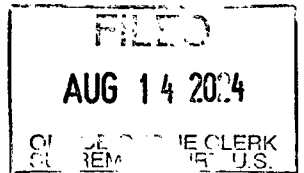


24-5371
No. _____

ORIGINAL



IN THE

SUPREME COURT OF THE UNITED STATES

ERIC MARTIN MATTHEWS - PETITIONER

VS.

UNITED STATES OF AMERICA - RESPONDENT

ON PETITION FOR AN

ORIGINAL WRIT OF HABEAS CORPUS TO

THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF TEXAS

ERIC MARTIN MATTHEWS
75804-004
FMC FORT WORTH
P.O. BOX 15330
FORT WORTH, TX 76119

QUESTIONS PRESENTED

- I. Is the Anti-Effective Death Penalty Act (AEDPA) still Constitutional after this Courts ruling in Jones v. Hendrixs ?
- II. If subject matter jurisdiction can never be waived or forfeited, how is the AEDPA still constitutional if it blocks any other vehicle to challenge subject matter jurisdiction after an initial 28 U.S.C. 2255?
- III. Does the AEDPA violate a Plea Agreement that does not waive any appeal rights?

LIST OF PARTIES

Mr. Matthews submitts this list of parties pursuant to Supreme Court Rule 12.6. The following is submitted:

- (1) Diana Margarita Acosta Assistant United States Attorney
for the Southern District of
Florida - Prosecutor Criminal Case
- (2) Antonia J Barnes Assistnat United States Attorney
for the Southern District of
Florida - Prosecutor Criminal Case
- (3) Dave Lee Brannon Attorney for Mr. Matthews Criminal
case (Mayystill be a United States
Magistrate for the Southern District
of FLorida, West Palm Beach)
- (4) Richard L Durbin Jr. Assistant United States Attorney
for the Western District of Texas;
28 U.S.C. 2241 appeal to 5TH Circuit
- (5) Kurt D Engelhardt 5TH Circuit Judge for 28 U.S.C.
1651 on appeal from the Western
District of Texas, Austin Division
- (6) Daniel Guess Assitant United States Attorney for
28 U.S.C. 2241
- (7) Frank M. Hull 11TH Circuit Judge for 28 U.S.C
2255 Second or Sucessive for Plea
Agreement
- (8) E Grady Jolly 5Th Circuit Judge for 28 U.S.C.
2241 on appeal from the Western
District of Texas, Austin Division

- (9) Jordon 11TH Circuit Judge for 28 U.S.C.
2255 Second or Successive for Subject
Matter Jurisdiction
- (10) Mark Lane United States Magistrate Judge for
the Western District of Texas - for
the 28 U.S.C. 2241
- (11) Frank Lynch United States Magistrate Judge
for Mr. Matthews criminal case.
- (12) Beverly Martin 11TH Circuit Judge for 28 U.S.C.
1651(a) appeal from the Southern
District of Florida
- (13) Micheal K Moore Chief United States District Court
Judge for the Southern District
of Florida - Sentencing Judge
- (14) Newson 11TH Circuit Judge for 28 U.S.C.
2255 Second or Successive for Plea
Agreement
- (15) Reed O'Conner United States District Court Judge
for Northern District of Texas, for
28 U.S.C. 2241
- (16) Robert Pitman United States District Court Judge
for the Western District of Texas-
for the 28 U.S.C. 2241
- (17) Jill Pryor 11TH Circuit Judge for 28 U.S.C.
for 28 U.S.C. 2255 Second or Successive
for subject matter jurisdiction

- (18) Lisette M Reid United States Magistrate Judge
for the Southern District of
Florida for the 28 U.S.C. 2241
- (19) Robin S Rosenbaum 11TH Circuit Court Judge for the
28 U.S.C. 2241 on appeal and the
28 U.S.C. 2255 Second or Successive
for jurisdiction (subject matter)
- (20) Beth Sreenan Assistant United States Attorney
for the Southern District of
Florida - Prosecutor Criminal Case
- (21) Patrick White United States Magistrate Judge for
Southern District of Florida for
the 28 U.S.C. 1651(a)
- (22) Don R Willett 5TH Circuit Judge for 28 U.S.C.
2241 on appeal from the Western
District of Texas, Austin Division

RELATED CASES

- 1) ERIC MARTIN MATTHEWS VS UNITED STATES OF AMERICA, 2017
U.S. Dist Lexis 125285 (S.D. of FL 2017) Case Number:
17-14272-CIV-MOORE Magistrates Report Dated Aug 7, 2017
Docket # 4
- 2) ERIC MARTIN MATTHEWS VS UNITED STATES OF AMERICA, 2017
U.S. Dist Lexis 225282 (S.D. of FL 2018) Case Number:
17-14272-CIV-MOORE Judge Moore Adoption of Magistrates
Report Dated Dec 2, 2017 Docket # 40
- 3) ERIC MARTIN MATTHEWS VS UNITED STATES OF AMERICA, 2018
U.S. App Lexis 15074 (11TH Cir 2018) Case Number: 18-10300-C
Appeal of Case Number: 17-14272-CIV-MOORE Dated June 4, 2018
- 4) IN RE ERIC MARTIN MATTHEWS, 2019 U.S. App Lexis 11046
(11TH Cir 2019) Case Number: 19-10973 Dated April 15, 2019
- 5) ERIC MARTIN MATTHEWS VS HUDGINS WARDEN, 2019 U.S. Dist
Lexis 172841 (S.D. FL 2019) Case Number: 19-CIV-14173-MOORE
Magistrates Report Dated Oct 2, 2019 Docket #11
- 6) ERIC MARTIN MATTHEWS VS HUDGINS WARDEN, 2019 U.S. Dist
Lexis 190972 (S.D. FL 2019) Case Number: 2:19-CV-14173-KMM
Judge Moore Adoption of Magistrates Report Dated Oct 31,
2019 Docket # 13
- 7) ERIC MARTIN MATTHEWS VS HUDGINS WARDEN, 2020 U.S. App Lexis
4367 (11TH CIR 2020) Case Number: 19-14609-A Appeal of Case
Number: 2:19-CV-14073-MOORE Dated Feb 11, 2020
- 8) ERIC MARTIN MATTHEWS VS MA'AT WARDEN, 2020 U.S. Dist Lexis
226716 (W.D. TX 2020) Case Number: A-20-CV-371-RP-ML
Magistrates Report Dated Sept 15, 2020 Docket #19

