

No. 26-179

**IN THE
SUPREME COURT OF THE UNITED STATES**

MITCHELL VEXLER, CATHERINE VEXLER,
JIM SOLINSKI, AND GLORIA SOLINSKI,
Petitioners,

v.

DON SPENCER, IN HIS OFFICIAL CAPACITY AS
CHIEF APPRAISER OF DENTON CENTRAL
APPRAISAL DISTRICT; DENTON CENTRAL
APPRAISAL DISTRICT; AND MAVEX SHOPS
OF FLOWER MOUND, LP,
Respondents.

**ON PETITION FOR A WRIT OF CERTIORARI
TO THE COURT OF APPEALS FOR THE
SECOND DISTRICT OF TEXAS**

PETITION FOR REHEARING

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TABLE OF CONTENTS

Table of Authorities	ii
Chambers Summary	1
Introduction.....	2
I. <i>Williams v. Reed</i> Supplies a Substantial Ground Not Previously Presented	3
II. The Fit Between <i>Williams</i> and the Preserved Remedial Record Is Unusually Close.....	5
III. <i>Brinkerhoff-Faris</i> and the Court’s Meaningful- Review Cases Confirm the Constitutional Boundary.....	6
IV. The Question Is Narrow, but Its Constitutional Consequence Is Not	8
Conclusion	9
Certification.....	11

TABLE OF AUTHORITIES

Cases

<i>Axon Enterprise, Inc. v. FTC</i> , 598 U.S. 175 (2023)	8
<i>Brinkerhoff-Faris Trust & Savings Co. v. Hill</i> , 281 U.S. 673 (1930)	6, 7
<i>Free Enterprise Fund v. Public Company Accounting Oversight Board</i> , 561 U.S. 477 (2010)	7
<i>Thunder Basin Coal Co. v. Reich</i> , 510 U.S. 200 (1994)	7
<i>Williams v. Reed</i> , 604 U.S. 168 (2025)	1-7, 9

Statutes and Rules

Tex. Tax Code §§ 41.01–.02, 41.41(a)	5
U.S. Supreme Court Rule 44.2	1, 2, 3, 6, 9

CHAMBERS SUMMARY

This case presents a narrow constitutional dead end. Petitioners sought prospective relief from allegedly unlawful governmental conduct. Texas treated an administrative tribunal as the exclusive forum, although Petitioners contend that tribunal lacked authority to adjudicate the preserved constitutional claim or grant the prospective relief requested. The judicial forum possessing equitable authority was nevertheless closed because the administrative process was deemed exclusive. No state tribunal therefore adjudicated the preserved prospective claim on its merits.

After the certiorari petition was denied on October 5, 2026, Petitioners seek rehearing under Rule 44.2 because the structural significance of *Williams v. Reed*, 604 U.S. 168 (2025)—which rejected a state-created procedural catch-22 that functionally prevented a class of federal civil-rights claims from being adjudicated—was not developed in the cert-stage party briefs. Petitioners ask only that the Court rehear the denial, grant review, and vacate and remand so that a court possessing authority to adjudicate the preserved federal claim may do so.

The larger constitutional question is whether a right remains meaningfully enforceable when every available procedural path terminates without any tribunal empowered to adjudicate it.

INTRODUCTION

Petitioners respectfully seek rehearing of the Court's October 5, 2026 order denying the petition for a writ of certiorari in No. 26-179. Rule 44.2 confines rehearing of a certiorari denial to "intervening circumstances of a substantial or controlling effect" or "other substantial grounds not previously presented." This petition relies principally on the second branch.

The substantial ground not previously developed in the cert-stage party briefs is the structural significance of this Court's recent decision in *Williams v. Reed*. *Williams* addressed a state procedural arrangement that produced a "catch-22": the claimants were required to complete the very administrative process whose alleged delay they sought to challenge before they could obtain judicial relief. This Court held that state procedure could not be applied so as to functionally immunize officials from the affected class of federal claims.

That principle bears directly on the remedial structure preserved here. Petitioners sought prospective relief directed to future appraisal methodology and future compliance with governing standards. Texas treated the annual appraisal-review process as exclusive. Yet the Appraisal Review Board ("ARB"), according to the preserved record, could address specified annual protest matters and correct appraisal records or rolls, but could not issue the prospective district-wide injunction requested, declare a continuing methodology unlawful, or govern future conduct. The state court possessing equitable authority nevertheless dismissed because the

administrative route was deemed exclusive. The result was final disposition without adjudication of the preserved prospective claim.

