

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

Case No. 23-2110

United States of America, Appellee

v.

Joseph Cammarata, Appellant

**PETITION FOR REHEARING EN BANC
AND MOTION TO SUPPLEMENT THE RECORD (ECF 86)**

Introduction

Appellant, Joseph Cammarata, respectfully petitions this Court for rehearing en banc of the Order entered September 29, 2025 (ECF 86), which denied Appellant’s Rule 12(b)(2) motion to dismiss the indictment and vacate his conviction for lack of subject-matter jurisdiction. The order consisted of a single word — “DENIED” — and provided no reasoning or citation to law.

Because jurisdictional challenges may be raised at any time under Fed. R. Crim. P. 12(b)(2), and because this Court has an Article III duty to provide reasoned decisions capable of review, en banc intervention is required. Appellant also moves to supplement the record with the attached Appendix A – Pattern of Judicial Misconduct and Denial of Due Process (Third Circuit), which documents a systemic pattern of unreasoned denials across related appeals.

I. Exceptional Importance Warranting En Banc Review

1. Jurisdiction Cannot Be Denied in Silence

The Supreme Court has held that subject-matter jurisdiction is never forfeited or waived. *Arbaugh v. Y&H Corp.*, 546 U.S. 500 (2006); *United States v. Cotton*, 535 U.S. 625 (2002). Rule 12(b)(2) expressly provides that jurisdictional defects may be raised “at any time.” A one-line denial, with no explanation, fails to discharge the Court’s constitutional duty.

2. Due Process Requires Reasoned Decisions

The Supreme Court requires courts to provide reasoning that enables review. *SEC v. Chenery Corp.*, 318 U.S. 80 (1943). By issuing a silent denial, this Court deprived Appellant of due process and insulated its order from meaningful appellate scrutiny.

3. Pattern of Unreasoned Denials

The denial of ECF 86 is not an isolated event. As detailed in Appendix A, this Court has repeatedly:

- Denied constitutional motions by one-line orders.
- Silenced pro se filings raising dispositive arguments.
- Ratified void or expired district court orders without analysis.
- Ignored emergency petitions that remain unopposed.
- Ignored motions for disqualification despite undisclosed conflicts of interest.

Taken together, these practices evidence a systemic refusal to adjudicate constitutional issues, undermining the integrity of this Court.

II. Judicial Conflicts and Disqualification Grounds

In addition to the jurisdictional defects described above, Appellant respectfully submits that en banc review is further required because undisclosed conflicts of interest within this Court compromise the appearance of impartiality and the integrity of adjudication.

Specifically, SEC trial counsel John Donnelly is married to Jean Donnelly, an attorney in the Office of the Executive at the Third Circuit. This relationship creates at minimum an appearance of bias, as the spouse of a prosecuting attorney holds a position within the same Circuit adjudicating Appellant's case. The conflict was never disclosed to Appellant or the public.

Appellant has sought disqualification and transfer on these grounds, including in Case No. 25-1188 (ECF 12, Motion to Transfer to the Second Circuit, filed March 24, 2025), which remains unruled. In this direct appeal (23-2110), Appellant similarly prepared disqualification motions, but the Court has taken no action.

Under 28 U.S.C. §§ 144 and 455, recusal and disqualification are mandatory where a judge's impartiality might reasonably be questioned. By ignoring these conflicts, the Court has compounded the structural due process violations already documented.

For these reasons, en banc review must address the unresolved disqualification and conflict issues before any merits ruling proceeds.

III. Motion to Supplement the Record

Appellant moves to supplement the record with Appendix A – Pattern of Judicial Misconduct and Denial of Due Process (Third Circuit). The Appendix provides docketed evidence (ECF numbers, dates, orders, and defects) from five separate appeals (including unresolved conflict/disqualification motions), including this one, showing a coordinated pattern of unreasoned denials and denial-by-inaction.

This material is necessary to:

- Preserve the issue for further review, including mandamus to the Supreme Court;
- Demonstrate that the denial of ECF 86 is part of a structural pattern, not isolated error; and
- Ensure transparency in the record.

