and publicly criticized alleged judicial corruption. The First Amendment protects not only the right to speak on matters of public concern, but also the right to petition courts for redress.

40. When a court restricts a litigant's access to judicial relief without notice, hearing, neutral standards, or meaningful appellate review, and appellate courts then dispose of constitutional challenges through unexplained orders that prevent further review, the injury extends beyond one litigant. It threatens public confidence that courts will remain open to citizens who criticize government actors, including judges.

41. A constitutional republic depends on the rule of law and on courts that apply legal standards neutrally, not selectively. The right of access to courts is central to that structure. When a court restricts an indigent litigant's ability to seek judicial relief without notice, hearing, neutral standards, or meaningful appellate review, and when that restriction burdens a litigant who has engaged in protected petitioning and political speech, the injury is not merely personal. It raises a structural concern about whether courts remain open to citizens who criticize government actors and seek redress through lawful process.

STATEMENT OF THE CASE

42. This case arises from a state-court filing restriction imposed against an indigent self-represented litigant without notice that court access would be adjudicated, and later enforced to prevent Petitioner from filing and obtaining adjudication of a verified motion to disqualify the presiding judge.

43. The right of access to courts is protected by both federal and Florida law. The First Amendment protects the right "to petition the Government for a redress of grievances," and Florida's Constitution provides that "[t]he courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay." Fla. Const. art. I, § 21. Florida courts have held that before a court restricts a pro se litigant's future court access, the litigant must be given notice and an opportunity to respond. **State v. Spencer**, 751 So. 2d 47 (Fla. 1999);

Bolton v. SE Property Holdings, LLC, 127 So. 3d 746 (Fla. 1st DCA 2013); **Testa v. Testa**, 171 So. 3d 244 (Fla. 4th DCA 2015).

(A) Petitioner was declared indigent before the filing restriction was imposed.

44. On **February 7, 2017**, Petitioner was determined to be indigent. **Appx. 114–116**. That indigency determination preceded the filing restriction later entered on **October 24, 2017**. **Appx. 114–121**.

45. Petitioner's indigency is central to the constitutional injury. The **October 24, 2017** order did not merely regulate filing procedure; it conditioned Petitioner's future access to court on review by a member of the Florida Bar. **Appx. 120–121**. For an indigent litigant, that condition made access dependent on legal assistance he could not afford and for which the court provided no appointed counsel, pro bono review mechanism, neutral prefiling review, or exception for jurisdictional, constitutional, emergency, or judicial-disqualification motions.

46. The Supreme Court has recognized that court access may not be made illusory by financial barriers where the court is the necessary forum for adjudicating important rights. **Boddie v. Connecticut**, 401 U.S. 371 (1971); **M.L.B. v. S.L.J.**, 519 U.S. 102 (1996); **Griffin v. Illinois**, 351 U.S. 12 (1956). Petitioner's position is that the Florida-Bar-review condition functioned as such a barrier because the state court knew, or had reason to know, that Petitioner was indigent before the restriction was imposed.

(B) The filing restriction was entered at a hearing noticed and captioned for "Resolution of Competing Orders."

47. On **October 3, 2017**, a notice of hearing was filed setting a hearing for **October 24, 2017**. The notice identified the subject of the hearing as **"Resolution of Competing Orders Submitted by the Parties." Appx. 117–119**.

48. The hearing was not noticed as a sanctions hearing, vexatious-litigant hearing, prefiling-injunction hearing, or hearing to restrict Petitioner's access to court. **Appx. 117–119**.

49. Florida law recognizes that ruling on matters not noticed for hearing violates due process. **Pro-Art Dental Lab, Inc. v. V-Strategic Group, LLC**, 986 So. 2d 1244 (Fla. 2008); **George v. Gilbert**, 268 So. 3d 780 (Fla. 4th DCA 2019); **In re Assimakopoulos**, 228 So. 3d 709 (Fla. 2d DCA 2017).