- 9) ERIC MARTIN MATTHEWS VS MA'AT WARDEN, 2020 U.S. Dist
Lexis 225574 (W.D. TX 2020) Case Number: 1:20-CV-371-RP
Judge Pitman Adoption of Magistrates Report Dated Dec 2,
2020 Docket # 24
- 10) ERIC MARTIN MATTHEWS VS MA'AT WARDEN, 2022 U.S. App
Lexis 4106 (5TH CIR 2022) Case Number: 21-50047 Appeal
of Case Number: 1:20-CV-371-RP
- 11) ERIC MARTIN MATTHEWS VS MA'AT WARDEN Case Number:
21-50047 (5TH CIR 2022) Regeust for En Banc Hearing-
Denied on April 14, 2022- unpublished
- 12) ERIC MARTIN MATTHEWS VS WARDEN AT FMC FORT WORTH, Case
Number: 4:24-CV-144-O - 28 U.S.C. 2241 Denied on April
5, 2024 - unpublished = (N.D. of Texas 2024)
- 13) IN RE ERIC MARTIN MATTHEWS , Case Number: 24-11606 -
28 U.S.C. 2255 Second or Successive (11TH Cir 2024)
2024 U.S. App Lexis 13539 (11TH Cir 2024)

TABLE OF CONTENTS

Questions Presented.....	i
List of Parties.....	ii
Related Cases.....	v
Table of Contents.....	1
List of Appendixs.....	3
Table of Authorities.....	7
Supreme Court.....	7
Appeal Court.....	7
Constitutional Provisions.....	8
Statutes.....	8
Court Rules.....	8
Opinions to Review.....	9
Jurisdiction.....	11
Constitutional Provisions.....	12
Statutory Provisions.....	12
Concise Statement of the Case.....	13
Argument.....	15
Introduction.....	15
Jurisdiction Never Waived.....	17
AEDPA is Unconstitutional.....	18
No Viable Remedy.....	21
Plea Agreements VS AEDPA VS Contract Law.....	22
Jones V Hendrix the Final Spike in the Coffin of the AEDPA.....	23
Discretionary V Mandatory.....	24

TABLE OF CONTENTS CONT

Post JOnes v Hendrix, The AEDPA is Unconstitutional.....	24
Conclusion.....	26
Relief Requested.....	27
Certificate of Compliance.....	29
Certificate of Service.....	30

INDEX TO APPENDIXS

- APPENDIX A - ERIC MARTIN MATTHEWS VS UNITED STATES OF AMERICA,
2017 U.S. Dist Lexis 125285 (S.D. of FL 2017)
Case Number: 17-14272-CIV-MOORE Magistrates Report
for 28 U.S.C. 1651(a) Dated Aug 7, 2017 Docket # 4
- APPENDIX B - ERIC MARTIN MATTHEWS VS UNITED STATES OF AMERICA,
2017 U.S. Dist Lexis 225282 (S.D. of FL 2018)
Case Number: 17-14272-CIV-MOORE Judge Moore
Adoption of Magistrates Report Dated Dec 2, 2017
Docket # 40
-Docket for Case Number: 2:17-CV-14272-KMM
- APPENDIX C - ERIC MARTIN MATTHEWS VS UNITED STATES OF AMERICA,
2018 U.S. App Lexis 15074 (11TH Cir 2018) Case
Number: 18-10300-C Appeal of Case Number: 17-14272-
CIV-MOORE Dated June 4, 2018; Appeal of 28 U.S.C.
1651(a) denial
- APPENDIX D - IN RE ERIC MARTIN MATTHEWS, 2019 U.S. App Lexis
11046 (11TH Cir 2019) Case Number: 19-10973 Dated
April 15, 2019; 28 U.S.C. 2255(h) Second or Successive
-Brief for Petitioner
-Docket for Case Number 19-10973
- APPENDIX E - ERIC MARTIN MATTHEWS VS HUDGINS WARDEN, 2019 U.S.
Dist Lexis 172841 (S.D. of FL 2019) Case Number:
19-CIV-14173-MOORE; Magistrates Report on 28 U.S.C.
2241 Dated: Oct 02, 2019; Docket # 11
-Petitioner Objections to the Magistrates Report
Docket # 12
-Docket for Case Number: 19-CIV-14173-MOORE