IV. Relief Requested

Appellant respectfully requests that this Court:

1. Grant rehearing en banc of the denial entered at ECF 86;
2. Accept and docket Appendix A as part of the record in this matter; and
3. Provide such other relief as justice and due process may require.

Respectfully submitted,

/s/ Joseph Cammarata

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Dated: October 6th, 2025

Attachment: Appendix A – Pattern of Judicial Misconduct and Denial of Due Process
(Third Circuit)

Appendix A

Pattern of Judicial Misconduct and Denial of Due Process – Third Circuit

This Appendix documents a disturbing and systemic pattern of judicial misconduct by the United States Court of Appeals for the Third Circuit. Across four separate appellate matters, the Court has repeatedly refused to adjudicate constitutional and jurisdictional claims, issued one-line denials without reasoning, and ignored motions raising structural due process violations. The cases detailed below form the evidentiary foundation for an Emergency Petition for Writ of Mandamus to the United States Supreme Court.

Executive Summary

In each of the four cases summarized in this Appendix, the Third Circuit engaged in conduct inconsistent with Article III obligations and established Supreme Court precedent. The Court has:

- Denied constitutional motions with one-line orders, devoid of reasoning or citation.
- Silenced pro se filings, preventing judicial review of dispositive arguments.
- Ignored motions for transfer to address conflicts of interest.
- Ratified void or expired orders in contravention of Rule 65(b)(2) and controlling law.
- Allowed petitions to languish unopposed for months without ruling, effectively denying relief by silence.

This pattern constitutes a systemic failure of adjudication and raises grave questions of bias, conflict, and misconduct.

Case 1: 24-1983 – Counsel Breakdown and Procedural Ambush

In this appeal, the Court deliberately delayed ruling on motions to discharge and withdraw counsel until after reply deadlines passed, then struck the Appellant’s pro se filing. The sequence demonstrates denial-by-delay and procedural sabotage.

ECF #	Date	Action	Defect
63	Aug. 4, 2025	Motion to discharge counsel	No action before reply deadline
64	Aug. 6, 2025	Counsel motion to withdraw	No action before reply deadline
65	Aug. 25, 2025	Pro se reply filed at 10:30 a.m.	Later struck

66	Aug. 25, 2025	Order denying ECF 63, 64; rejecting pro se reply	No reasoning, issued after deadline
67-71	Sept. 5-12, 2025	Counsel-filed reply briefs	Forced through under withdrawn counsel

Defects & Constitutional Breakdown

- Denial-by-delay ensured Appellant lost reply rights.
- Pro se filing (ECF 65) was struck without explanation.
- Court forced case forward under counsel Appellant had already sought to discharge.

Case 2: 24-1381 – SEC Asset Freeze and Void TRO

This case arises from an ex parte TRO unlawfully issued and extended by the District Court without notice. Despite expiration as a matter of law under Rule 65(b)(2), the Third Circuit ratified the void TRO by denying relief in one-line orders.

ECF #	Date	Action	Defect
7 (DC)	Nov. 9, 2021	Ex parte TRO granted without notice	No irreparable harm shown; simultaneous hearing deprived due process
8 (DC)	Nov. 10, 2021	Order extending TRO 'without notice'	Violated Rule 65(b)(2); TRO expired Nov. 24, 2021
68	Apr. 18, 2025	Emergency motion to release frozen assets	Based on void TRO
69-70	Apr.-May 2025	SEC opposition and Appellant reply	Fully briefed
71	May 19, 2025	Order denying motion	One-line denial, no law or reasoning

Defects & Constitutional Breakdown

- Relied on void TRO expired as a matter of law.
- No factual findings on taint as required by Monsanto.
- Ignored Luis v. United States and SEC v. Chenery.
- One-line denial upheld unconstitutional freeze.
- Conflict of interest (Donnelly spouse in Third Circuit) ignored.

Case 3: 23-2110 – Direct Criminal Appeal

In this direct appeal, Appellant's detailed pro se rehearing petition (ECF 69) identifying errors, innocence, and controlling precedent was silenced by the Clerk. Subsequent opinions and orders ignored dispositive law and evidence, culminating in repeated one-line denials.