50. On **October 24, 2017**, the trial court entered an order captioned **"ORDER Re Resolution of Competing Orders." Appx. 120–121**. Although the order itself was framed as resolving competing orders, it found Petitioner's conduct "vexatious" and ordered that Petitioner "shall not file any further pleadings, motions or letters to the Court in this matter without having the same reviewed by a member of the Florida Bar." **Appx. 120–121**.

51. The order contained no prior notice that Petitioner's future filing rights would be adjudicated, no findings addressing Petitioner's indigency, no findings explaining why lesser restrictions would be inadequate, no duration limit, and no alternative

procedure for filings seeking jurisdictional relief, constitutional relief, emergency relief, or judicial disqualification. **Appx. 120–121**.

(C) The filing restriction later operated as a broader bar to filing.

52. On **October 2, 2018**, the trial court expanded the restriction. The written order stated that Petitioner "may not file anything further in the court file" and prohibited Petitioner from calling, emailing, or text-messaging the judicial assistant. **Appx. 122–123**.

53. The transcript of the **October 2, 2018** hearing confirms that the court entered the restriction sua sponte and barred Petitioner from further filings. **Appx. 124–130**.

54. On **May 6, 2021**, after later proceedings, the court continued to enforce the **October 24, 2017** restriction, stating that Petitioner "shall not file any further pleadings, motions or letters to the Court in this matter without having the same reviewed by a member of the Florida Bar." **Appx. 131–136**.

55. Federal courts have recognized that prefiling restrictions may be imposed only with caution, adequate process, an adequate record, substantive findings, and narrow tailoring. **De Long v. Hennessey**, 912 F.2d 1144 (9th Cir. 1990); **Procup v. Strickland**, 792 F.2d 1069 (11th Cir. 1986). Petitioner's position is that the state restriction here lacked those safeguards and operated as a practical bar to judicial relief.

56. On **July 5, 2022**, Judge Spencer Multack addressed Petitioner's ability to file pleadings and motions. The transcript reflects the court's oral statements concerning Petitioner's access to file motions and pleadings. **Appx. 137–149**.

57. No further hearing occurred before the **July 11, 2022** written order. Yet that written order limited Petitioner's access to pleadings related only to one pending attorney-fee motion and stated that "[a]ny pleading must be limited to the one pending motion before the Court." **Appx. 150–152**.

(D) The filing restriction was later enforced to block Petitioner's verified motion to disqualify Judge Multack.

58. On **December 31, 2025**, Petitioner electronically submitted a verified motion to disqualify Judge Spencer Multack under Florida Rule of General Practice and Judicial Administration 2.330. **Appx. 074–083**. The motion sought disqualification and reassignment of the presiding judge in the underlying family-court proceeding. **Appx. 074–083**.

59. A judicial-disqualification motion implicates the due-process right to a neutral tribunal. The Supreme Court has long recognized that due process requires an impartial decisionmaker. **Tumey v. Ohio**, 273 U.S. 510 (1927); **In re Murchison**, 349 U.S. 133 (1955); **Caperton v. A.T. Massey Coal Co.**, 556 U.S. 868 (2009).

60. On **January 2, 2026**, the clerk refused to docket the verified motion to disqualify as a motion. The clerk moved the filing to the correction queue and stated

that it was **"barred by order of court or otherwise incapable of being filed in the clerk's case maintenance system." Appx. 084–086**.

61. Petitioner then served the motion by U.S. Mail. The USPS mailing receipt is dated **January 2, 2026**. **Appx. 087–090**. USPS delivery confirmation shows delivery in Miami, Florida 33128 on **January 5, 2026**, at 5:32 p.m. **Appx. 091–093**.

62. On **January 27, 2026**, Petitioner filed a **"Notice of Clerk Rejection of Verified Motion to Disqualify and Request for Docketing." Appx. 094–107**. The notice explained that the verified disqualification motion had been e-filed on **December 31, 2025**, that the clerk refused to docket it on **January 2, 2026**, and that the rejection was based on the filing restriction. **Appx. 094–107**.