- APPENDIX F - ERIC MARTIN MATTHEWS VS HUDGINS WARDEN, 2019 U.S.
Dist Lexis 190972 (S.D. of FL 2019) Case Number:
2:19-CV-14173 Judge Moore Adoption of Magistrates
Report for 28 U.S.C. 2241; Dated Oct 31, 2019
Docket # 13
- APPENDIX G - ERIC MARTIN MATTHEWS VS HUDGINS WARDEN, 2020 U.S.
App Lexis 4367 (11TH CIR 2020) Case Number: 19-14609-A
Appeal of Case Number: 2:19-CV-14073-MOORE Dated
Feb 11, 2020
- APPENDIX H - ERIC MARTIN MATTHEWS VS MA'AT WARDEN, 2020 U.S.
Dist Lexis 226716 (W.D. of TX 2020) Case Number:
A-20-CV-371-RL-ML Magistrates Report on 28 U.S.C.
2241; Dated Sept 15, 2020; Docket # 19
-Petitioners Objections to Magistrates Report
Docket #22
- APPENDIX I - ERIC MARTIN MATTHEWS VS MA'AT WARDEN, 2020 U.S.
Dist Lexis 225574 (W.D. of TX 2020) Case Number:
1:20-CV-371-RP; Judge Pitmans Adoption of Magistrates
on 28 U.S.C. 2241; Dated Dec 2, 2020; Docket # 24
-Docket for Case Number: 1:20-CV-371-RP
- APPENDIX J - ERIC MARTIN MATTHEWS VS MA'AT WARDEN, 2022 U.S.
App Lexis 4106 (5TH CIR 2022) Case Number: 21-50047
Appeal of Case Number: 1:20-CV-371-RP
-Appellants Opening Brief
- APPENDIX K - ERIC MARTIN MATTHEWS VS MA'AT WARDEN, Case Number:
21-50047 (5TH CIR 2022) Request for En Banc Hearing-
Denied on April 14, 2022 - Unpublished
-Appellants En Banc Request Brief

- Appellant's Opening Brief

APPENDIX L - ERIC MARTIN MATTHEWS VS WARDEN AT FMC FORT WORTH,

Case Number: 4:24-CV-144-O 28 U.S.C. 2241 Denial

dated April 5, 2024 Docket #12 Unpublished

-Petitioners Arguments Submitted

APPENDIX M - ERIC MARTIN MATTHEWS VS WARDEN AT FMC FORT WORTH,

Case Number: 4:24-CV-144-O 28 U.S.C. 2241 Final

Judgement dated April 5, 2024 Docket # 13 Unpublished

APPENDIX N - ERIC MARTIN MATTHEWS VS UNITED STATES OF AMERICA,

Case Number: 24-11606 28 U.S.C. 2255(h)

Second or Successive for Breach of Plea/

2024 U.S. App.Lexis 13539 (11TH Cir 2024)

APPENDIX O - Plea Agreement for Eric Martin Matthews

APPENDIX P - List of Cases Jurisdiction Can Never be waived in

APPENDIX Q - Case : State of Texas vs Merrick Garland Et AL,

2024-U.S. Dist Lexis 33161 (N.D. Texas 2024) Case

Number: 5:23-CV-034-H

APPENDIX R - Arguments for Subject Matter Jurisdiction being

Unconstitutional Submitted by Eric Martin Matthews

APPENDIX S - Exhibit A thru Exhibit H for Subject Matter

Jurisdictional Arguments in Appendix R

APPENDIX T - Docket for First 28 U.S.C. 2255 for Eric Martin

Matthews Case Number: 2:08-CV-14030-KMM

APPENDIX U - Felker vs. Turpin, 518 U.S. 651, 116 S. CT.2333

135 L ED 2d 827 (1996)

-Jones VS Hendrix, 599 U.S. _____, 143 S. CT.

1857, 216 L ED 2D 471 (2023)

- Glass vs United States , 200 L ED 2d 37;
138 S. Ct 798 (2018)
- Garza v. Idaho , 139 S. Ct. 738, 203 L ED
2d 77 (2019)
- In Re Troy Anthony Davis , 557 U.S. 952, 130 S. Ct
1, 174 L ED 2d 614 (2000)
- Musacchio vs United States, 577 U.S. 237, 136 S CT
709, 193 L Ed 2d 639 (2016)
- Puckett vs United States, 556 U.S. 129, 129 S CT
1423, 173 L Ed 2d 266 (2009)
- Santobello vs New York, 404 U.S. 257, 30 L ED 2d,
92 SCT 495 (1971)
- Hubbard vs United States, 514 U.S. 695, 131 L Ed
2d 779, 115 S CT 1754 (1995)

APPENDIX W- Defendants who Went To Trial VS Plea Agreements

TABLE OF AUTHORITIES

SUPREME COURT

<u>Felker v Turpin</u> , 518 U.S. 651, 116 S Ct 2333, 116	
135 L Ed 2d 827 (1996).....	11,16,19,20
<u>Glass v United States</u> , 138 S Ct 798, 200 L Ed 2d 37 (2018)..	21
<u>Glover v United States</u> , 148 L Ed 2d 604 (2001).....	17
<u>Hubbard v United States</u> , 514 U.S. 695, 115 S Ct 1754,	
131 L Ed 2d 779 (1995).....	21
<u>In Re Troy Anthony Davis</u> , 174 L Ed 2d 614 (2009).....	16
<u>Insurance Corp of Ir. LTD v Compagnie des Bauxites de Guinee</u> ,	
456 U.S. 684, 701; 102 S Ct 2099, 72 L Ed 2d 492 (1982)..	17, 18
<u>Jones v Hendrix</u> , 599 U.S._____, 1435 S Ct 1857,	
216 L Ed 2d 471 (2023).....	11,23
<u>Louisville and Nashville Railroad Co v Mottley</u> , 211 U.S. 149, 152	
29 S Ct 42, 53 L Ed 126 (1908).....	18
<u>Marbury v Madison</u> , 5 U.S.C. 137 (1803).....	21
<u>United States v Griffin</u> , 303 U.S. 226, 229, 58 S Ct 601,	
82 L Ed 764 (1938).....	17

