

No. 26-5057

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

RAMSI A. WOODCOCK

Plaintiff-Appellant,

- v. -

UNIVERSITY OF KENTUCKY; ELI CAPILOUTO, IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES; ROBERT DIPAOLO, IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES; WILLIAM EUGENE THRO, IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES; JAMES C. DUFF, IN HIS OFFICIAL AND INDIVIDUAL CAPACITIES; LINDA MCMAHON, IN HER OFFICIAL CAPACITY AS UNITED STATES SECRETARY OF EDUCATION; RUSSELL MATTHEW COLEMAN, ATTORNEY GENERAL

Defendants-Appellees.

On Appeal from the United States District Court
for the Eastern District of Kentucky at Lexington
(Docket No. 5:25-cv-00424-DCR)

PETITION FOR REHEARING AND REHEARING EN BANC

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TABLE OF CONTENTS

Rule 40(b)(2) Statement.....	1
Statement of Facts	3
A. The University’s Actions	3
B. Federal Court Proceedings.....	6
Argument.....	7
A. The Panel’s Ongoing Judicial Proceeding Analysis Is Wrong	7
B. The Panel’s Adequate Opportunity Analysis Is Wrong	15
Conclusion	18

RULE 40(b)(2) STATEMENT

Israel is a question of supreme national importance. Just six days ago, our nation joined Israel in launching a war to “crush [the] Iranian regime.”¹ And yet speech about Israel and Palestine is in a deep freeze on American university campuses as a result of a campaign by private interest groups “to rapidly dismantle the pro-Palestinian movement . . . at schools and universities.” Am.Compl.R.36, PageID##1623–24. The chill is so complete that scholars call it the “Palestine exception” to free speech. POrderR.19-1, PageID##203–04.

How can there be a chill when courts around the country have affirmed that pro-Palestine speech is protected by the First Amendment? POrderR. 19-1, PageID##206–07, 211(collecting cases). The answer is that universities have access to a range of preliminary sanctions, including investigations, suspensions, and campus bans, which serve as powerful deterrents in themselves. *See, e.g.*, Am.Compl.R.36, PageID#1634–36. Scholars who do not challenge these preliminary sanctions may go on to beat back attempts to convert them into permanent sanctions like termination or expulsion. But even when they do, the

¹ *Peace Through Strength*, The White House (Mar. 1, 2026), <https://www.whitehouse.gov/articles/2026/03/peace-through-strength-president-trump-launches-operation-epic-fury-to-crush-iranian-regime-end-nuclear-threat/>; *U.S. Making Decisive Progress in Iran*, U.S. Department of War, <https://www.war.gov/News/News-Stories/Article/Article/4420831/four-days-in-hegseth-caine-say-us-making-decisive-progress-in-iran/>.

First Amendment loses because the preliminary sanctions have already chilled speech. *See, e.g., Meriwether v. Hartop*, 992 F.3d 492, 501 (6th Cir. 2021) (stating that a professor felt compelled to avoid discussing gender-identity issues in class after university placed a reprimand in his file and threatened him with “further corrective actions”).

When the University of Kentucky initiated a baseless investigation, suspension, and ban of Plaintiff-Appellant law professor Ramsi Woodcock (“Plaintiff”), he sought to avoid the resulting chill on speech by challenging the preliminary measures. The University refused to entertain his constitutional arguments until after the investigation, suspension, and ban he was challenging were over, so he filed suit in federal court and sought an injunction to stop them.

Both the District Court and—as relevant to this motion for a rehearing—a panel of this Court, refused to grant the injunction. In so doing, the panel extended the abstention doctrine of *Younger v. Harris*, 401 U.S. 37 (1971) into the heartland of executive action for which abstention is not appropriate: the gathering of facts and the discretionary reassignment of job duties. IPACA6Denial 3, Dkt.37. The panel’s decision brought this Court into conflict with seven other courts of appeals as well as precedents of this Court, which have rejected attempts to extend *Younger* to preliminary investigations. The panel also misread Supreme Court precedent to

allow abstention when there is no adequate remedy for constitutional harm available in the state proceeding, creating additional inter- and intra-circuit splits.

The panel should grant rehearing. If the panel foregoes rehearing, the full court must step in to resolve these conflicts and to address the exceptionally important question whether, at a moment when American soldiers are dying in battle to advance Israeli interests, scholars can obtain access to federal courts to vindicate their right to talk about it.