This petition does not ask the Court to determine a property value, decide whether any appraisal allegation is true, find fraud, award a refund, or prescribe the ultimate terms of an injunction. It asks a narrower question: whether a State may make a limited administrative remedy exclusive when that tribunal cannot adjudicate the preserved constitutional claim or grant the prospective relief requested, while closing the judicial forum that can.

Petitioners are not asking this Court to decide the underlying dispute. They are asking this Court to ensure that some court can.

I. WILLIAMS v. REED SUPPLIES A SUBSTANTIAL GROUND NOT PREVIOUSLY PRESENTED.

Williams was decided on February 21, 2025, before the certiorari petition in this case was filed. Petitioners therefore do not characterize *Williams* as an intervening decision. The Rule 44.2 contention is narrower and candid: the structural significance of *Williams* was not developed in the filed Petition or Mavex’s aligned Rule 12.6 brief, and its unusually close fit with the remedial mechanism preserved here supplies an “other substantial ground not previously presented.”

Williams involved unemployment claimants who alleged that Alabama’s administrative process itself

was unlawfully delayed. Alabama required exhaustion of that process before suit. The practical result was that the claimants could not sue to obtain an order addressing the alleged delay until they first completed the very process whose delay they challenged. *Williams*, 604 U.S. at 178–84.

The precise cause of action here is different. Petitioners did not plead a freestanding § 1983 count, and the Texas Court of Appeals did not apply the same Alabama exhaustion provision. Petitioners therefore do not contend that *Williams* mechanically controls this case. The relevance is structural: state procedure cannot be allowed to become the mechanism by which a preserved federal claim is made practically non-adjudicable.

Williams also makes the practical operation of the state rule significant. A jurisdictional characterization does not itself answer the federal problem when the asserted effect of the rule is to prevent adjudication of the claim that matters. Here, Petitioners contend that they were directed to a forum incapable of granting the requested prospective relief while the forum possessing that authority was closed because the limited forum was deemed exclusive.

Texas’s participation in *Williams* heightens the institutional significance of the issue. Texas joined a multistate amicus brief in support of the respondent in *Williams*, defending state authority over the jurisdiction of state courts. The brief identifies Texas among the participating States and identifies Ken Paxton as Attorney General of Texas. This Court nevertheless reversed the Alabama judgment.

Williams was therefore controlling Supreme Court precedent while Petitioners' Texas appellate proceedings remained pending. Petitioners respectfully submit that the close fit between that precedent and the remedial dead end preserved here warrants rehearing.

II. THE FIT BETWEEN *WILLIAMS* AND THE PRESERVED REMEDIAL RECORD IS UNUSUALLY CLOSE.

The filed Petition and aligned Mavex brief preserved a simple sequence. Petitioners sought prospective relief requiring future compliance, not merely a different number for a completed tax year. The relevant pleading requested an injunction directed to future appraisal conduct. Pet. App. 34a–38a.

Texas law authorizes ARBs to hear specified annual protests and to direct corrections to appraisal records or rolls. See Tex. Tax Code §§ 41.01–.02, 41.41(a). The Court of Appeals nevertheless treated the annual Tax Code process as exclusive and affirmed dismissal of the claims for prospective injunctive relief. Pet. App. 12a–18a.

The remedial mismatch was repeatedly presented. The postjudgment motion explained that annual review of completed appraisal action could not supply forward-looking relief. The opening appellate brief made prospective relief its first issue and distinguished a retrospective correction from an injunction against continuing allegedly unlawful official conduct. The reply brief explained that

correction of a past appraisal did not adjudicate whether the challenged method could be repeated in future years. Pet. App. 39a–48a, 65a–76a.

The same issue was presented to the Supreme Court of Texas. Petitioners argued that an ARB could correct an appraisal record but could not declare a countywide methodology unlawful, enjoin appraisal-district personnel, or require future compliance. The Supreme Court of Texas denied review and rehearing without opinion. Pet. App. 32a–33a, 49a–64a. The preserved prospective claim thus reached finality without a merits adjudication.

The resemblance to *Williams* is functional rather than formal. In *Williams*, the State required completion of a process whose alleged defect could not effectively be challenged until that process ended. Here, according to the preserved record, Texas directs Petitioners to an annual process that cannot grant the prospective injunction, while the court possessing equitable authority is closed because that annual process is deemed exclusive. In both settings, procedure is alleged to become the obstacle to adjudicating the very claim presented.

III. *BRINKERHOFF-FARIS* AND THE COURT'S MEANINGFUL-REVIEW CASES CONFIRM THE CONSTITUTIONAL BOUNDARY.

Brinkerhoff-Faris Trust & Savings Co. v. Hill, 281 U.S. 673 (1930), is not offered as a new Rule 44.2 ground. It was already central to the certiorari

petition. Its function on rehearing is to connect the preserved due-process theory to *Williams*.

