

24-6226  
No. 24A554

24-6226

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED  
DEC 26 2024  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

Andres Fernando Cabezas — PETITIONER  
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Eleventh Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Andres F. Cabezas, # 68854-018  
(Your Name)

Federal Correctional Complex  
P.O. Box 1031 (Low Custody)  
(Address)

Coleman, FL 33521-1031  
(City, State, Zip Code)

N/A  
(Phone Number)

## QUESTIONS PRESENTED

### 1. Due Process and Digital Property:

Does the Fifth Amendment's Due Process Clause require explicit notice and adjudication for the forfeiture of intangible digital property, such as Bitcoin, when the property is not expressly included in the forfeiture order?

### 2. Nexus, Proportionality, and Procedural Standards:

Does the government's failure to investigate and prove a nexus between intangible digital property and the alleged offense, coupled with the inadequacy of Rule 41(g) to address intangible property, violate due process and create risks of excessive or disproportionate punishment?

## LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

## RELATED CASES

United States v. Cabezas, No. 6:17-cr-00148, U.S. District Court for the Middle District of Florida. Judgment entered Apr. 18, 2022.

United States v. Cabezas, No. 22-10693, U.S. Court of Appeals for the Eleventh Circuit. Judgment entered Jul. 2, 2024.

## TABLE OF CONTENTS

	Page
OPINIONS BELOW .....	1
JURISDICTION .....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	3
INTRODUCTION .....	4
STATEMENT OF THE CASE .....	5
REASONS FOR GRANTING THE PETITION .....	6
CONCLUSION .....	9

## INDEX TO APPENDICES

### **APPENDIX A**

U.S. Court of Appeals Decision

### **APPENDIX B**

U.S. District Court Opinion

### **APPENDIX C**

U.S. Court of Appeals Denial of Rehearing

## TABLE OF AUTHORITIES

	Page
Mathews v. Eldridge, 424 U.S. 319 (1976) .....	6
Riley v. California, 573 U.S. 373 (2014) .....	4,8
United States v. Ball, Dist. No. 8:17-cr-402, Doc. 102 (M.D. Fla. Jul. 18, 2020) ...	8
United States v. Gladding, 775 F.3d 1149 (9th Cir.) .....	6,8
United States v. Sanders, 104 F.4th 223 (4th Cir. Jul. 9, 2024) .....	7,8

## JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was Jul. 2, 2024.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: Sep. 4, 2024, and a copy of the order denying rehearing appears at Appendix C.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including Jan. 2, 2024 (date) on Dec. 5, 2024 (date) in Application No. 24 A 554.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from state courts:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No.   A  \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

IN THE  
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

### U.S. Constitution Amendment V:

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

### U.S. Constitution Amendment VIII:

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted."

### Federal Rule of Criminal Procedure 41(g):

"**Motion to Return Property.** A person aggrieved by an unlawful search and seizure of property or by the deprivation of property may move for the property's return. The motion must be filed in the district where the property was seized. The court must receive evidence on any factual issue necessary to decide the motion. If it grants the motion, the court must return the property to the movant, but may impose reasonable conditions to protect access to the property and its use in later proceedings."



## INTRODUCTION

This case presents significant constitutional questions about procedural fairness, property rights, and the adaptation of due process principles to the realities of digital property in the modern economy. The petitioner's Bitcoin, an intangible and decentralized asset, was forfeited implicitly without explicit adjudication or notice. This violated the petitioner's Fifth Amendment due process rights, raised concerns about proportionality under the Eighth Amendment, and highlighted systemic deficiencies in forfeiture laws.

Bitcoin is no longer a fringe asset—it has become an integral part of personal and economic life for millions of Americans. Yet, existing forfeiture laws, drafted for physical property, inadequately protect the procedural rights of digital property owners. The government's implicit forfeiture of Bitcoin, without proving a nexus to the alleged offense or ensuring proportionality, underscores the urgent need for this Court's guidance to ensure fairness, accountability, and uniformity across jurisdictions.

As this Court held in *Riley v. California*, 573 U.S. 373 (2014), constitutional protections must evolve to address modern technological realities. Just as the Fourth Amendment was adapted to protect digital information on cell phones, the Fifth and Eighth Amendments must be interpreted to provide procedural safeguards for digital assets like Bitcoin. This case offers the Court an opportunity to clarify these essential protections and ensure that constitutional rights keep pace with technological advancements.

## STATEMENT OF THE CASE

### Relevant Facts

This case arises from the forfeiture of Bitcoin and electronically stored information (ESI) stored on the petitioner's iPhone as part of a federal criminal proceeding. Following his guilty plea, the district court ordered the forfeiture of the iPhone but did not explicitly include Bitcoin or any other digital property stored on the device. Nevertheless, the government assumed control of the Bitcoin, treating it as implicitly forfeited without further adjudication or notice.

The petitioner filed a motion under Federal Rule of Criminal Procedure 41(g) seeking the return of his Bitcoin and other digital property. Despite this motion, the government failed to respond or investigate the iPhone's contents or the Bitcoin's transactional history, which could have been verified through the public ledger system used to track Bitcoin transactions. The petitioner argued that such an investigation would have demonstrated that the Bitcoin was unconnected to the criminal offense. However, the magistrate judge recommended denying the motion, concluding that the Bitcoin and ESI were implicitly forfeited along with the iPhone, despite the forfeiture order's silence regarding digital assets.

The petitioner timely objected to the magistrate judge's recommendation, asserting that Bitcoin, as intangible property, required explicit inclusion in the forfeiture order and that the government's failure to respond or investigate violated his due process rights. The district court adopted the recommendation without addressing these concerns or the unique nature of digital property.