APPEAL COURTS

<u>Fitzgerald v Seaboard Sys R R Inc</u> , 760 F.2d 1249,1250	
(11TH Cir 1985).....	18
<u>Hertz Corp v Alamo Rent a Car</u> , 16 F3d 1126(11TH Cir 1994).....	17
<u>In Re Davenport</u> , 147 F3d 605, 609 (5TH Cir 1998).....	20
<u>Latin Am; Property and Cas. Ins Co V High Lift Marina</u> , 887 F2d	
1477, 1479 (11TH Cir 1998).....	18
<u>Love v Turlington</u> , 733 F2d 1562, 1564(11TH Cir 1984).....	18

<u>United States V Brown</u> , 752 F3d 1342, 1344 (11TH Cir 2014)....	18
<u>United States v Harris</u> , 149 F3d 1305 (11TH Cir 1998).....	18
<u>United States v Keel</u> , 585 F2d 110, 114 (5TH Cir 1978).....	18

CONSTITUTIONAL PROVISIONS

<u>U.S. Cont Art 1 Section 9</u>	19
--	----

STATUTES

18 U.S.C. 3231.....	12,13,
28 U.S.C. 1651.....	12,17-19,21-22
28 U.S.C. 2241.....	12,18-22
28 U.S.C. 2244.....	12,18-22
28 U.S.C. 2255.....	12,14-23

COURT RULES

U.S. Supreme Court Rule 20.....	15
U.S. Supreme Court Rule 20.4.....	16

IN THE
SUPREME COURT OF THE
UNITED STATES

PETITION FOR AN ORIGINAL
WRIT OF HABEAS CORPUS

Petitioner respectfully prays that a Petition for an Original Writ of Habeas Corpus issue to review the judgements below.

OPINIONS BELOW

Pursuant to Felker v. Turpin, 518 U.S. 651, 116 S. Ct. 2333, 135 L ED 2D 827 (1996) and Supreme Court Rule 20.4, The Petitioner request review of all the opinions of the United States Courts of Appeals and all of the opinions of the United States District Courts listed below:

- 1) The Opinion of the United States District Court appears at Appendix A to the Petition and is reported at 2017 U.S. Dist Lexis 125285 (Southern District of Florida 2017)
- 2) The opinion of the United States District Court appears at Appendix B to the Petition and is reported at 2017 U.S. Dist Lexis 225282 (Southern District of Florida 2017)
- 3) The opinion of the United States Court of Appeals appears at Appendix C to the petition and is reported at 2018 U.S. App Lexis 15074 (11TH Circuit Court of Appeals 2018)
- 4) The opinion of the United States Court of Appeals appears at Appendix D to the Petition and is reported at 2019 U.S. App Lexis 11046 (11TH Circuit Court of Appeals 2019)
- 5) The opinion of the United States District Court appears at Appendix E to the Petition and is reported at 2019 U.S. Dist Lexis 172841 (Southern District of Florida 2019)
- 6) The opinion of the United States District Court appears at Appendix F of the Petition and is reported at 2019 U.S. Dist Lexis 190972 (Southern District of Florida 2019)
- 7) The opinion of the United States Court of Appeals appears at Appendix G to the Petition and is reported at 2020 U.S. App U.S. App Lexis 4367 (11TH Circuit Court of Appeals 2020)

- 8) The opinion of the United States District Court appears at Appendix H to the Petition and is reported at 2020 U.S. Dist Lexis 226716 (Western District of Texas 2020)
- 9) The opinion of the United States District Court appears at Appendix I to the Petition and is reported at 2020 U.S. Dist Lexis 225574 (Western District of Texas 2020)
- 10) The opinion of the United States Court of Appeals appears at Appendix J to the Petition and is reported at 2022 U.S. App Lexis 4106 (5TH Circuit Court of Appeals 2022)
- 11) The opinion of the United States Court of Appeals appears at Appendix K to the Petition and is reported at 2022 U.S. App Lexis 4106 (5TH Circuit Court of Appeals 2022) EN Banc Denial of this Case is Unpublished
- 12) The opinion of the United States District Court appears at Appendix L to the Petition and is reported at Case # 4:24-CV-144-O Docket #12 Dated April 5, 2024 is unpublished
- 13) The opinion of the United States District Court appears at Appendix M to the Petition and is reported at Case #4:24-CV-144-O Docket #13 Dated April 5, 2024 is unpublished
- 14) The opinion of the United States Court of Appeals appears at Appendix N to the Petition and is unpublished. See Case Number: 24-11606 Docket # 2-2 Dated June 4, 2024

JURISDICTION

The date on which the United States Court of Appeals for the 5TH Circuit last decided my case was Feb 15, 2022 (See Appendix J). A timely petition for rehearing was denied by the United States Court of Appeals for the 5TH Circuit on the following date: April 14, 2022, and a copy of the order denying rehearing appears at Appendix K.

The date on which the United States Court of Appeal for the 11TH Circuit last decided my case was June 4, 2024 (See Appendix N).

Because of the nature of question presented can no longer be heard in the lower courts , because of the AEDPA and Jones v Hendrixs, 599 U.S. _____, 1435 S. CT 1857, 216 L ED 2D 471 (2023). This court should envoke its original jurisdiction under 28 U.S.C. 2244, Supreme Court Rule 20.4 and Fleker v. Turpin, 518 U.S. 651, 116 S. CT 2333, 135 L ED 2D 827 (1996).