Brinkerhoff-Faris arose from a state property-tax dispute in which state judicial action eliminated the remedy previously available to the taxpayer after the taxpayer no longer had a real opportunity to pursue the alternative route. The constitutional concern was the elimination of a meaningful path to adjudication. The filed Petition invoked the related first-opportunity principle: Petitioners contend that the federal injury became complete only when the state process reached finality and no state tribunal remained available to adjudicate the preserved prospective claim.

Williams sharpens that preserved theory. *Brinkerhoff-Faris* addresses remedy elimination through state judicial action; *Williams* addresses a procedural catch-22 that functionally forecloses federal claims. Read together, they support a coherent principle: a State may regulate and channel the route to adjudication, but procedure cannot be allowed to extinguish the practical availability of adjudication itself.

This Court's modern administrative-channeling decisions reinforce the same structural boundary. *Thunder Basin Coal Co. v. Reich*, 510 U.S. 200, 212–13 (1994), treated meaningful judicial review as central to whether a statutory review scheme displaced district-court jurisdiction. *Free Enterprise Fund v. Public Company Accounting Oversight Board*, 561 U.S. 477, 489–91 (2010), declined to force a constitutional challenge through a route that did not

provide a meaningful avenue for review. *Axon Enterprise, Inc. v. FTC*, 598 U.S. 175, 185–96 (2023), likewise recognized that an asserted structural constitutional injury may not be meaningfully reviewable if review arrives only after the injury has already occurred.

Those cases involve federal review schemes, not the Texas Tax Code, and Petitioners do not contend otherwise. Their relevance is structural: channeling ordinarily presupposes eventual review by a tribunal capable of deciding the legal issue and granting effective relief. Channeling and remedial extinction are not the same thing.

IV. THE QUESTION IS NARROW, BUT ITS CONSTITUTIONAL CONSEQUENCE IS NOT.

The issue is not whether every unsuccessful litigant is constitutionally entitled to Supreme Court review. Nor is it whether denial of certiorari adjudicates the merits; it does not. The issue is whether the combination of state procedures alleged here may leave a preserved federal constitutional claim without any tribunal empowered to adjudicate it and consider effective prospective relief.

That question matters beyond a single valuation dispute because constitutional rights can remain formally written while becoming practically unenforceable if the procedural system supplies no forum capable of deciding the asserted violation. Petitioners' broader allegations concerning appraisal practices, taxation, public debt, and compounding financial consequences underscore why a recurring

prospective claim may have consequences beyond one tax year. But those downstream allegations are not the Rule 44.2 ground and need not be resolved to grant rehearing.

The narrower constitutional question is enough: when constitutional rights exist in text, but asserted violations cannot obtain meaningful adjudication, what practical protection remains for the citizen who invokes them against government action?

Petitioners respectfully submit that the Court should not leave that question unresolved where a recent decision of this Court supplies a substantial, previously undeveloped doctrinal lens that maps closely onto the preserved remedial dead end.

CONCLUSION

The petition for rehearing should be granted. *Williams v. Reed* supplies a substantial and previously undeveloped ground for reconsidering whether the state procedural structure preserved in this record may leave a federal constitutional claim without any tribunal capable of adjudicating it and considering effective prospective relief.

Petitioners do not ask this Court to decide appraisal mathematics, determine whether any property was overvalued, adjudicate fraud allegations, award refunds, or prescribe Texas tax administration. They ask only that the Court rehear its October 5, 2026 denial, grant certiorari, vacate the judgment below, and remand so that a court with equitable authority may adjudicate the preserved

prospective claim under the proper federal constitutional standard. In the alternative, the Court should grant review of the Questions Presented.

Respectfully submitted,

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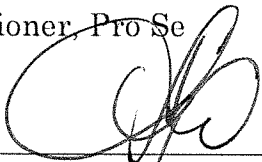
**CERTIFICATION UNDER SUPREME COURT
RULE 44.2**

I certify that this Petition for Rehearing is presented in good faith and not for delay, and that it is restricted to the grounds specified in Supreme Court Rule 44.2.

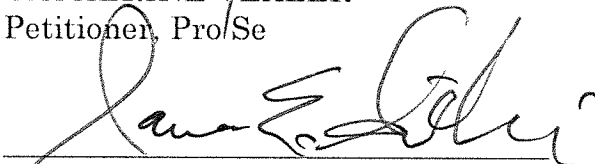
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