63. The **January 27, 2026** notice attached the rejected disqualification motion and requested that the court direct the clerk to accept and docket it. **Appx. 094–107**. Petitioner filed the notice to preserve the record and alert the court that the clerk had denied access to file the motion as a motion seeking judicial relief. **Appx. 094–107**.

64. On **February 14, 2026**, Petitioner emailed Judge Multack's judicial assistant. The email stated that the Rule 2.330 motion had been served on chambers, that USPS delivery had been confirmed on **January 5, 2026**, that no order denying the motion appeared on the docket within thirty days, and that the clerk had continued to block filings based on an order of court. **Appx. 108–109**. The

email copied opposing counsel and attached the motion, mailing receipt, and delivery confirmation. **Appx. 108–109**.

65. The judicial assistant's automatic reply confirmed receipt by that email account. **Appx. 110–111**.

66. Despite electronic submission, clerk rejection, USPS service, delivery confirmation, the **January 27, 2026** notice attaching the rejected motion, and the **February 14, 2026** email to chambers, no order denying the disqualification motion was entered. **Appx. 112–113**.

(E) Petitioner sought mandamus in the Third District Court of Appeal.

67. On **March 27, 2026**, Petitioner filed an amended petition for common law writ of mandamus in the Florida Third District Court of Appeal. **Appx. 007–022**. The petition sought a writ directing implementation of Judge Multack's disqualification and reassignment under Rule 2.330. **Appx. 010, 020**.

68. The amended mandamus petition stated that the verified motion to disqualify had been served on **January 5, 2026**, that the clerk refused to docket the motion because of a filing-restriction order, and that no order denying the motion had been entered within thirty days. **Appx. 014–016 ¶¶ 7–11, 17–21**. The petition argued that the disqualification therefore became deemed granted by operation of Rule 2.330 and that reassignment was required. **Appx. 015–020 ¶¶ 18–31**.

69. Respondent Merlin Hernandez filed a response. **Appx. 023–047**. Her response relied heavily on Petitioner's litigation history and asserted that the petition was repetitive and abusive. **Appx. 026–027 ¶¶ 2–4; Appx. 035–037 ¶¶ 21–25**.

70. Petitioner filed a reply. **Appx. 048–060**. The reply explained that this was not a "service-only" case because the disqualification motion had been electronically submitted, blocked by the clerk, served on chambers with delivery confirmation, transmitted by email to chambers with opposing counsel copied, and placed into the lower-tribunal record as an attachment to the **January 27, 2026** notice. **Appx. 048–060**.

71. The Third District Court of Appeal denied mandamus on **April 7, 2026**. **Appx. 001–003**. The order stated that, "[u]pon consideration of the pro se 'Petition for Common Law Writ of Mandamus,' and the Response and Reply thereto," the petition was denied. **Appx. 002**. No explanation was provided. **Appx. 001–003**.

72. Petitioner then filed a Motion for Rehearing and Request for Written Opinion on **April 22, 2026**. **Appx. 061–073**. That motion explained that the court had overlooked the narrow Rule 2.330 issue: whether clerk blockage could defeat the thirty-day disqualification mechanism where the motion had been electronically submitted, placed in the record as an attachment, served on chambers, emailed to chambers with supporting proof, and not denied within thirty days. **Appx. 061–073**.

73. On **April 23, 2026**, the Third District Court of Appeal denied rehearing and denied the request for written opinion. **Appx. 004–006**. The order provided no explanation. **Appx. 005**.

(F) The 2026 denial followed years of unexplained appellate dispositions concerning access and jurisdictional issues.