CONSTITUTIONAL PROVISIONS

Amendment 5 Criminal actions - Due Process - Text found in
Appendix V.

Amendment 6 Right of the accused - Text found in Appendix V

STATUTORY PROVISIONS

18 U.S.C. 3231 District Courts - Statutory text found in Appendix
V

28 U.S.C. 1651 Writs - Statutory Text found in Appendix V

28 U.S.C. 2241 Power to Grant Writ - Statutory text found
in Appendix V

28 U.S.C. 2244 Finality of determination - Statutory text found
in Appendix V

28 U.S.C. 2255 Federal Custody; remedies on motion attacking
sentence - Statutory text found in Appendix v

CONCISE STATEMENT

OF THE CASE

Over the last eight (8) years, Mr. Matthews has challenged the unconstitutional subject matter jurisdiction of the court in his criminal prosecution (18 U.S.C. 3231) (See: Appendixs R & S). Every Court Mr. Matthews went to procedurally barred Mr. Matthews from making the challenge to subject matter jurisdiction. Each and every court used the Anti-Effective Death Penalty Act (AEDPA) to avoid addressing the merits of his arguments, despite every court holding that subject matter jurisdictional claims can never be procedurally barred, forfeited or waived. (See: Appendix P). Mr. Matthews made this challenge in the following courts as listed in the judgements to be reviewed section: United States District Court for the Southern District of Florida (See: Appendixs A, B, E, and F); United States District Court for the Western District of Texas (See: Appendixs H & I); United States District Court for the Northern District of Texas (See: Appendixs L & M); United States Court of Appeals for the 11TH Circuit (See: Appendixs C, D, and G); and United States Court of Appeals for the 5TH Circuit (See: Appendixs J & K).

After Mr. Matthews first challenge in 2017, he began challenging AEDPA as unconstitutional for AEDPA not allowing a challenge to the constitutionality of the courts subject matter jurisdiction (18 U.S.C. 3231).

Mr. Matthews in his plea agreement (See: Appendix O) did not waive the right to any of his appeal rights. Mr. Matthews made a challenge to his plea agreement being violated based on the courts procedurally barring his subject matter jurisdictional argument.

(See: Appendix N). All inmates who went to trial along with those like Mr. Matthews did not waive thier appeal rights are procedurally barred from making a subject matter jurisdictional claim after thier initial 28 U.S.C. 2255.

ARGUMENT

INTRODUCTION

This case presents issues of exceptional importance that warrants this court's exercise of original jurisdiction. This will affect this Court, every Federal Court of Appeals and every United States District Court that does criminal proceedings. The outcome of this case will fundamentally change how some of the post conviction relief is done for federal inmates. This Court, every Federal Court of Appeals, and every United States District Court that does criminal proceedings, holds that subject matter jurisdiction claims can never be waived. (See: Appendixs "P" and "U"). But all the Federal Courts also hold that Anti-Effective Death Penalty Act (AEDPA) restrictions preclude a challenge to subject matter jurisdiction after one's original 28 U.S.C. 2255 and all COAs are done. This Court, every Federal Court of Appeals and every United States District Court that does criminal proceedings has an internal conflict in their case law, now. A court can not hold a claim can never be waived then procedurally bar the claim. Every single inmate who went to trial, pled guilty pursuant to plea agreement that waived no rights, and pled guilty in open court without a plea agreement is affected.

Mr. Matthews made an application, over the course of eight (8) years to many United States District Courts and two (2) Appeal Courts. Mr. Matthews pursuant to Supreme Court Rule 20 made an application to the District Court for the District in which he is confined. (See: Appendixs "L" and "M"). The appendixs show all the decisions on the applications and appeals Mr. Matthews made. (See: Appendixs "A", "B", "C", "D", "E", "F", "G", "H",

"I", "J", "K", "L", "M", and "N") An extraordinary writ under Supreme Court Rule 20.4 is granted only when the Petitioner seeking it show all three of the following: (1) Adequate Relief can not be obtained in any other form or from any other court (2) Exceptional Circumstances warrant the exercise of the courts discretionary powers , and (3) The writ will aid the courts appellate jurisdiction.

Adequate relief can not be obtained in any other form or from any other court because of the AEDPA. The Supreme Court is the only Court that can get around the AEDPA with the issuance of an original writ. This court did just that in IN RE TROY ANTHONY DAVIS, 174 L ED 2d 614 (2000). The lower courts, both the Appeal and District have no discretion to hear a subject matter jurisdictional challenge after the original 28 U.S.C. 2255, because the AEDPA blocks all lower courts from hearing this type of challenge while one is in prison. The Supreme Court said in Felker v Turpin, 135 L ED 2d 827 (1986) "our writ can never be suspended." This says that the Supreme Court writ overrides AEDPA. No other court can correct any error every other Federal Court whether a District Court or Appeals Court on their internal conflict of their case law. Only this Court has the Supervisory power to do so.

Mr. Matthews as shown in the Appendixes and related cases that he has gone thru many appellate reviews and received the same result every single time. Every single inmate like Mr. Matthews who did not waive any rights in their plea agreement, who went to trial, or who pled guilty in open court without a plea agreement is harmed by the internal conflict each and every federal court has. After ones original 28 U.S.C. 2255 and all COA's are done, there is no avenue by which one may challenge subject matter

jurisdiction that can never be waived. The next chance one has available to them to make this challenge is when one is released from prison. Then and only then can one challenge subject matter jurisdiction via 28 U.S.C. 1651. The harm is one sits in prison for years because one can not make this challenge after their original 28 U.S.C. 2255. See: Glover v United States, 148 L Ed 2d 604 (2001). So subject matter jurisdictional challenges in effect are waived after ones original 28 U.S.C. 2255, despite every federal court holding diferent.