STATEMENT OF FACTS

A. The University's Actions

Plaintiff is a tenured law professor at University of Kentucky's J. David Rosenberg College of Law (the "law school") who, since early 2024, has been speaking at academic conferences and in online discussion groups for law professors hosted by the Association of American Law Schools about his research conclusion that the international community must end Israel to stop a genocide. Am.Compl.R.36, PageID##1626–32. On July 18, 2025, without notice or a hearing, Defendant-Appellees Capilouto, DiPaola, Thro, and Duff's ("Defendants" or "University") initiated an investigation into Plaintiff's speech under Title VI of the Civil Rights Act of 1964 ("Title VI"), canceled his classes, reassigned him from teaching, research, and service to "100% professional development" ("the suspension"), banned him from the law school building ("the ban") "for the

duration of the investigation”, and announced to the University community that Plaintiff wished to “destroy a people.” *Id.* at 1634–40; DuffLetterR.19-3, PageID# 493; 42 U.S.C. § 2000d.

There had been no student complaints, no faculty complaints, and no indication that Plaintiff had said anything objectionable on campus, much less in the classroom. HearingR.40, PageID##1977:3–6, 1982:15–20. But there were complaints from what Defendant Duff, the law school’s dean, called “outside interests.” *Id.* at 1980:11–19. The University’s actions immediately chilled speech. One colleague decided to retire. Donovan¶7R.19-12, PageID#1262. Others feared speaking out in opposition to the university’s action. Michael¶7R.19-7, PageID#1109. Students wondered whether they were allowed to talk about Palestine. Bolter¶7R.19-9, PageID#1250; Lee¶8R.19-11, PageID#1258–59. Plaintiff’s rate of posting about Palestine declined. Woodcock1/2/26R.35, PageID##1608–09.

Plaintiff objected that the speech that the University claimed to be investigating was plainly covered by the First Amendment and that the suspension and ban violated due process. KapitanLetter9/11/25, R.19-4, PageID##1056–61, 1063–64; PIOrderR.37, PageID#1786. The University’s investigator asked him to submit constitutional arguments in writing but stated that she will “not serve as the decision-maker” and that only “[a]fter the University receives and considers all the

evidence as well as Professor Woodcock’s responses” would the university president, Defendant Capilouto, “issue a letter with the University’s findings[.]”). ThompsonLetter8/25/25R.19-15, PageID#1570–71; PIOrderR.37, PageID#1785; *see also* ThroLetter9/19/25R.19-4, PageID# 1067.

The University hired a Wahington, DC lawyer with ties to an organization advocating suppression of pro-Palestine speech on campus to conduct the investigation. Am.Compl.R.36, PageID##1623–24, 1626. Rather than follow University policy for investigating Title VI complaints, the investigator outlined an ad hoc policy in a letter to Plaintiff that substituted Defendant Capilouto, who is the University’s president, for the director of the Office of Equal Opportunity (“OEO”) as the party responsible for determining, at the conclusion of the investigation, whether there is probable cause to file disciplinary charges against Plaintiff. Thompson Letter 8/25/25R.19-15, PageID#1570–71; OEOPoly § V.B.6, R.42-1, PageID#2084. Rather than invoke the University’s procedures for interim suspension, which require a showing of a threat of physical harm to the community, Defendant Duff exercised “absolute authority” to reassign and ban him. OEOPoly § VI.R.42-1, PageID#2087; ThroLetter9/19/25R.19-4, PageID# 1066. The investigator sent Plaintiff a “notice of investigation” on July 22, 2025, which she later amended. FirstNOI, R.19-15, PageID##1558–59; SecondNOI,

R.19-15, PageID##1573–74. The University does not require Plaintiff to participate in the investigation. ThroLetter9/19/25R.19-4, PageID#1067.

B. Federal Court Proceedings

Barred from the opportunity to obtain an adequate remedy in the state proceedings, Plaintiff filed suit in federal court on November 13, 2025. Compl.R.1, PageID#1. At the time that Plaintiff filed suit, the investigation was ongoing and the University had not yet made a determination whether there was probable cause to file formal disciplinary charges against him. POrderR.37, PageID##1790–1791&n.12. That remains the case.

On February 20, 2026, a panel of this Court denied Plaintiff’s motion for an injunction pending appeal of the District Court’s denial, on *Younger* abstention grounds, of Plaintiff’s motion for a preliminary injunction. IPACA6Denial 3, Dkt.37. On the same day, Defendants agreed to postpone the due date for Plaintiff to answer the investigator’s written questions until the conclusion of the appeal. ThompsonEmail2/20/26Dkt.40-3. The investigation, suspension, and ban continue, however.