74. The **2026** mandamus denial was not isolated. As early as **January 30, 2018**, Petitioner filed a petition for writs of prohibition and mandamus in the Third District Court of Appeal. **Appx. 153–203**. That petition is included as background showing that Petitioner had previously raised access-to-courts and filing-restriction issues in the appellate court. **Appx. 153–203**.

75. On **April 12, 2018**, the Third District Court of Appeal dismissed that petition without a written explanation addressing the access-to-courts problem. **Appx. 204–205**.

76. On **May 22, 2018**, the Third District Court of Appeal denied reinstatement and/or written-opinion relief. **Appx. 206–207**.

77. In **December 2022**, Petitioner filed a petition for writ of prohibition challenging Judge Multack's continued exercise of jurisdiction in the attorney-fee proceedings. **Appx. 208–231**.

78. On **March 1, 2023**, the Third District Court of Appeal denied prohibition. **Appx. 232–234**.

79. On **August 30, 2023**, the Third District Court of Appeal issued an opinion regarding attorney-fee jurisdiction. **Appx. 235–240**.

80. Petitioner moved for rehearing, rehearing en banc, clarification, and/or a new written opinion on **September 14, 2023**. **Appx. 241–269**. The Third District Court of Appeal denied that motion on **October 26, 2023**. **Appx. 270–275**.

81. Petitioner does not seek review of each prior appellate disposition as a separate judgment in this petition. Those materials are included as background showing the practical operation of the filing restriction and the repeated absence of meaningful appellate review of preserved access-to-courts and jurisdictional issues.

82. The judgment directly presented for review is the Third District Court of Appeal's **April 7, 2026** order denying mandamus and its **April 23, 2026** order denying rehearing and written opinion. **Appx. 001–006**.

REASONS FOR GRANTING THE WRIT

83. This case presents important federal questions concerning access to courts, procedural due process, equal access for indigent litigants, the right to petition for redress, and the ability of state appellate courts to dispose of preserved constitutional access claims through unexplained orders that foreclose meaningful further review.

84. The writ should be granted because the decision below leaves in place a filing restriction imposed without notice or hearing, enforced against an indigent self-

represented litigant without a meaningful alternative method of filing judicial-relief motions, and ultimately used to prevent Petitioner from obtaining adjudication of a verified motion to disqualify the presiding judge.

(A) The Filing Restriction Was Imposed Without Constitutionally Adequate Notice Or Hearing.

85. Due process requires notice and an opportunity to be heard before the State deprives a person of a protected interest. **Mathews v. Eldridge**, 424 U.S. 319, 333–35 (1976). The Supreme Court has instructed that the adequacy of process depends on the private interest affected, the risk of erroneous deprivation and value of additional safeguards, and the governmental interest involved. Id. at 335.

86. Those principles apply with special force where a court restricts access to judicial relief. The right to petition courts for redress is protected by the First Amendment, and access to courts is a fundamental component of ordered liberty. See **California Motor Transport Co. v. Trucking Unlimited**, 404 U.S. 508, 510 (1972); **Boddie v. Connecticut**, 401 U.S. 371, 374–77 (1971).

87. Florida law independently requires notice and an opportunity to respond before restricting a pro se litigant's future access to court. In **State v. Spencer**, 751 So. 2d 47 (Fla. 1999), the Florida Supreme Court held that, to balance access to courts with the need to prevent repetitious and frivolous pleadings, courts must first provide notice and an opportunity to respond before barring further pro se filings. The Florida district courts have applied that principle in civil cases as well. **Bolton v. SE Property Holdings, LLC**, 127 So. 3d 746 (Fla. 1st DCA 2013);

Testa v. Testa, 171 So. 3d 244 (Fla. 4th DCA 2015); **Owens v. Forte**, Fla. 2d DCA 2014.

88. The order here failed that basic requirement. The **October 3, 2017** notice set the hearing for **"Resolution of Competing Orders Submitted by the Parties." Appx. 117–119**. The **October 24, 2017** order was likewise captioned **"ORDER Re Resolution of Competing Orders." Appx. 120–121**. Yet that order found Petitioner's conduct "vexatious" and barred him from filing further pleadings, motions, or letters unless reviewed by a member of the Florida Bar. **Appx. 120–121**.