JURISDICTION NEVER WAIVED

"Notably, jurisdictional defects, by contrast, CANNOT be procedurally defaulted. As federal courts, we are courts of limited jurisdiction, deriving our power solely from Article III of the Constitution and from legislative acts of Congress." See: Insurance Corp of Ir., LTD v. Compagnie des Bauxites de Guinee, 456 U.S. 684, 701; 72 L Ed 2d 492, 102 D. CT 2099 (1982). We therefore cannot derive power to act from the actions of the parties before us. See: ID @ 702. Consequently, the parties are incapable of conferring upon us a jurisdictional foundation we otherwise lack simply by waiver or procedural default. See: United States v. Griffin, 303 U.S. 226, 229; 82 L Ed 764, 58 S. CT 601 (1938) (Since lack of jurisdiction of a federal court touching the subject matter of the litigation cannot be waived by the parties, we must upon this appeal examine the contention.): Hertz Corp V. Alamo Rent A Car Inc, 16 F. 3d 1126, 1131 (11TH Cir 1994) (subject matter jurisdiction can never be waived or conferred by the consent of the parties) quoting: Latin AM;

Property and Cas. Ins. CO v. Hi-Lift Marina Inc., 887 F.2d 1477, 1479 (11TH Cir 1989); Fitzgerald v. Seaboard Sys R.R. Inc., 760 F.2d 1249, 1250 (11TH Cir 1985) (It is a well know fact that parties can ot confer jurisdiction upon the federal courts.) Love v. Turlington, 733 F.2d 1562, 1564 (11TH Cir 1984). It is an established principle of law that subject matter jurisdiciton cannot be waived or conferred on a court by consent of the parites." Further more we are bound to assure ourselves of jurisdiction even if the parties fail to raise the issue. " See: Insurance Corp of IR. LTD, 456 U.S. 702. (A court ... will raise the lack of subject matter jurisdiction on its own motion.) Fitzgerlad, 760 F. 2d at 1251 (A federal court not only has the power but also the obligation at any time to inquire about jurisdiciton whenever possiblity that jurisdiciton does not exist arises.)

In short, because jurisdictional claims may not be defaulted, a defendant need n ot show "cause" to justify his failure to raise such a claim." See Headnot: "Jurisdicitonal defects cannot be procedurally defaulted." United States v. Harris, 149 F.3d 1304 (11TH Cir 1998)

See also for jurisdiction can never be waived, forfeited or procedurally defaulted. United States v. Brown, 752 F. 3d 1344, 1347 (11TH Cir 2014); United States V. Peter, 310 F.3d 709 712 (11TH Cir 2002); United States v. Keel, 585 F. 2d 110, 114 (5TH Cir 178); Louisville and Nashville Railroad Co. Mottley, 211 U.S. 149 152, 53 L Ed 126, 29 S. cT. 42 (1908).

AEDPA IS UNCONSTITUTIONAL

The changes made to the statutes because of the AEDPA (28 U.S.C. 1651, 28 U.S.C. 2255, 28 U.S.C. 2241, and 28 U.S.C. 2244)

unconstitutional as applied to Mr. Matthews because they do not allow a constitutional challenge to the subject matter jurisdiction of the court. AEDPA has limited Mr. Matthews as to when he can make a constitutional challenge. Mr. Matthews' plea deal did not waive his constitutional rights to make such a challenge. Mr. Matthews argued this before the 11TH Circuit Court of Appeals. There is no language in Mr. Matthews plea agreement that says after Mr. Matthews original 28 U.S.C. 2255 that subject matter jurisdictional challenges are waived. (See: Docket #23 on criminal case 2:06-CR-14069-KMM in the Southern District of Florida) (See also Appendix "O") .

Further a construction of 28 U.S.C. 2241, 28 U.S.C. 2255, 28 U.S.C. 1651, and 28 U.S.C. 2244 that would preclude the Supreme Court from issuing relief in this case would give rise to substantial constitutional questions involving the Suspension clause. The Suspension Clause of the Constitution provides " The privilege of the Writ of Habeas Corpus shall not be suspended unless when in case of Rebellion or Invasion the public safety may require it." U.S. Const Art 1 § 9. In Felker the Supreme Court held that the Suspension Clause question was avoided only because AEDPA had not foreclosed the Petitioner from seeking relief in an original writ to the Supreme Court. Felker, 518 U.S. @ 660-661, 664-665. The Supreme Court has further held in Felker that AEDPA was not unconstitutional because the Act has not repealed our authority to entertain original habeas petitions." Felker 518 U.S. @ 660. Therefore the AEDPA is not unconstitutional as applied to Mr. Matthews in the Supreme Court. That is what the Felker court said.

Mr. Matthews contends AEDPA is unconstitutional in the District Courts and Appeal Courts. The Suspension Clause of the Constitution does not apply to the Supreme Court, but Mr. Matthews contends it does apply in the District Courts and Appeal Courts. The AEDPA causes a 5TH Amendment and 14TH Amendment due process violations of the Constitution. Consequently there are the serious constitutional problems in addition to the Suspension of the Writ that Felker talks about. The Supreme Court in Felker is silent on the issue of the Writ being suspended in the District Courts and Appeal Courts. In the 5TH Circuit in the case of In Re Davenport, 147 F.3d 605, 609 (5TH Cir 1998) said the following: "Because the Constitution forbids the Suspension of the Writ of Habeas Corpus except in a situation of rebellion or invasion outright abolition of Habeas Corpus for Federal Prisoners might conceivably have been held to violate the Constitution. Whether for this or other reasons, Congress created a safety hatch: if section 2255 proved in a particular case not to be adequate substitute for habeas corpus. The prisoner could seek habeas corpus. This would block an argument that Congress was suspending the Writ.

