

25-5902

ORIGINAL

In the  
Supreme Court of the United States

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Supreme Court, U.S.  
FILED

OCT 10 2025

OFFICE OF THE CLERK

RAMON SIMPSON,  
*Petitioner,*

v.

UNITED STATES OF AMERICA,  
*Respondent.*

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On Petition for a Writ of Certiorari to the  
United States Court of Appeals for the Eighth Circuit

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**PETITION FOR A WRIT OF CERTIORARI**

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## QUESTIONS PRESENTED FOR REVIEW

**QUESTION ONE:** Whether, in light of a profound and acknowledged circuit split, a district court may deny a § 2255 hearing by making a dispositive credibility determination against a petitioner based on an ambiguous and contested paper record, or whether § 2255(b) and this Court's precedent in Machibroda v. United States, 368 U.S. 487 (1962), require a live evidentiary hearing to resolve such material factual disputes?

### ANSWER IN THE AFFIRMATIVE

**QUESTION TWO:** Whether a court of appeals commits reversible error by denying a certificate of appealability where jurists of reason could—and in fact do—debate the propriety of a district court's dismissal of a substantial Sixth Amendment claim under Lafler v. Cooper, 566 U.S. 156 (2012), thereby failing to conduct the deliberate, petitioner-favorable threshold inquiry mandated by this Court's decisions in Miller-El v. Cockrell, 537 U.S. 322 (2003), and Slack v. McDaniel, 529 U.S. 473 (2000)?

### ANSWER IN THE AFFIRMATIVE

## **LIST OF PARTIES**

Petitioner is Ramon Simpson, the movant-appellant below.

Respondent is the United States of America, the plaintiff-appellee below.

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## PETITION FOR A WRIT OF CERTIORARI

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Petitioner Ramon Simpson (“Simpson”) respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eighth Circuit in this case.

### OPINIONS BELOW

The order of the United States Court of Appeals for the Eighth Circuit denying the petition for rehearing is unreported. See: *App. 1a*. The judgment of the United States Court of Appeals for the Eighth Circuit denying a certificate of appealability is unreported. See: *App. 2a*. The order of the United States District Court for the District of Nebraska denying Petitioner’s motion for reconsideration is unreported. See: *App. 3a*. The memorandum and order of the United States District Court for the District of Nebraska denying Petitioner’s motion to vacate under 28 U.S.C. § 2255 is unreported. See: *App. 5a*.

### JURISDICTION

The United States Court of Appeals for the Eighth Circuit entered its judgment denying a certificate of appealability on May 1, 2025. See: *App. 2a*. A timely petition for panel rehearing was denied on July 18, 2025. See: *App. 1a*. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. **The Sixth Amendment to the United States Constitution provides in relevant part:**

“In all criminal prosecutions, the accused shall enjoy the right ... to have the Assistance of Counsel for his defiance.”

2. **28 U.S.C. § 2253(c) provides in relevant part:**

(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from— ... (B) the final order in a proceeding under section 2255. (2) A certificate of appealability may issue ... only if the applicant has made a substantial showing of the denial of a constitutional right.

3. **28 U.S.C. § 2255(b) provides in relevant part:**

“Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall ... grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto.”



### **STATEMENT OF THE CASE**

This case presents a recurring and dispositive question of federal law that has deeply divided the courts of appeals: When may a district court resolve a factual conflict between a habeas petitioner's sworn affidavit and his former counsel's affidavit without an evidentiary hearing? Here, the petitioner, Ramon Simpson, facing a mandatory life sentence, alleged his trial counsel provided ineffective assistance by failing to properly advise him about a plea offer for a term of years. The District Court, relying on a single, ambiguous piece of extrinsic evidence, resolved the credibility dispute against Simpson on a paper record, finding his sworn claims "inherently incredible." The Eighth Circuit then shielded that decision from all appellate scrutiny by summarily denying a certificate of appealability. This sequence of events not only contravened this Court's precedents but also highlights an urgent need for this Court to restore uniformity to federal habeas procedure.