ARGUMENT

A. The Panel's Ongoing Judicial Proceeding Analysis Is Wrong

As relevant here, a court may abstain based on *Younger* in a civil enforcement proceeding such as the one at issue in this case only if the proceeding is ongoing and “akin to a criminal proceeding . . . in important respects.” *Sprint Communications, Inc. v. Jacobs*, 571 U.S. 69, 79 (2013). In its most recent case considering *Younger* abstention, *Sprint Communications, Inc. v. Jacobs*, the Supreme Court stated that *Younger* “extends” to the “exceptional circumstances” that the Court has already identified but “no further.” *Id.* at 82.

Yet, in rejecting Plaintiff's motion for an injunction pending appeal, a panel of this Court ruled that Defendants were likely to prevail based on a breathtaking expansion of *Younger* to encompass a preliminary investigation in which participation is voluntary, no finding of probable cause has yet been made, and no disciplinary charges have yet been filed. The decision places the panel in conflict with the First, Third, Fourth, Fifth, Seventh, Ninth, and Eleventh Circuits. *Guillemard-Ginorio v. Contreras-Gomez*, 585 F. 3d 508, 519 (1st Cir. 2009) (“We believe this rule, requiring the commencement of ‘formal enforcement proceedings’ before abstention is required, better comports with the Supreme Court's decisions in *Younger* and its progeny, in which an indictment or other formal charge had already been filed against the parties seeking relief at the time

the federal action was brought.”); *PDX v. Commissioner*, 978 F. 3d 871, 886 (3dCir.2020) (“[T]he initiation of an audit is insufficient to serve as an ongoing judicial proceeding for *Younger* purposes.”); *Miller v. Mitchell*, 598 F. 3d 139, 143, 146 (3dCir.2010) (abstention not appropriate where charges not yet filed); *Telco v. Carbaugh*, 885 F. 2d 1225, 1229 (4thCir.1989) (“We hold, therefore, that the period between the threat of enforcement and the onset of formal enforcement proceedings may be an appropriate time for a litigant to bring its First Amendment challenges in federal court.”); *Google v. Hood*, 822 F. 3d 212, 224 (5thCir.2016) (“[T]he issuance of a non-self-executing administrative subpoena does not, without more, mandate *Younger* abstention.”); *Louisiana Deb. and Lit. v. N. Orleans*, 42 F. 3d 1483, 1486–88, 1490–91 (5thCir.1995) (abstention not appropriate before determination whether to issue a cease and desist order); *Mulholland v. Marion*, 746 F. 3d 811, 817 (7thCir.2014) (“[A] federal court need not decline to hear a constitutional case within its jurisdiction merely because a state investigation has begun.”); *Canatella v. California*, 304 F. 3d 843, 851–52 (9thCir.2001) (“A preliminary investigation before issuing a notice of disciplinary charges or a mere complaint to the bar does not commence a disciplinary action[.]”); *Seattle Pacific v. Ferguson*, 104 F. 4th 50, 65 (9thCir.2024) (same for investigative entities that lack “independent authority to . . . discipline”); *Major League Baseball v. Butterworth*, 181 F.Supp.2d 1316, 1321n.2 (N.D.Fla.2001) (stating that civil

investigative demands are simply part of an executive branch investigation”), *aff’d sub nom Major League Baseball v. Crist*, 331 F.3d 1177 (11thCir.2003); *see also New Hope Family Services, Inc. v. James*, No.5:21-CV-01031, slipop.at11–12 (N.D.N.Y.Sep.28, 2022).

The panel’s holding also violates the precedents of this Court. In *Winter v. Wolnitzek*, this Court considered a challenge to the actions of a state agency, the Kentucky’s Judicial Conduct Commission (“JCC”). 834 F. 3d 681, 686 (6thCir.2016). The Commission, like the University at issue in the present case, takes complaints, initiates investigations with a letter to the target, decides based on the investigation whether to initiate a formal disciplinary proceeding that includes a hearing, and, if the defendant is found guilty, imposes sanctions including termination. R.S.C.Ky. §§ 4.170, 4.180. 4.220, 4.260. After receiving a complaint, the Commission sent a “probable cause” letter, which is equivalent to the notice of investigation that launched the University’s investigation into Plaintiff, to a candidate for judicial office. *Wolnitzek*, 834 F. 3d at 687. Like Plaintiff, the candidate filed suit in federal court while the investigation was still pending and before the Commission had initiated disciplinary proceedings. *Id.* Writing for the panel, Chief Judge Sutton held that the Commission’s sending of the letter “does not necessarily mean that a formal proceeding exists.” *Id.*at688. Citing *Sprint*, he concluded that “in the absence of an ongoing enforcement action,

Younger has no role to play, leaving us with authority, indeed an obligation, to resolve the case.” *Id.*; see also *Dutton v. Shaffer*, No.3:23-cv-00039-GFVT, slip op.at5 (E.D.Ky.Sep.15, 2023) (following *Wolnitzek*).