Mr. Matthews contends Davenport goes hand in hand with Felker that 28 U.S.C. 2241 is available in the Supreme Court. So the Writ is not suspended. The problem is the AEDPA allows for the District Courts and Appeal Courts in certain cases, like Mr. Matthews to block his claims because it does not allow for a challenge to the Constitutionality of 18 U.S.C. 3231 the subject matter jurisdiction of the court in a criminal case. This court holds subject matter jurisdiction can never

be waived in Glass v United States, 200 L Ed 2d 37, 138 S. Ct 798 (2018). So the District Courts and Appeal Courts can routinely suspend the writ because it is highly unlikely that the Supreme Court will act and use its writ that can never be suspended. See: Hubbard v United States, 514 U.S. 695, 131 L Ed 2d 779, 115 S. Ct 1754 (1995) (See Appendix U for the part that pertains here)

The Supreme Court exercises its original jurisdiction under 28 U.S.C. 2244(b)(1)-(2) for habeas proceedings. The Supreme Court has guarded its discretionary power to issue the original writ, but allows courts and appeal courts to suspend the writ at their levels because the Supreme Court only allows its self to issue the original writ rarely. The original writ will only be issued as a 28 U.S.C. 2241. So 28 U.S.C. 2255 and 28 U.S.C. 1651 would still be unavailable to Mr. Matthews in the District Court and the Appeal Courts because they still can not be used for this type of challenges while in prison.

NO VIABLE REMEDY

Mr. Matthews has no "viable" remedy until he gets to the Supreme Court. In Marbury V Madison, The Supreme Court stated "it is the duty of the Court to say what the law is "and with every right, there must be a remedy." 5 U.S.C. 137 (1803).

This no "viable" remedy applies to any criminal defendant including Mr. Matthews, who is outside the time frame to file an original 28 U.S.C. 2255. After that time frame has expired a criminal defendant does not have a "viable" remedy to challenge the subject matter jurisdiction of the Court until he/she gets to the United States Supreme Court or is released from prison.

To provide a remedy that is practically speaking only available as an exception after one has spent years in prison/ years of lost liberty and only after exhausting every attempt at the District Court Level and the Appellate Court Level - then and only then being able to have his challenge to subject matter jurisdiction be heard at the Supreme Court level is not an available remedy. One should not have to suffer deprivation of life liberty and the pursuit of happiness for years before being able to access the remedy under original writ of Habeas Corpus in the Supreme Court.

The United States Constitution is a contract with every U.S. citizen. A contract can not be altered without the approval of all the parties subject to the contract. The only way that the Suspension Clause of the U.S. can be altered is by constitutional amendment. No amendment exists to qualify when or under what conditions the Suspension clause exists. The Constitution allows the clause to be used only in case of rebellion...etc. The Suspension clause must apply equally to all courts not just the Supreme Court. To save the constitutionality of the AEDPA.

PLEA AGREEMENTS VS
AEDPA VS CONTRACT LAW

Further, the District Courts of the 5TH and 11TH Circuits in their several rulings denying Matthews the opportunity to submit the subject matter jurisdiction claim under a second or successive 2255, 28 U.S.C. 2241, or 28 U.S.C. 1651 while in prison is now in question. The rulings suggested that a court's rulings cannot be used as newly discovered evidence in a second and successive petition. But prior to those rulings no evidence existed of the courts'

breach of Mr. Matthews plea agreement. Nothing in the Plea Agreement (See Appendix O) existed that denied the second and successive 2255 (See Appendix N) to argue subject matter jurisdiction. (See Appendix D) Only the new rulings by the courts stood in the way of his arguments. If not newly discovered evidence then what else can a ruling made subsequent to Mr. Matthews conviction be. Therefore the constraints the AEDPA relating to second and successive 2255's violate not only due process but contract law as well.

JONES V HENDRIX:

THE FINAL SPIKE IN THE
COFFIN OF THE AEDPA

Prior to Jones several circuits allowed restore to 28 U.S.C. 22411 to allow the use of the "Savings Clause" to argue changes to statutory law in support of "actual innocence." But the majority in Jones overruled those courts. The general consensus overruled those circuits in the interest of finality.

Troubling as this statement may be to the basic tenets of the Constitution, the majority is saying "innocence is irrelevant." This particular idea has been parroted by many circuit courts of Appeals across the United States.

If the Constitution of this republic in any way suggests or states in the text that the United States Contract with its citizens holds innocence as irrelevant this writer cannot find words to that extent anywhere in the Constitution. Therefore, any reliance on judicial decisions that do not comport with the text or the intent of the Constitution have no bearing on Criminal Law.

This writer argues that the decision in Jones V Hendrix necessarily violates the contract between the Constitution of

the United States and its citizens, and the AEDPA is therefore unconstitutional.

DISCRETIONARY

VS

MANDATORY

In law there is discretionary things and mandatory things. Contracts like a plea agreement discussed supra is a mandatory thing. Courts will act to ensure or enforce a valid contract is upheld. Jurisdiction is mandatory thing also. There is no discretion to whether or not a court must decide jurisdiction. The simple fact that subject matter jurisdictional claims can never be waived shows the mandatory nature of the claim. Lack of subject matter jurisdiction is an infirmity like due process violations or fraud on the court that rises to the level of violating a judgement thus also making it mandatory.

the United States and its citizens, and the AEDPA is therefore unconstitutional.