## REASONS FOR GRANTING THE PETITION

### I. Implicit Forfeiture of Bitcoin and ESI Violates the Due Process Clause

#### A. Procedural Fairness Requires Explicit Notice and Adjudication for Digital Property

The Due Process Clause of the Fifth Amendment mandates that individuals receive clear notice and a meaningful opportunity to contest government actions affecting their property. Here, the implicit forfeiture of Bitcoin—an asset of significant value and irretrievability—denied the petitioner these fundamental safeguards. In *Mathews v. Eldridge*, 424 U.S. 319 (1976), this Court outlined the balancing test for procedural due process, considering:

1. The private interest at stake;
2. The risk of erroneous deprivation under existing procedures; and
3. The government's administrative interest, including administrative burdens.

#### B. The following results by applying the framework to this specific situation

**Private Interest:** Bitcoin's decentralized and irretrievable nature amplifies the private interest at stake. Unlike physical property, Bitcoin cannot be recovered if improperly forfeited.

**Risk of Erroneous Deprivation:** The implicit forfeiture of Bitcoin, without explicit adjudication or investigation of its transactional history, created a substantial risk of erroneous deprivation.

**Government Interest:** Requiring the government to explicitly include Bitcoin in the forfeiture order and prove a nexus to the offense imposes only a minimal administrative burden compared to the significant constitutional harm caused by procedural deficiencies.

The Ninth Circuit in *United States v. Gladding*, 775 F.3d 1149 (9th Cir. 2014), emphasized the need for procedural fairness in digital property forfeitures. There, the court required the segregation of forfeitable and non-forfeitable files stored on a seized device, recognizing the unique challenges digital property presents. In contrast, the

Fourth Circuit in *United States v. Sanders*, 107 F.4th 223 (4th Cir. Jul. 9, 2024), upheld blanket forfeiture of devices containing commingled data, creating a direct conflict between jurisdictions.

## **II. Procedural Gaps and Proportionality Concerns**

### **A. Rule 41(g) Fails to Address Intangible Digital Property**

Rule 41(g) was designed to address physical property and offers no meaningful remedy for intangible digital property like Bitcoin. Unlike physical property, Bitcoin is decentralized and intangible, requiring explicit adjudication to determine its connection to an alleged offense. By treating Bitcoin as implicitly forfeited without investigating its transactional history, the government effectively bypassed procedural safeguards, leaving the petitioner and similarly situated individuals without recourse.

### **B. Implicit Forfeiture Raises Proportionality Concerns**

The implicit forfeiture of Bitcoin raises serious concerns under the Eighth Amendment's prohibition on excessive fines. Bitcoin's unique financial value and irretrievability create a significant risk of disproportionate punishment when forfeiture occurs without explicit adjudication. This Court has recognized the importance of proportionality in forfeiture proceedings, most recently in *Timbs v. Indiana*, 596 U.S. 146 (2019). Implicit forfeiture without procedural safeguards undermines this constitutional principle.

## **III. Judicial Guidance Is Needed to Address Emerging Issues in Digital Property**

### **Forfeiture**

This case presents an urgent need for judicial guidance to clarify the constitutional and procedural standards governing the forfeiture of intangible digital property. Bitcoin and other digital assets have become central to the modern economy, yet courts remain deeply divided on how to handle their unique characteristics under existing forfeiture frameworks. The lack of clear standards creates legal uncertainty, undermines public trust, and risks systemic inequities in the treatment of property owners.

#### A. Inconsistent Approaches Create Confusion and Inequity

Courts have adopted conflicting approaches to the forfeiture of digital property. As demonstrated by the circuit split between *United States v. Gladding*, 775 F.3d 1149 (9th Cir. 2014), and *United States v. Sanders*, 107 F.4th 223 (4th Cir. Jul. 9, 2024), some courts require explicit procedural safeguards to separate forfeitable from non-forfeitable digital property, while others uphold blanket forfeitures that treat commingled digital property as inherently subject to forfeiture. These inconsistencies leave property owners subject to unpredictable outcomes based on jurisdiction.

For example, in *United States v. Ball*, Dist. No. 8:17-cr-402, Doc. 102 (M.D. Fla. Jul. 18, 2020), a district court returned non-contraband ESI to a property owner despite its commingling with forfeited data. Meanwhile, in the petitioner's case (taking place in the same district), the court deemed all digital property on the forfeited iPhone to be implicitly forfeited, even though the government presented no proof of a nexus to the criminal offense. This disparity underscores the pressing need for uniform standards to ensure that digital property owners are treated equitably across jurisdictions.

#### B. Judicial Guidance Is Critical to Protect Emerging Property Rights

Bitcoin and other digital assets represent a new frontier in property rights. Unlike traditional property, Bitcoin is intangible, decentralized, and dependent on digital ledgers for ownership and transfer. The procedural safeguards that protect physical property are insufficient to address these unique characteristics. Without judicial guidance, courts and litigants will continue to struggle with the application of existing forfeiture laws to digital property, resulting in inconsistent and potentially unconstitutional outcomes.

As this Court recognized in *Riley v. California*, the law must evolve to protect constitutional rights in the face of technological advancements. The absence of clear standards for digital property forfeiture not only undermines due process but also risks eroding public confidence in the fairness and legitimacy of the legal system. By granting certiorari, this Court can provide much-needed clarity and ensure that the procedural rights of digital property owners are adequately protected.

## CONCLUSION

This case presents an opportunity for the Court to address critical constitutional questions and provide much-needed clarity and safeguards for the treatment of digital property in forfeiture proceedings. The petitioner respectfully requests that the Court grant certiorari

Respectfully submitted,

  
\_\_\_\_\_  
Andres F. Cabezas

Date: December 26<sup>th</sup>, 2024