In *Fischer v. Thomas*, this Court granted an injunction pending appeal to halt another preliminary investigation by the JCC that had not yet resulted in formal disciplinary charges. 52 F. 4th 303, 306 (6th Cir. 2022). Neither this Court, which can raise *Younger* abstention sua sponte, nor the defendants in that case, even bothered to raise abstention. *Fischer*, 52 F. 4th at 306, 313; *O’Neill v. Coughlan*, 511 F. 3d 638, 641–43 (6thCir.2008). The court later observed that “the Commission's proceedings weren’t pending when the candidates filed their federal complaint.” *Fischer v. Thomas*, 78 F. 4th 864, 869 (6th Cir. 2023).²

Although the question appears never to have been squarely presented to the Supreme Court, all cases of abstention affirmed by the Court involved federal proceedings that were filed after state authorities had decided to file charges against defendants. The Court has affirmed abstention in only two cases involving state agencies like the University that have the power to investigate, charge, and

² Only *O’Neill v. Coughlan*, 511 F. 3d 638 (6thCir.2008), appears to abstain from a preliminary investigation. But it applies state libel law rather than the functional analysis required by the Supreme Court. *Id.* at 643–44; *New Orleans Public Service v. New Orleans*, 491 U.S. 350, 371 (1989).

impose sanctions. In both, the plaintiffs had filed suit after the preliminary investigation had ended and the agency had filed disciplinary charges. *Middlesex v. Garden State Bar*, 457 U.S. 423, 428–29 (1982); *Ohio Civil Rights v. Dayton Christian Schools*, 477 U.S. 619, 624 (1986).

The panel relied for authority on a case for which a preliminary investigation was not at issue. IPA CA6 Denial 7–8, Dkt. 37. *New Orleans Public Service v. New Orleans* (“*NOPSI*”) was instead devoted to considering whether abstention was appropriate for a state ratemaking proceeding. 491 U.S. 350, 360 (1989). The Court decided that it was, on the ground that because the purpose of ratemaking is to bind future action instead of evaluating past action it was legislative rather than judicial in character. *Id.* at 370–71. But the Court in *NOPSI* was quite clear that legislative action is not the only kind of action that is exempt from abstention. *Id.* at 368. Executive action is exempt as well. *Id.* In order to resolve the question whether an investigation preliminary to the filing of formal charges is covered, the panel needed to determine both whether the preliminary investigation was legislative and whether it was executive. The panel considered only the first question and ignored the second. IPACA6Denial7–8, Dkt.37.

“Criminal investigations” are a “core executive power.” *Seila Law v. CFPB*, 591 U.S. 197, 219 (2020). It is hard to imagine why civil enforcement investigations leading up to the sort of civil disciplinary proceedings that qualify

for abstention under *Younger* because they are “akin to criminal proceedings” would not be executive in function as well. *Sprint*, 571 U.S. at 79. Courts applying *Younger* to actual criminal proceedings have been wary of affirming abstention before the filing of criminal charges. The furthest they have gone is to permit abstention once a warrant or other compulsory process in aid of the investigation has been issued. *Mirka United v. Cuomo*, No.1:06-cv-14292-GEL, slipop.at6–8 (S.D.N.Y.Nov.27, 2007) (collecting cases). As noted above, and consistent with the view that civil investigations are executive in function as well, in the civil enforcement context, eight courts of appeals, including this one, have rejected attempts to extend abstention even as far as the administrative subpoena stage. (Even if they went further, abstention would still be inappropriate in the present case, for which participation in the investigation is voluntary.

ThroLetter9/19/25R.19-4, PageID#1067.)