89. A hearing noticed for resolution of competing proposed orders is not notice that a litigant's future right to file motions will be adjudicated. Florida courts have repeatedly held that ruling on matters not noticed for hearing violates due process. **Pro-Art Dental Lab, Inc. v. V-Strategic Group, LLC**, 986 So. 2d 1244, 1252 (Fla. 2008); **George v. Gilbert**, 268 So. 3d 780 (Fla. 4th DCA 2019); **In re Assimakopoulos**, 228 So. 3d 709, 715–16 (Fla. 2d DCA 2017).

90. Because Petitioner was not given notice that his filing rights would be restricted, he had no meaningful opportunity to contest the factual basis for the restriction, address his indigency, present evidence, propose narrower alternatives, object to the scope or duration of the restriction, or request exceptions for jurisdictional, constitutional, emergency, or judicial-disqualification filings. **Appx. 117–121**.

91. Even if Petitioner had received notice and an opportunity to be heard, the order still lacked the procedural safeguards required for a valid prefiling restriction. Federal courts require such restrictions to be imposed only with caution, an adequate record, substantive findings of frivolousness or harassment, and narrow tailoring. **De Long v. Hennessey**, 912 F.2d 1144, 1147–49 (9th Cir. 1990). The Eleventh Circuit similarly recognizes that courts may restrict abusive litigants but may not completely foreclose meaningful access. **Procup v. Strickland**, 792 F.2d 1069 (11th Cir. 1986).

92. The order here did not identify a developed record of abusive filings, did not make narrow findings showing why lesser sanctions would be inadequate, did not account for Petitioner's indigency, and did not preserve a clear path for filing jurisdictional, constitutional, emergency, or judicial-disqualification motions. **Appx. 120–121**.

(B) The Florida-Bar-Review Requirement Provided Only Illusory Access Because Petitioner Was Indigent.

93. The State may argue that Petitioner was not denied access because the **October 24, 2017** order allowed filings reviewed by a member of the Florida Bar. That argument fails because Petitioner had already been declared indigent on **February 7, 2017**. **Appx. 114–116**.

94. Access to court cannot be merely theoretical. In **Boddie v. Connecticut**, 401 U.S. 371 (1971), this Court held that due process barred a State from denying indigent litigants access to divorce courts through filing fees where the judicial

process was the exclusive means of resolving the claim. In **M.L.B. v. S.L.J.**, 519 U.S. 102 (1996), the Court held that a State could not condition access to appellate review in a parental-rights case on costs an indigent parent could not pay. And in **Griffin v. Illinois**, 351 U.S. 12 (1956), the Court recognized that access to appellate review cannot turn on ability to pay where fundamental fairness requires meaningful review.

95. The same principle applies here. Petitioner's only stated path to filing required review by a member of the Florida Bar. **Appx. 120–121**. But the court provided no appointed counsel, no pro bono review procedure, no neutral court-administered screening mechanism, and no exception for jurisdictional, constitutional, emergency, or judicial-disqualification motions. **Appx. 120–121**.

96. The restriction therefore made access depend on Petitioner's ability to obtain legal review he could not afford. In practical operation, the condition was not a screening mechanism. It was a filing bar.

97. The later clerk rejection confirms the practical effect. When Petitioner attempted to file a verified motion to disqualify Judge Multack, the clerk refused to docket it because it was **"barred by order of court or otherwise incapable of being filed in the clerk's case maintenance system." Appx. 084–086**.

98. Constitutional access to court requires more than a nominal route that the court knows an indigent litigant cannot realistically use. The filing restriction

converted Petitioner's indigency into a barrier to court access and left him without a meaningful way to invoke judicial relief.