DISCRETIONARY

VS

MANDATORY

In law there are discretionary things and mandatory things. Contracts like a plea agreement discussed supra are mandatory. Courts will act to ensure a valid contract is upheld. Jurisdiction is mandatory also. There is no discretion as to whether or not a court must decide jurisdiction. The simple fact that subject-matter jurisdictional claims can never be waived shows the mandatory nature of the claim. Lack of subject-matter jurisdiction is an infirmity like due process violations or fraud on the court that rises to the level of violating a judgment, thus also making it mandatory.

POST JONES V. HENDRIX, THE AEDPA IS UNCONSTITUTIONAL

The AEDPA, as interpreted by this Court in Jones v. Hendrix, 216 L. Ed. 2d 471 (2023), is in conflict with the Constitution. Article I, Section 9, states "the privilege of the writ of habeas corpus **shall not be suspended**, unless when in cases of rebellion or invasion the public safety may require it. As Justice Jackson warned in her dissent, this majority holding leaves no viable remedy for a defendant who is "actually innocent" of the crime for which he was convicted. This is no different than a defendant who is convicted when the Court fails to establish subject-matter jurisdiction.

The decisions of this Court in Jones is in conflict with the Constitution. In a country built on the promise of "justice, liberty, and freedom for all" why is finality more important than establishing courts' rights to hear a claim? If this Court's first priority is to uphold the United States Constitution, it must take extreme care to guard its most important function: to see that laws are not passed which weaken its tenets such as the AEDPA. A law such as this, no matter how well intentioned, is being used every day to erode the rights of prisoners in the name of conserving judicial resources. Since when is it more important to "conserve judicial resources" than guarantee "justice?" Where in the United States Constitution are these "government interests" guaranteed? The Constitution was written to protect citizens from an overzealous government. But the manner in which this law is being used violates prisoners' rights every day.

The next question presented to this Court relates to the statements made by this Court and virtually every court that "subject-matter jurisdiction can **never** be waived or forfeited."

The word "never" is infinite, i.e., "at no time, on no occasion, not ever, not at all, by no means, on no account, in no case, not in the least." Oxford New Desk Dictionary and Thesaurus, (3rd ed., 2009). There is no ambiguity in the word "never." Yet, the AEDPA blocks the use of § 2255 and § 2241 for collateral review in cases challenging convictions after the first § 2255 has been filed and decided. So, if the right of habeas corpus can only be suspended in cases of rebellion or

invasion, how can the AEDPA impose any constraints on the Constitution's guarantees?

There is no other vehicle in the lower courts to challenge subject-matter jurisdiction after an initial § 2255, except for 28 U.S.C. § 1651, the All Writs Act, and specifically, Coram Nobis. But that vehicle exists only **after** a defendant is released from prison. As it now stands, a defendant must serve his entire sentence before he can file for an additional collateral review of his conviction. This issue has been raised by many current and former Supreme Court Justices, but the Court remains silent. It is up to this body to uphold the Constitution and resolve the discrepancy between the AEDPA, Article I Section 9, and case law once and for all.

My final question, "does the AEDPA violates a plea agreement that waives no appellate rights?" The answer in Mr. Matthews' case is yes. Mr. Matthews waived none of his appellate rights, and is therefore in the same position as any defendant to takes his case to trial. All of his appellate rights are intact. Just because the plea agreement was silent on the issue does not mean the AEDPA can cancel his right to challenge subject-matter jurisdiction at any time.

CONCLUSION

In order to obtain an extraordinary writ, a petition must establish three things: 1) the writ will aid the Court's appellate jurisdiction; 2) exceptional circumstances warrant the exercise of the Court's discretionary powers; and 3) adequate relief cannot be obtained in any other form or from any other

court.

This Court has previously held that the AEDPA prohibits filing a second collateral attack in the lower courts, but leaves open the ability to file in the Supreme Court in order to uphold the constitutionality of the AEDPA. But the Article I, Section 9 of the Constitution does not limit where a writ of habeas corpus may be filed. The chances of obtaining a hearing in this Court are infinitesimally small with the thousands of briefs filed and the few hearings granted. The actual percentage falls well below 1%. The AEDPA cannot be said to be constitutional when it reduces the right to the writ to such a small number of prisoners. A ruling from the Court allowing claims such as these to be considered by the lower courts will indeed aid the Court's appellate jurisdiction.

The right to habeas corpus to challenge subject-matter jurisdiction is an exceptional circumstance warranting the exercise of the Court's discretionary powers in that there is no other avenue available to this defendant, thus showing that adequate relief cannot be obtained in any other form or from any other court.

RELIEF REQUESTED

Petitioner Eric Matthews respectfully requests this Court --

1. Accept this Petition for an Original Writ of Habeas Corpus under a 28 U.S.C. §§ 2241 & 2244 or another lawful jurisdictional vehicle;
2. Rule on the constitutionality of the AEDPA post-Jones;
3. Issue a ruling clarifying the meaning of the phrase

"subject-matter jurisdiction can never be waived or forfeited;

4. Remand to the lower court to consider Mr. Matthews' arguments regarding subject-matter jurisdiction; and,
5. Grant any further relief law and justice compels.

Respectfully submitted this 14th day of August, 2024.

ERIC MARTIN MATTHEWS
REG. NO. 75804-004
FMC FORT WORTH
P.O. BOX 15330
FORT WORTH, TX 76119

I, Eric Matthews, Petitioner, do declare under penalty of perjury, 28 U.S.C. 1746 that the statements made herein are true and correct to the best of my knowledge.


Eric Matthews