The executive character of the investigation in this case is reinforced by the University’s decision to create an ad hoc process and bypass the OEO in deciding probable cause to file disciplinary charges. This is roughly equivalent to the appointment of a special prosecutor in the criminal context, which the courts have held is an executive act. *United States v. Donziger*, 38 F. 4th 290, 307 (2dCir.2022) (Menash,J.,dissenting). The panel misconstrued Plaintiff’s argument that the ad hoc character of the proceeding renders it executive in character, believing it instead to

argue that the investigation does not afford adequate process. IPA CA6 Denial 6, Dkt. 37 (stating that Plaintiff does not “meaningfully challenge” the ad hoc procedures). The panel relied on *Doe v. University of Kentucky*, in responding that process is adequate. 860 F. 3d 365 (6thCir.2017). But abstention from a preliminary investigation was not at issue in *Doe*. The plaintiff in that case sued long after the University had filed disciplinary charges against him. *Id.*at368.

The panel also failed to confront the question whether an investigation is executive action by relying on an unpublished opinion for the proposition that state law “controls” the question when a disciplinary proceeding begins. IPACA6Denial 9,Dkt. 37. But the Supreme Court made clear in *NOPSI* that whether a proceeding is legislative, executive, or judicial is a question of function rather than form. 491 U.S. at 371 (“reject[ing] the notion that the nature of the agency’s proceedings might depend on their form”).

The panel nevertheless went on to misread the University’s administrative regulations as integrating investigative and disciplinary processes in the OEO. In fact, the OEO governs investigations and the Executive Vice President for Finance and Administration governs disciplinary hearings with the general counsel’s office acting as prosecutor. InterimDueProc.Regul. § II.C. R.19-3, PageID#524; EqualDignityDueProc.Regul. § I.D.1, R.19-3, PageID##484. The reference to the OEO’s responsibility for the “adjudication of complaints” cited by the panel refers

only to the OEO's responsibility for deciding whether there is probable cause to file disciplinary charges. IPACA6Denial9, Dkt.37. Whether University regulations centralize investigatory and disciplinary powers in the OEO is, in any case, not relevant, because the University's ad hoc procedure for Plaintiff bypasses the OEO to place responsibility for filing charges in the hands of Defendant Capilouto. Moreover, centralization is not dispositive. This Court has repeatedly declined to abstain from review of investigations conducted by the JCC, which has centralized authority over both investigations and discipline. *See Wolnitzek*, 834 F. 3dat687; R.S.C.Ky. §§ 4.170, 4.180. 4.220, 4.260.

The panel also chose to treat the dean's imposition of a suspension and ban on Plaintiff as part of the investigation. But both actions are even more obviously executive than the investigation and Plaintiff is likely to succeed at defeating abstention for them even if the court ultimately abstains from the investigation. The University has a procedure for imposing an interim suspension on the target of an investigation, but the University insists that it has not invoked that procedure and instead the law school dean exercised his "absolute authority" over course schedules to reassign Plaintiff. ThroLetter9/19/25R.19-4, PageID#1067; OEOPolyR.42-1, PageID#2087. The only link between the suspension and ban and the investigation is the dean's representation that he will end them when the investigation ends. DuffLetter, R.19-3, PageID#493. The Supreme Court has held

that abstention is not appropriate for ancillary actions having such a tenuous connection with the underlying state proceeding. *Lynch v. Household Finance Corp.*, 405 U.S. 538, 553–56 (1971) (abstention not appropriate for garnishment action initiated without judicial order). Abstention is additionally inappropriate because Plaintiff will not be able to raise his constitutional objections to the suspension and ban as part of his case in chief or as a defense to any disciplinary proceedings. *Habich v. City of Dearborn*, 331 F. 3d 524, 531–32 (6thCir.2003).

B. The Panel’s Adequate Opportunity Analysis Is Wrong

Younger abstention is appropriate only where the state proceeding affords an adequate opportunity to raise constitutional claims. *Doe*, 860 F. 3d at 369. The University has affirmatively barred plaintiff from obtaining a ruling and hence a remedy for his constitutional objections to the investigation, suspension, and ban until after these actions conclude. ThompsonLetter8/25/25, R.19-15, PageID#1570–71; PIOrderR.37, PageID#1785; *see also* ThroLetter9/19/25R.19-4, PageID#1067. That deprives Plaintiff of the opportunity to obtain an adequate remedy through the state proceeding because the only adequate remedy for a constitutional violation is an injunction stopping the offending conduct. *Bays v. City of Fairborn*, 668 F. 3d 814, 825 (6thCir.2012) (injury from violation of First Amendment rights is irreparable); *Bannercraft Clothing Company v. Renegotiation*

Board, 466 F. 2d 345, 356 (D.C.Cir.1972) (“The very thing which makes an injury ‘irreparable’ is the fact that no remedy exists to repair it.”).