#### **A. Indictment, Trial, and a Mandatory Life Sentence Without Parole**

In 2018, Ramon Simpson was indicted in the United States District Court for the District of Nebraska for kidnapping resulting in death, in violation of 18 U.S.C. § 1201. This offense carries one of the most severe penalties in the federal system: a mandatory minimum sentence of life imprisonment without the possibility of parole. See: *18 U.S.C. § 1201(a)*. Represented by appointed counsel, Matthew Munderloh, Simpson proceeded to a jury trial. After the jury returned a verdict of guilty, the district court imposed the statutorily mandated sentence: life in prison. See: *DE 311*.

Simpson's conviction and sentence were affirmed on direct appeal, and this Court denied his petition for a writ of certiorari. See: *United States v. Simpson*, 44 F.4th 1093 (8th Cir. 2022), cert. denied, 143 S. Ct. 813 (2023).

**B. The Rejected Plea Offer and Allegedly Deficient Counsel**

Before trial, the United States extended a plea offer that represented Simpson's only opportunity to avoid dying in prison. The precise terms of this offer became a central point of contention in Simpson's post-conviction proceedings. In a sworn declaration, Simpson alleged that the offer contemplated a sentence framework of "not less than thirty-years." See: *DE 376*, at 3. The United States, through a post-conviction affidavit from Mr. Munderloh, asserted it was a binding plea agreement pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) for a 15-year term of imprisonment. See: *DE 372-1*, at 26-33.

Regardless of the exact term, Simpson alleged under penalty of perjury that Mr. Munderloh's advice regarding this life-altering choice was constitutionally deficient. He averred that counsel dismissed the offer as "not a good deal" and, most critically, "failed to fully explain the consequences of rejecting the plea offer." See: *DE 356*, at 4. Specifically, Simpson alleged that counsel never conveyed the absolute and catastrophic disparity in penal exposure between the plea and trial—that a conviction at trial carried not just a risk, but a certainty, of a life sentence from which he could never be released. See: *DE 376*, at 3-4. Relying on this incomplete and allegedly deficient advice, and without a full appreciation for the finality of the alternative, Simpson rejected the plea offer and proceeded to a trial he could not win.

**C. Post-Conviction Proceedings: The § 2255 Motion Presents a Classic Factual Dispute**

Simpson timely filed a *pro se* motion to vacate his sentence under 28 U.S.C. § 2255. See: *DE 358*. The central claim, detailed in his motion and supporting memoranda, was that Mr. Munderloh's ineffective assistance during the plea negotiation stage violated his Sixth Amendment rights under this Court's precedents in *Lafler v. Cooper*, 566 U.S. 156 (2012), and *Missouri v. Frye*, 566 U.S. 134 (2012). Simpson submitted a sworn declaration detailing his conversations with counsel and stating unequivocally that, had he been properly advised and had he understood the near certainty of a life sentence post-trial, he would have accepted the plea. See: *DE 370*; *DE 376*.

The United States opposed the motion. In its response, it submitted Mr. Munderloh's affidavit, in which he denied providing deficient advice and claimed he had fully discussed the plea offer and its profound benefits with Simpson. See: *DE 372-1*. This created a classic "swearing match" on the dispositive factual issue. To bolster its position, the United States also submitted a single piece of extrinsic evidence: a recording of a brief jailhouse phone call between Simpson and his mother, made on June 16, 2020. See: *DE 372, at 1*. During that call, Simpson recited some numerical terms of the offer to his mother, who in turn advised him to reject it. *Id.* This ambiguous call, which captured a conversation between a defendant and a layperson, not between a defendant and his lawyer, became the sole evidentiary basis for the dismissal of Simpson's entire constitutional claim.

**D. The District Court's Summary Denial Without an Evidentiary Hearing**

The District Court denied Simpson's § 2255 motion without conducting an evidentiary hearing. See: *App. 5a*. The court expressly acknowledged the direct factual conflict between Simpson's sworn allegations and Mr. Munderloh's affidavit but declined to hold a hearing to assess credibility and resolve the dispute. See: *App. 6a*. Instead, the court made a dispositive credibility finding from the bench based entirely on the paper record. It concluded that the single jailhouse phone call "belie[d] Simpson's claims" and rendered his sworn allegations "plainly 'contradicted by the record' and thus 'inherently incredible.'" *App. 8a* (quoting *Walker v. United States*, 810 F.3d 568, 580 (8th Cir. 2016)).