(C) The Restriction Was Unconstitutional As Applied Because It Prevented Petitioner From Filing And Obtaining Adjudication Of A Judicial-Disqualification Motion.

99. Even if some filing restrictions may be permissible in appropriate circumstances, the restriction here became unconstitutional as applied when it was enforced to prevent Petitioner from filing a verified motion to disqualify the presiding judge.

100. A judicial-disqualification motion is not an ordinary filing. It is the procedural mechanism by which a litigant invokes the due-process right to a neutral tribunal. This Court has long held that due process requires an impartial decisionmaker. **Tumey v. Ohio**, 273 U.S. 510 (1927); **In re Murchison**, 349 U.S. 133, 136 (1955); **Caperton v. A.T. Massey Coal Co.**, 556 U.S. 868 (2009).

101. Petitioner electronically submitted the verified motion to disqualify on **December 31, 2025**. **Appx. 074–083**. The clerk rejected it on **January 2, 2026** because it was barred by court order. **Appx. 084–086**. Petitioner served the motion by mail, obtained delivery confirmation, filed a notice attaching the rejected motion, and emailed chambers with supporting proof. **Appx. 087–111**. No order denying disqualification was entered. **Appx. 112–113**.

102. The injury is not merely that a document was rejected. The injury is that the State prevented Petitioner from invoking the legal function of a motion to disqualify. A notice attaching a rejected motion is not equivalent to docketing the motion as a motion seeking judicial relief. The notice preserved the record, but it did not trigger adjudication, reassignment, or any ruling by a neutral tribunal.

103. The Third District Court of Appeal could have directed the lower tribunal to accept and adjudicate the motion, clarify the filing procedure, or provide an alternative means for Petitioner to obtain review of the disqualification request. Instead, it denied mandamus without explanation and then denied rehearing and a written opinion. **Appx. 001–006**.

104. The result is a serious constitutional problem: an indigent litigant subject to a filing restriction entered without notice or hearing was prevented from filing the very motion designed to protect the due-process right to a neutral tribunal.

(D) The Third District Court Of Appeal's Unexplained Denial Left Petitioner Without Meaningful Review Of Preserved Constitutional Issues.

105. This Court's review is warranted because the Third District Court of Appeal's unexplained denial did not merely reject an ordinary request for discretionary relief. It left in place an access-to-courts restriction that prevented Petitioner from obtaining adjudication of a judicial-disqualification motion.

106. Petitioner preserved the issue. His amended mandamus petition sought implementation of Rule 2.330 after the clerk refused to docket the disqualification motion and no order denying the motion was entered within thirty days. **Appx. 010, 014–020 ¶¶ 7–31**. His reply explained that this was not a "service-only" case because the motion had been electronically submitted, blocked by the clerk, served, emailed to chambers, and placed in the record as an attachment. **Appx. 050–052 ¶¶ 8–17**. His motion for rehearing and request for written opinion identified the specific point allegedly overlooked: whether clerk blockage could defeat Rule 2.330's time-sensitive mechanism. **Appx. 067–069 ¶¶ 17–22**.

107. The Third District Court of Appeal nevertheless denied mandamus without explanation and then denied rehearing and a written opinion. **Appx. 001–006**. That disposition left Petitioner without a meaningful state appellate explanation and without a practical path to further state review.

108. Under Florida law, the Florida Supreme Court generally lacks jurisdiction to review an unelaborated district-court disposition that contains no written opinion establishing express conflict. **Jenkins v. State**, 385 So. 2d 1356 (Fla. 1980); **Gandy v. State**, 846 So. 2d 1141 (Fla. 2003); **Wells v. State**, 132 So. 3d 1110 (Fla. 2014). The limited exception recognized in **Jollie v. State**, 405 So. 2d 418 (Fla. 1981), applies when the district court cites a case pending review in the Florida Supreme Court. The Third DCA's **April 7, 2026** and **April 23, 2026** orders provided no such written basis or citation. **Appx. 001–006**.