The panel suggested that it does not have a responsibility to ensure that an adequate remedy for constitutional harm is available to Plaintiff in the federal forum so long as Plaintiff has an opportunity to “present” constitutional claims in the state proceeding—even if the state process forecloses an opportunity to obtain an adequate remedy. IPACA6Denial7–8, Dkt.37 (holding that abstention is appropriate because Plaintiff has “raised his constitutional claims with Thompson”). That holding conflicts with Supreme Court precedent and creates inter- and intra-circuit splits.

Any employee in any proceeding or investigation can theoretically present allegations of constitutional violations; that cannot be the standard for determining whether there is adequate opportunity to raise constitutional claims. Rather, the standard is whether “in the absence of federal intervention an adequate state *remedy* is available to correct the claimed constitutional violation.” *Flynt v. Leis*, 574 F. 2d 874, 881 (6thCir.1977), *rev’d on other grounds*, 429 U.S. 438 (1979) (emphasis added). Merely affording an opportunity for Plaintiff to vent about the violations is not sufficient.

The Supreme Court in *Younger v. Harris* itself made clear that an adequate remedy must be available when it held that abstention is required only to “avoid a duplication of legal proceedings and legal sanctions where a single suit would be adequate to *protect* the rights asserted.” 401 U.S. 37, 44 (1969) (emphasis added). The focus is on the adequacy of “protect[ion of] the rights asserted” not merely the opportunity to raise them. *Id.* Similarly, in *Pennzoil Co. v. Texaco*, upon which the authorities cited by the panel rely, the Supreme Court held that abstention was appropriate because the courts below had “erred in accepting Texaco’s assertions as to the inadequacies of Texas procedure to provide *effective relief*.” 481 U.S. 1, 17 (1987) (emphasis added); *see also Kugler v. Helfant*, 421 U.S. 117 (1975) (“The policy of equitable restraint . . . is founded on the premise that ordinarily a pending state prosecution provides the accused a fair and sufficient opportunity for vindication of federal constitutional rights.”).

The first opinion of the Supreme Court to use the “presentation” formulation highlighted in the panel’s opinion, *Judice v. Vail*, also makes clear that Plaintiff must have access to an adequate remedy for constitutional harm in the state proceeding in order for abstention to be appropriate. 430 U.S. 327 (1976). In that case, the Supreme Court held that abstention was appropriate because the plaintiff could have sought “a stay or a temporary restraining order” in state court to put an end to the civil contempt sanction that he was challenging. 430 U.S. 327, 337n.15

(1976). Likewise, in the Sixth Circuit case of *J. P. v. DeSanti*, plaintiffs had an opportunity to obtain a remedy because the governing procedural rule affords “an opportunity to enjoin” the offending conduct “before and during the adjudication.” 653 F.2d 1080, 1085 (6thCir.1981).

The Fifth and Ninth Circuits have held that *Younger* does not apply where plaintiff is unable to secure a ruling on constitutional claims in the state proceeding in time to stop the offending action. *Netflix, Inc. v. Babin*, 88 F.4th 1080, 1085 (5thCir.2023) (a litigant has no “adequate opportunity to assert constitutional violations in a state prosecution *when the prosecution itself is the constitutional violation*”); *Wilson v. Thompson*, 593 F.2d 1375, 1382–83 (5thCir.1979) (same). Likewise, the Ninth Circuit has held that an inability to challenge an administrative decision until after the plaintiff suffers the administrative deprivation is not an adequate remedy. *Meredith v. Oregon*, 321 F.3d 807, 818–19 (9thCir.2003) (remedies not “timely”).

CONCLUSION

Plaintiff begs the panel or the full court to rehear Plaintiff’s emergency motion for an injunction pending appeal.

March 6, 2026

Respectfully submitted,

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TYPE-VOLUME CERTIFICATION

Pursuant to Federal Rule of Appellate Procedure 32(g), Rima Kapitan hereby certifies that this petition complies with the type-volume limitation in Rule 40(d)(3)(A) because, as counted by the Microsoft Word word count tool, this motion contains 3,896 words, excluding the parts exempted by Rule 32(f). This motion complies with the typeface requirements in Rule 32(a)(5)(A) and the type-style requirements in Rule 32(a)(6) because this motion has been prepared in proportionally spaced 14-point Times New Roman font.

Dated: March 6, 2026

/s/ Rima Kapitan

RIMA KAPITAN

CERTIFICATE OF SERVICE

I certify that on March 6, 2026, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit using the CM/ECF system. I also certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Rima Kapitan

RIMA KAPITAN