The court's entire analysis rested on a deeply flawed logical leap: it inferred from Simpson's ability to accurately recite the terms of the offer to his mother that he must have been properly counseled by his attorney on the legal consequences of rejecting it. See: *App. 8a*. The court failed to recognize that knowing the number of years in an offer is fundamentally different from understanding the legal finality and mandatory nature of the life sentence that awaits after a trial loss.

Having dismissed the claim on this basis, the court also denied a certificate of appealability ("COA"), finding that "[r]easonable jurists would not find the Court's decision debatable." *App. 11a*. Simpson filed a motion for reconsideration, which meticulously argued that the court had improperly resolved a material factual dispute on a cold record in direct contravention of federal habeas law. See: *DE 375*.

The District Court was unmoved, summarily denying the motion and reiterating its flawed reasoning. See: *App. 3a*.

**E. The Eighth Circuit's Summary Denial of All Appellate Review**

Simpson filed a timely notice of appeal and sought a COA from the United States Court of Appeals for the Eighth Circuit. On May 1, 2025, a panel of the court, acting *sua sponte*, issued a one-paragraph judgment denying a COA and dismissing the appeal. See: *App. 2a*. The order stated only that the court had “carefully reviewed the original file” and that the application was denied. *Id.* The court did not provide Simpson, a *pro se* litigant, an opportunity to submit a brief specifically addressing why his substantial constitutional claims were “debatable among jurists of reason” under the standard this Court established in *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). A timely petition for panel rehearing, which highlighted this procedural defect and the profound debatability of the underlying constitutional claims, was denied without comment on July 18, 2025. See: *App. 1a*. This petition followed, after Simpson had exhausted all available remedies in the lower courts.

## **REASONS FOR GRANTING THE PETITION**

The decision below exposes a deep, persistent, and outcome-determinative split among the courts of appeals on a fundamental question of federal habeas corpus procedure: when is an evidentiary hearing required under 28 U.S.C. § 2255(b)? The statute commands a hearing unless the record “conclusively show[s]” a prisoner is entitled to no relief. Some circuits faithfully apply this plain text, requiring a hearing to resolve any material factual dispute. Others, like the Eighth Circuit below, empower district courts to bypass hearings by making credibility judgments on a paper record, effectively rewriting the statute. This case, involving a life sentence and a classic “swearing match” between a petitioner and his former counsel, presents the perfect vehicle for this Court to resolve the conflict and restore nationwide uniformity.

Furthermore, the lower courts’ handling of this case demonstrates a wholesale disregard for this Court’s foundational precedents governing both § 2255 hearings and certificates of appealability. The district court’s decision to brand Simpson’s detailed, sworn allegations as “inherently incredible” based on ambiguous evidence is precisely the kind of summary fact-finding this Court condemned in Machibroda v. United States, 368 U.S. 487 (1962). The Eighth Circuit’s subsequent denial of a COA then compounded the error, abandoning the petitioner-friendly “threshold inquiry” of Slack and Miller-El in favor of a summary affirmance that insulated a grave constitutional error from any meaningful review. This Court’s intervention is necessary to correct these clear errors and reaffirm the vital role of evidentiary hearings and certificates of appealability as essential safeguards of federal rights.

**I. THIS COURT'S INTERVENTION IS URGENTLY NEEDED TO RESOLVE A DEEP AND ENTRENCHED CIRCUIT SPLIT ON THE EVIDENTIARY STANDARD FOR DISMISSING § 2255 MOTIONS.**

The single most compelling reason to grant certiorari is to resolve a clear and acknowledged conflict among the courts of appeals on the meaning of § 2255(b)'s hearing requirement. This conflict has created a system where a federal prisoner's fundamental right to be heard on a substantial constitutional claim depends entirely on the circuit in which he was convicted. Such a balkanization of federal habeas law is untenable and warrants this Court's immediate attention.