109. Petitioner does not contend that every per curiam affirmance or unexplained order is unconstitutional. The constitutional problem arises when unexplained appellate dispositions leave in place an ongoing access restriction, avoid meaningful review of preserved constitutional issues, and prevent further review of whether an indigent litigant has been denied access to judicial relief.

110. The Third District Court of Appeal's repeated unexplained or minimally explained dispositions are relevant to the operation of the injury. As early as **January 30, 2018**, Petitioner informed the court that the filing restriction prevented him from filing even a notice of appeal because he could not afford counsel. **Appx. 158–160 ¶¶ 7–11**. The court dismissed that petition without addressing the access issue in a written opinion. **Appx. 204–205**. Later, Petitioner raised jurisdictional objections to continued attorney-fee proceedings, and the court disposed of those objections through orders or opinions that, according to Petitioner, did not address the preserved issues. **Appx. 208–275**.

111. Petitioner does not seek review of those prior appellate orders as separate judgments. They are relevant because they show that the **2026** mandamus denial was the endpoint of a repeated pattern in which the state appellate process failed to provide meaningful review of access-to-courts and jurisdictional issues, leaving Petitioner subject to continuing proceedings and filing restrictions.

(E) This Case Presents An Issue Of Exceptional National Importance Concerning Political Speech, Court Access, And The Neutral Administration Of Justice.

112. This case presents an issue of exceptional national importance: whether courts may impose and enforce filing restrictions against an indigent self-represented litigant in a manner that burdens access to judicial relief after the litigant engaged in protected petitioning activity and public criticism of alleged judicial corruption.

113. The First Amendment protects not only the right to speak on matters of public concern, but also the right to petition courts for redress. Litigation may itself be protected petitioning activity. **California Motor Transport Co. v. Trucking Unlimited**, 404 U.S. 508 (1972); **BE & K Construction Co. v. NLRB**, 536 U.S. 516 (2002). Litigation may also serve as a form of political expression and public advocacy. **NAACP v. Button**, 371 U.S. 415 (1963).

114. Government may not penalize a person for exercising constitutional rights. **Perry v. Sindermann**, 408 U.S. 593, 597 (1972). Nor may protected conduct be treated as a permissible basis for adverse governmental action when it is a substantial or motivating factor in the action. **Mt. Healthy City School District Board of Education v. Doyle**, 429 U.S. 274 (1977).

115. Petitioner's political-speech and retaliation theory is not presented here as a separate factual trial. It explains the national importance of the constitutional access injury. The record shows a filing restriction entered without notice or hearing, enforced against an indigent litigant, expanded or applied broadly over time, and ultimately used to prevent adjudication of a judicial-disqualification

motion. **Appx. 084–121, 122–152**. That injury becomes especially grave where the burdened litigant also engaged in protected petitioning activity and public criticism of alleged judicial corruption.

116. A constitutional republic depends on the rule of law and on courts that apply legal standards neutrally, not selectively. When a court restricts an indigent litigant's ability to seek judicial relief without notice, hearing, neutral standards, or meaningful appellate review, and when that restriction burdens a litigant who has engaged in protected petitioning and political speech, the injury is not merely personal. It raises a structural concern about whether courts remain open to citizens who criticize government actors and seek redress through lawful process.

117. Courts may manage abusive filings. But docket management cannot become a mechanism for denying indigent litigants any meaningful path to file jurisdictional, constitutional, emergency, or judicial-disqualification motions. Nor can unexplained appellate dispositions insulate ongoing filing restrictions from meaningful constitutional review.

(F) The Decision Below Is An Appropriate Vehicle For Review.

118. This case is an appropriate vehicle because the constitutional injury is concrete, documented, and ongoing. The record shows the indigency determination, the notice for **"Resolution of Competing Orders,"** the order imposing the filing restriction, later orders enforcing or expanding the restriction, the rejected disqualification motion, USPS proof of service, notice to chambers, the absence of

any order denying disqualification, and the Third District Court of Appeal's unexplained denial of mandamus and rehearing. **Appx. 001–152**.