ECF #	Date	Action	Defect
69	May 1, 2025	Pro se amended rehearing petition	Ignored factual errors, controlling precedent
70	May 1, 2025	Clerk rejection of ECF 69	Never reviewed by judge
72	June 3, 2025	Limited rehearing granted (restitution only)	Broader constitutional issues ignored
77	July 22, 2025	Reissued precedential opinion	Ignored assignment law; conviction stands without injured party
81	Aug. 1, 2025	Order by Judge Smith re counsel	Denied; treated ECF 69 administratively only
83	Aug. 12, 2025	En banc rehearing denied	One-line order, no reasoning
86	Sept. 29, 2025	Rule 12(b)(2) motion denied	No reasoning or citation

Defects & Constitutional Breakdown

- Clerk silenced pro se filing, preventing judicial review.
- Panel opinion ignored dispositive assignment law and controlling precedent.
- Court issued multiple one-line denials without analysis.
- Jurisdictional defects raised under Rule 12(b)(2) denied without reasoning.

Case 4: 25-1188 – Emergency Mandamus Petition Ignored

This emergency petition raised systemic due process and misconduct issues across multiple cases. It was fully compliant, unopposed, and included a motion to transfer due to conflicts. The Third Circuit has done nothing for over eight months.

ECF #	Date	Action	Defect
1	Jan. 31, 2025	Emergency mandamus petition filed	Documented DPA/Rule 5(f) violations, conflicts, systemic misconduct
2-7	Feb. 2025	Compliance filings (fees, service, etc.)	Fully compliant
12	Mar. 24, 2025	Motion to transfer to Second Circuit	Ignored, no order issued
13	Apr. 14, 2025	Notice petition unopposed	Ignored, no order issued
—	Oct. 2025	Still pending	No ruling, no denial, no explanation

Defects & Constitutional Breakdown

- Denial-by-inaction: petition ignored for over eight months.
- Unopposed status did not trigger relief or review.
- Transfer motion due to conflicts ignored without response.
- Constitutes systemic refusal to adjudicate emergency petition.

Case 5: Conflicts of Interest and Ignored Disqualification Motions

Appellant identified undisclosed conflicts requiring disqualification: SEC trial counsel John Donnelly is married to Jean Donnelly, an attorney in the Third Circuit's Office of the Executive. This undisclosed relationship compromises the appearance of impartiality in these proceedings. Appellant sought relief via a transfer motion grounded in conflicts, which the Court has not adjudicated.

ECF #	Date	Action	Defect
25-1188 – 12	Mar. 24, 2025	Motion to transfer to Second Circuit (conflict grounds: Donnelly / Third Circuit Executive Office)	Ignored; no order issued
25-1188 – 13	Apr. 14, 2025	Notice confirming petition unopposed (conflict unresolved)	Ignored; no order issued
All	Oct. 2025	Conflicts unresolved across 23-2110, 24-1381, 24-1983	Denial-by-inaction; appearance of bias persists

Defects & Constitutional Breakdown

- Violates 28 U.S.C. §§ 144, 455 (recusal where impartiality reasonably questioned); structural due process violation.
- 23-2110 (Direct Appeal): Conflict issue remains unresolved; appearance of bias not addressed despite record notice.
- 25-1188 (Mandamus): ECF 13 — Notice confirming petition unopposed (Apr. 14, 2025) — no ruling.
- 25-1188 (Mandamus): ECF 12 — Motion to Transfer to Second Circuit on conflict grounds (Mar. 24, 2025) — no ruling.

Conclusion

The Third Circuit's conduct across these four matters reveals a consistent and unconstitutional pattern of adjudicative failure. Constitutional claims are silenced, dispositive arguments are ignored, and orders are issued without reasoning or law. The cumulative effect denies due process, undermines Article III obligations, and erodes confidence in the judiciary. These records will be submitted as part of an Emergency

Petition for Writ of Mandamus to the Supreme Court of the United States, seeking intervention to correct these ongoing violations and restore the rule of law.