**A. The Circuits Are Intractably Divided on the Meaning of § 2255(b)'s "Conclusively Show" Standard.**

The core of the circuit split is the question: May a district court resolve a factual dispute created by conflicting, non-frivolous affidavits from a petitioner and his former counsel by making a credibility determination on the paper record, or must it hold an evidentiary hearing? The circuits have adopted starkly divergent answers.

**1. Circuits Requiring a Hearing.** A significant number of circuits strictly enforce the statutory text and this Court's precedent in *Machibroda*, holding that a credibility determination between a petitioner's affidavit and counsel's affidavit cannot be made without a live hearing. These courts correctly recognize that the function of a § 2255 motion is not to prove the claim, but to secure a hearing where proof can be offered.

**Third Circuit:** This court has unequivocally held that "it is error to resolve the issue in the Government's favor on the basis of competing

affidavits without a hearing.” See: United States v. Arrieta, 224 F.3d 1076, 1079 (3d Cir. 2000).

**Sixth Circuit:** A petitioner’s sworn allegations must be taken as true unless they are contradicted by the record or “patently incredible.” A simple denial by former counsel in an affidavit is insufficient to deny a hearing. The court has stated that a “swearing contest’ between the defendant and his lawyer is not a basis for denying the defendant an evidentiary hearing.” See: Mayes v. United States, 93 F.4th 875, 881-82 (6th Cir. 2024).

**Ninth Circuit:** This court has long held that a petitioner is entitled to an evidentiary hearing if he alleges specific facts which, if true, would entitle him to relief. The district court cannot resolve a credibility dispute based on affidavits alone. See Also: e.g., Pham v. United States, 317 F.3d 178, 184 (2d Cir. 2003) (*a standard often cited by the Ninth Circuit for the proposition that dismissal is inappropriate unless the state’s evidence is so overwhelming that “no rational trier of fact could find for the petitioner”*).

**2. Circuits Permitting Summary Dismissal.** In stark contrast, other circuits grant district courts far more latitude to act as fact-finders on a paper record, permitting summary dismissal based on preliminary credibility judgments. These courts have effectively lowered the bar from “conclusively show” to something akin to a preponderance of the paper evidence.



**Eighth Circuit:** The decision below is emblematic. The court permits dismissal where claims are deemed “inherently incredible” or are contradicted by some part of the record, even if not conclusively refuted. See: *Walker v. United States*, 810 F.3d 568, 580 (8th Cir. 2016); See Also: *Engelen v. United States*, 68 F.3d 238, 240 (8th Cir. 1995).

**First Circuit:** This circuit allows dismissal without a hearing if the petitioner’s allegations are “highly implausible” or are “supported by little more than the petitioner’s own self-serving, unsupported affidavit.” See: *United States v. McGill*, 11 F.3d 223, 225-26 (1st Cir. 1993).

**Seventh Circuit:** This circuit has held that a judge can forgo a hearing if the petitioner’s allegations are “vague, conclusory, or palpably incredible rather than detailed and specific.” See: *Kafo v. United States*, 467 F.3d 1063, 1067 (7th Cir. 2006). This standard invites the district court to weigh the plausibility of the petitioner’s account against counsel’s, a task reserved for a hearing.

**B. The Eighth Circuit’s Approach Deepens This Conflict and Represents an Impermissible Erosion of Federal Habeas Protections.**

The approach taken by the Eighth Circuit and like-minded courts effectively amends § 2255(b). The statute requires a hearing unless the record “conclusively” shows the petitioner is entitled to no relief. The Eighth Circuit’s standard allows denial if the claim is merely “contradicted” by some evidence or deemed “inherently incredible.” These are not the same standards. “Contradicted” implies a weighing of

evidence, which is the role of a fact-finder at a hearing. “Conclusively show” implies that no rational fact-finder could find for the petitioner, a much higher and more stringent bar. This lower standard erodes the procedural safeguard Congress enacted, and this Court has consistently enforced, rendering the right to an evidentiary hearing illusory in a substantial portion of the country.

