

APPENDIX

United States Court of Appeals
For the Seventh Circuit
Office of the Clerk
219 South Dearborn Street, Room 2722
Chicago, Illinois 60604
312-435-5850

June 27, 2025

Dear Sir or Madam,

These documents are being returned to you unfiled. This Court has closed your case and there will be no further action taken. Please see attached docket sheet for reference.

Sincerely,

Pro Se Clerk

General Docket
Seventh Circuit Court of Appeals

Court of Appeals Docket #: 25-1816

Docketed: 05/12/2025

Termed: 06/11/2025

Andrew Johnston v. USA

Appeal From: Northern District of Illinois, Eastern Division

Fee Status: -

Case Type Information:

- 1) original Proceeding
- 2) successive Habeas Corpus
- 3) -

Originating Court Information:

District: 0752-1 :

Prior Cases:

24-1515 **Date Filed:** 04/02/2024 **Date Disposed:** 06/27/2024 **Disposition:** AFFIRMED

Current Cases:

None

ANDREW J. JOHNSTON (Federal Prisoner: #22712- 424) Andrew J. Johnston
[NTC Pro Se]
Applicant FEDERAL CORRECTIONAL INSTITUTION -
TUCSON
P.O. Box 23811
Tucson, AZ 85734-3811

v.

UNITED STATES OF AMERICA Brian J. Kerwin, Attorney
Respondent Direct: 312-353-5300
[COR LD NTC US Attorney]
OFFICE OF THE UNITED STATES ATTORNEY
Room 500
219 S. Dearborn Street
Chicago, IL 60604-0000

ANDREW J. JOHNSTON,
Applicant

v.

UNITED STATES OF AMERICA,
Respondent

05/12/2025 1 Application for an order authorizing the District Court to consider a second or successive motion for collateral review under 28 U.S.C. Section 2255 docketed. [1] [7451988] [25-

United States Court of Appeals
For The Seventh Circuit

No. 25-1816

Andrew J. Johnston,

Petitioner,

v.

United States of America,

Respondent.

U.S.C.A. - 7th Circuit
RECEIVED

JUN 27 2025

MOTION TO REINSTATE 'PETITION FOR AUTHORIZATION TO FILE MOTION UNDER 28 U.S.C. SECTION 2255(h)(1)'

The Petitioner, respectfully moves the Court to vacate its order dismissing this action based on the dispositive order in Appeal No. 24-1515, and to reinstate this action for a merits determination. In support thereof, petitioner declares under the penalty of perjury, 28 U.S.C. Section 1746, the following particulars are true and correct:

1. The order in Appeal No. 24-1515 does not restrict petitioner from seeking authorization under 28 U.S.C. Section 2255(h)(1)-(2) in any form or fashion. The order in Appeal No. 24-1515 restricts Fed. R. Crim. P. 33(b)(1) motions and appeals.
2. The issues presented in the Petition For Authorization have not been adjudicated by the Court through the lens of actual innocence - as defined by the Supreme Court.
3. The Court's previous ruling in Appeal No. 22-1558 on the legal question surrounding FDIC insurance was answered by the Court as purely a question of law. The Court did not weigh the December 2021 FDIC Letter as a question of fact.
4. An actual innocence claim, especially one of jurisdictional nature like one presented here, transcends ordinary procedural barriers. The Supreme Court has made clear that actual innocence means "factual innocence" not mere legal insufficiency.
5. Here, the Court has dismissed an actual innocence claim without an explanation purportedly because of the order in Appeal No. 24-1515. The Court should evaluate the December 2021 FDIC letter as a factual question and address how that evidence would result in no reasonable juror being able to conclude insurance coverage existed beyond a reasonable doubt.

Wherefore petitioner prays the Court grants this motion, vacates its order of dismissal, and reinstates this appeal for a determination on the merits - exclusively through the lens of actual innocence - for the foregoing reasons.

Respectfully Submitted,

x _____ Date: 06/17/25

Mr. Andrew James Johnston

11