

UNITED STATES SUPREME COURT

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ORIGINAL

JOSEPH MILLER  
PETITIONER

APPEAL NO. 23-2385  
DIST. NO. 23-CV-296-JPG

V

UNITED STATES OF AMERICA  
RESPONDENT

Supreme Court, U.S.  
FILED  
JUL 02 2024  
OFFICE OF THE CLERK

PETITIONERS REQUEST FOR AN EXTENSION OF TIME TO FILE  
PETITION FOR WRIT OF CERTIORARI

Comes now the petitioner Joseph Miller Pro-se (Miller from this point forward) requesting that his claims be construed liberally pursuant to Haines v Kerner, 30 L.Ed. 2d 672 (1972), hereby files this motion for an extension of time for the following reasons.

My name is Joseph Miller, The above mentioned in this petition, I'am incarcerated at F.C.I. Greenville, in Greenville Illinois. F.C.I. Greenville has been experiencing Staff Shortages and Lockdowns pursuant to other events and circumstances that are beyond my control and these situations most often interfere with the orderly running of the institution, including inmates having regular access to the Law Library.

On April 29th, 2024 Petitioners combined petition for Panel Rehearing with suggestion for Rehearing En banc was denied, which places the deadline date for the Certiorari around July 29th, 2024. However due to the underlying circumstances and situations that continue to disrupt the normal running of this institution before and after that April 29th date and makes it almost impossible for my writ of Certiorari to be completed by that date.

On June 4th 2024, there was an Institution Memo placed on the Inmate computer advising inmates at F.C.I. Greenville, That the Institution will be on Modified Operations for the week of June 10th thru June 14th, 2024. (Meaning no Movement including to the Law Library). See Exhibit A.

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There was another memo placed on the Inmate computer the Following week advising inmates the education department will be closed on the 17th, 19th, and the 20th. which includes the Law Library. See Exhibit B.

This was very disturbing and unfortunate for the Petitioner, on top of the other Circumstances Concerning Staff Shortages that have nothing directly to do with the Petitioner or the Education Department, however access has been limited and making it almost impossible to complete the Certiorari by the established deadline.

The petitioner (Miller) is requesting an additional three (3) Weeks until August 20th to complete his Certiorari, Please understand that these unfortunate events are completely out of my Control, However unfortunate it may be it will possibly effect my ability to meet the July 29th, deadline.

Petitioner Prays that his request for an additional Three (3) weeks will suffice to finalize the Writ of Certiorari, and will be taken in Good faith as I have submitted evidence in support of my claims and dilemma to which I have no control, and that Petitioners request for additional time will be Granted until August 20th, 2024.

Thankyou

RESPECTFULLY SUBMITTED

X Joseph Miller

JOSEPH MILLER Reg. No 12481-424

FEDERAL CORRECTIONAL INSTITUTION

P.O. BOX 5000

ROUTE 40 & 4

GREENVILLE, IL 62246

# United States Court of Appeals

For the Seventh Circuit  
Chicago, Illinois 60604

Submitted January 19, 2024

Decided January 23, 2024

## Before

DIANE S. SYKES, *Chief Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

No. 23-2385

JOSEPH MILLER,  
*Petitioner-Appellant,*

Appeal from the United States District  
Court for the Southern District of  
Illinois.

*v.*

No. 3:23-cv-00296

THOMAS LILLARD,  
*Respondent-Appellee.*

J. Phil Gilbert,  
*Judge.*

## ORDER

Joseph Miller appeals the denial of his petition for a writ of habeas corpus under 28 U.S.C. § 2241 and the saving clause of § 2255(e). Section 2255(e) bars habeas corpus review of a federal prisoner's conviction or sentence unless a motion to vacate under § 2255(a) "is inadequate or ineffective to test the legality of his detention." In *Jones v. Hendrix*, the Supreme Court held that the § 2255 remedy is not inadequate or ineffective merely because of a court's previous error in applying the law. 599 U.S. 465, 480 (2023).

In his petition, Miller argues that recent judicial decisions interpreting various sentencing enhancements show that he should not have been designated a career offender under U.S.S.G. § 4B1.1. But *Jones* squarely forecloses federal prisoners' use of habeas

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corpus to assert this type of interpretive error. Miller recognizes as much but argues that applying *Jones* to him today violates the Ex Post Facto Clause in Article I, Section 9, of the United States Constitution. The Constitution, however, does not require any opportunity to collaterally attack prior legal determinations in a criminal case. *Jones*, 599 U.S. at 487–88. And even new legislative limits on collateral review (let alone judicial decisions interpreting those limits) do not themselves expand defendants' liability or increase the punishment for prior crimes. See *Liegakos v. Cooke*, 106 F.3d 1381, 1384 (7th Cir. 1997). In any event, the district court correctly observed even before *Jones* that a challenge to the calculation of an advisory Guidelines range is not cognizable on collateral review. See *Hawkins v. United States*, 706 F.3d 820, 823 (7th Cir.), *opinion supplemented on denial of reh'g*, 724 F.3d 915 (7th Cir. 2013).

The judgment of the district court is SUMMARILY AFFIRMED and Miller's motion to proceed in forma pauperis is DENIED.

United States Court of Appeals  
For the Seventh Circuit  
Chicago, Illinois 60604

April 29, 2024

Before

DIANE S. SYKES, *Chief Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

No. 23-2385

JOSEPH MILLER,

*Petitioner-Appellant,*

*v.*

THOMAS LILLARD,

*Respondent-Appellee.*

Appeal from the United  
States District Court for  
the Southern District of Illinois.

No. 3:23-cv-00296-JPG

J. Phil Gilbert, *Judge.*

**ORDER**

On consideration of the petition for rehearing and petition for rehearing en banc, no judge in regular active service has requested a vote on the petition for rehearing en banc<sup>1</sup> and the judges on the original panel have voted to deny rehearing. It is, therefore, **ORDERED** that the petition for rehearing and petition for rehearing en banc is **DENIED**.

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<sup>1</sup> Judge Kirsch and Judge Kolar did not participate in the consideration of this petition for rehearing en banc.