**C. This Case Is an Ideal Vehicle to Resolve the Split and Reaffirm the Centrality of Evidentiary Hearings in Habeas Corpus Jurisprudence.**

This case presents the issue cleanly and starkly. It involves a detailed, sworn allegation of ineffective assistance on a matter of ultimate consequence—the rejection of a plea that could have avoided a life sentence. It is countered by a self-serving affidavit from the very counsel being accused of incompetence. The district court broke the tie by relying on a single piece of extrinsic evidence—the phone call—that is itself ambiguous and open to interpretation. These facts frame the legal question perfectly: Was the district court permitted to weigh this evidence and make a credibility call, or did the existence of a material factual dispute mandate a hearing? This Court’s answer will bring needed clarity and uniformity to a critical aspect of federal habeas law that affects the liberty of thousands of federal prisoners.

**II. THE DISTRICT COURT VIOLATED THE PLAIN TEXT OF § 2255(b) AND THIS COURT’S UNAMBIGUOUS PRECEDENT BY RESOLVING A DISPOSITIVE MATERIAL FACTUAL DISPUTE WITHOUT AN EVIDENTIARY HEARING.**

Independent of the circuit conflict, the district court’s decision is a straightforward and egregious violation of the plain text of the statute and this Court’s controlling precedents.

**A. Section 2255(b) and This Court's Decision in *Machibroda* Mandate a Hearing to Resolve Disputed, Non-Frivolous Allegations of Constitutional Violations.**

This Court has long held that the hearing requirement in § 2255(b) is not a mere suggestion. A federal habeas petitioner with claims that are not “palpably incredible” or “patently frivolous or false” cannot be denied a hearing. See: *Machibroda*, 368 U.S. at 495. The very purpose of the hearing is to test the truth of allegations that are often based on off-the-record events, such as the attorney-client communications at issue here. See Also: *Fontaine v. United States*, 411 U.S. 213, 215 (1973) (*per curiam*). The default rule under the statute is that a hearing is required; summary dismissal is the narrow, disfavored exception, reserved only for those rare cases where the petitioner’s claims are indisputably and conclusively refuted by the existing, uncontroverted record.

Simpson’s claims are anything but frivolous. He provided a detailed, specific, and sworn account of his counsel’s failure to advise him on the most critical decision of his life. His allegations, if true, would unquestionably entitle him to relief under Lafler and Frye. The district court was therefore statutorily and constitutionally obligated to hold a hearing unless the record “conclusively” showed his account was false.

**B. The District Court Made an Impermissible Credibility Finding on a Contested and Ambiguous Record, Usurping the Core Function of a Live Hearing.**

The record here did not conclusively refute Simpson’s claim; it merely contradicted it. The district court was faced with a classic swearing match between

Simpson’s detailed declaration and Munderloh’s self-serving affidavit. The court’s tie-breaking vote was the jailhouse phone call. But that call is far from the “conclusive” evidence the statute requires. The fact that Simpson could parrot the numerical terms of the plea offer (a 15-year sentence) says nothing about whether his counsel fulfilled his constitutional duty to provide effective advice about the offer.

An attorney’s duty under *Lafler* is not to act as a mere messenger; it is to serve as a counselor, ensuring the client understands the full legal landscape—including the dire, mandatory consequences of going to trial. See: *Lafler*, 566 U.S. at 163. The phone call does not, and cannot, “conclusively show” that Munderloh provided this critical advice. A reasonable fact-finder at a hearing could easily conclude that Simpson knew the offer’s numbers but, due to constitutionally deficient counseling, failed to grasp that rejecting it meant throwing away his only chance to avoid dying in prison. By finding the phone call dispositive, the district court improperly weighed ambiguous evidence, chose to credit counsel’s version of events, and declared Simpson’s sworn statement “incredible.” This is precisely the function of a judge at an evidentiary hearing, not on a review of preliminary filings. This was clear, reversible error under § 2255(b) and *Machibroda*.