119. The issue is not moot. The filing restriction remains relevant because it prevented adjudication of the disqualification motion and left Petitioner without a ruling or reassignment. The Third District Court of Appeal's denial left that injury unremedied. **Appx. 001–006, 084–113**.

120. Federal district court is not an adequate substitute. A new federal district-court action seeking to undo the state-court filing restriction, clerk rejection, or state appellate denial would likely face jurisdictional objections under the Rooker-Feldman doctrine. **Rooker v. Fidelity Trust Co.**, 263 U.S. 413 (1923); **District of Columbia Court of Appeals v. Feldman**, 460 U.S. 462 (1983). Review by this Court under **28 U.S.C. § 1257(a)** is therefore the only meaningful federal forum for the constitutional access-to-courts issue presented by the state-court judgment.

121. The writ should be granted to decide whether the First and Fourteenth Amendments permit state courts to leave in place, through unexplained appellate denials, a filing restriction entered without notice or hearing and enforced to prevent an indigent litigant from obtaining adjudication of a verified motion to disqualify the presiding judge.

122. The Court should grant the petition, vacate the judgment below, and remand with instructions that Petitioner be afforded a meaningful opportunity to

file and obtain adjudication of his verified judicial-disqualification motion through a constitutionally adequate procedure.

CONCLUSION AND PRAYER FOR RELIEF

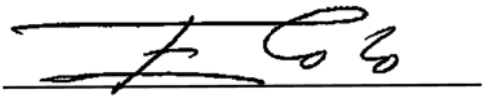
123. For the foregoing reasons, Petitioner respectfully requests that this Court grant the petition for a writ of certiorari, review the judgment of the Florida Third District Court of Appeal, and grant such relief as is necessary to protect Petitioner's rights under the First and Fourteenth Amendments.

124. Petitioner respectfully requests that this Court vacate the Third District Court of Appeal's **April 7, 2026** order denying mandamus, **Appx. 001–003**, and its **April 23, 2026** order denying rehearing and a written opinion, **Appx. 004–006**, and remand with instructions that Petitioner be afforded a meaningful opportunity to file and obtain adjudication of his verified motion to disqualify Judge Spencer Multack through a constitutionally adequate procedure.

125. Petitioner further requests that this Court hold that a state court may not impose or enforce a filing restriction against an indigent self-represented litigant without notice, hearing, neutral standards, an adequate record, substantive findings, narrow tailoring, and a meaningful alternative mechanism for jurisdictional, constitutional, emergency, and judicial-disqualification motions.

126. Petitioner also requests that this Court grant any further relief it deems just and proper.

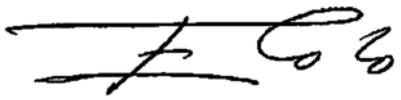
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CERTIFICATE OF COMPLIANCE WITH FONT REQUIREMENTS

I HEREBY CERTIFY that this Brief complies with the font requirements, Century Schoolbook 12-point font, and the word count of 7,279 excluding cover page, table of content, table of authorities, signature block, certificate of service, and certificate of compliance pursuant to the Rules of the U.S. Supreme Court. Word count is relied upon Microsoft Word processor.

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I HEREBY CERTIFY that on July 16, 2026, a true and correct copy of the foregoing was mailed via USPS and emailed to all counsel or parties of record on the Service List below.

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CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT, TYPEFACE REQUIREMENTS, AND TYPE-STYLE REQUIREMENTS

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NO. 25-_____ October Term, 2026

In The

Supreme Court of the United States

FRANK POLO (Pro Se),
Applicant,

v.

SCOTT BERNSTEIN, et al.,
Respondents.

APPENDIX

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Fla. 3D DCA Case No. 12-17787

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