### **III. THE EIGHTH CIRCUIT’S DENIAL OF A CERTIFICATE OF APPEALABILITY ABANDONED THE THRESHOLD INQUIRY REQUIRED BY THIS COURT, EFFECTIVELY INSULATING A GRAVE CONSTITUTIONAL ERROR FROM REVIEW.**

The Eighth Circuit’s summary denial of a COA compounded the district court’s error and represents a separate, patent violation of this Court’s clear directives in *Slack* and *Miller-El*. This error transformed a procedural safeguard into an

insurmountable barrier, denying Simpson any appellate review of his substantial constitutional claims.

**A. The Standard for a COA Is a Deliberately Lenient, Petitioner-Favorable Inquiry into Debatability, Not a Premature and Summary Review of the Merits.**

This Court has repeatedly instructed that a COA is not a decision on the merits. The standard is simply whether “jurists of reason could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner.” See: *Miller-El*, 537 U.S. at 336 (quoting *Slack*, 529 U.S. at 484). This Court has stressed that a claim can be “debatable” even if every jurist of reason would ultimately rule against the petitioner after full consideration. See: *Miller-El*, 537 U.S. at 338. The COA is a tool to filter out only those appeals that are truly frivolous, not to summarily affirm debatable decisions on a skeletal record. Critically, any doubt about issuing a COA must be resolved in the petitioner’s favor. See: *Tennard v. Dretke*, 542 U.S. 274, 282 (2004).

**B. The Constitutional and Procedural Claims Presented by Simpson Are Eminently Debatable Among Jurists of Reason.**

The Eighth Circuit’s conclusion that Simpson’s claims were not even debatable is indefensible. The central procedural issue—whether a district court can deny a § 2255 hearing by resolving a credibility dispute on paper—is the subject of the deep and entrenched circuit split detailed above. The very existence of that split is, by itself, conclusive proof that the issue is “debatable among jurists of reason.”

Furthermore, a reasonable jurist could easily debate the district court’s substantive conclusion that the phone call “conclusively” refuted Simpson’s IAC

claim. A jurist could find that the call was ambiguous, that it failed to address the core issue of counsel's advice regarding the consequences of trial, and that weighing it against sworn affidavits without a hearing was improper. The prejudice—the difference between a 15- or 30-year sentence and a life sentence—is the most extreme imaginable and is of the highest constitutional significance. See: Glover v. United States, 531 U.S. 198, 203 (2001). To suggest that no reasonable jurist could find these issues worthy of appellate review is to fundamentally misapply and disregard the Slack/Miller-El standard.

**C. The Eighth Circuit's Summary, Sua Sponte Denial Foreclosed Meaningful Review and Warrants This Court's Supervisory Correction.**

The procedural posture of the Eighth Circuit's denial makes the error even more profound. By denying the COA *sua sponte* and without calling for briefing, the court deprived Simpson—a *pro se* litigant—of any opportunity to explain why his claims were debatable under the specific COA standard. While Fed. R. App. P. 22(b) allows a court to treat a notice of appeal as a COA application, this Court's jurisprudence makes clear that the COA process must be a meaningful one. A summary denial based on a cold record, without the benefit of adversarial briefing targeted specifically at the COA standard, is fundamentally at odds with the role of appellate gatekeeping this Court has envisioned. It prevents a reasoned determination of debatability and ensures that potentially meritorious claims, like Simpson's, die in procedural silence without ever receiving the appellate consideration they deserve. This practice warrants this Court's correction.

**CONCLUSION**

The promise of the Great Writ is hollow if the procedural gateways to relief are shut without reason. The decision below, and the circuit split it represents, allows federal courts to bypass the clear statutory command for a hearing in cases involving profound constitutional claims. It sanctions the resolution of life-and-death factual disputes on a cold paper record and insulates those flawed decisions from appeal. For the foregoing reasons, and to ensure the uniform and just administration of federal habeas law, the petition for a writ of certiorari should be granted.

*Respectfully submitted,*

A handwritten signature in black ink, appearing to read "Ramon Simpson", written over a horizontal line.

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