

25-6077

No. _____

ORIGINAL

Supreme Court, U.S.
FILED

AUG 19 2025

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

In Re SCHUMAKER — PETITIONER
(Your Name)

ON PETITION FOR A WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

Brian-William:Schumaker
(Your Name)

P.O.Box 2000, Joint Base MDL, Bldg.5741, Ste.113-1L
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(Phone Number)

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

- I. Unless and until notice of acceptance of jurisdiction is given WHETHER federal courts are without jurisdiction to punish under criminal laws of the United States?
- II. WHETHER the United States District Court for the Northern District of Georgia, Atlanta Division was without jurisdiction to prosecute, convict, and sentence the petitioner in light of the proffered newly discoverable evidence from the GEORGIA State Governor Kemp's Secretary - of - State office letter dated "August 15, 2024"?

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:

J.P.Boulee, DISTRICT JUDGE,
James L.Graham, DISTRICT JUDGE,
William S.Duffey, DISTRICT JUDGE,
Jeffrey A.Brown, AUSA/PROSECUTOR,
David H.Nahmias, DISTRICT USA,
Thomas Hawker, DEFENSE COUNSEL,
Regina Stephanson, DEFENSE COUNSEL,

Other pre-trial MAGISTRATE(S) are hereby RESERVED to be added.

RELATED CASES

UNITED STATES OF AMERICA v. BRIAN SCHUMAKER, N.D.Ga Case No.1:07-cr-00289-JPB-CMS
decision at Doc.402

BRIAN SCHUMAKER v. UNITED STATES OF AMERICA, 11th Cir. Appeal No. 24-13918

Pending Petition for Writ of Certiorari, S.Ct. Case PENDING filed August 10, 2025
BRIAN WILLIAM SCHUMAKER v. U.S.A.

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Brian Schumaker v. U.S.A., USCA11 Appeal No.24-13918	1, 2, 7
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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF HABEAS CORPUS

Petitioner respectfully prays that a writ of habeas corpus issue.

OPINIONS BELOW

[X] 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 is unpublished.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.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was July 01, 2025.

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: _____, 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. § 1254(1).

Moreover, the jurisdiction of this Court can also be invoked under 28 USC §1251(a)(3) where, "All actions or proceedings by a State against the citizens of another State or against **aliens**." The petitioner is an **ALIEN** citizen and resident of the Dominion of CANADA.

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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution Article I, Sctn.8, Clause 17 (U.S. Const. Art.I §8.17)

U.S. Constitution, Amendment Five (in pertinent part)

Statutory Provision Title 40 USC §3112 (in pertinent part)

(b) .. The individual shall indicate acceptance of jurisdiction on behalf of the Government by filing a notice of acceptance with the Governor of the State..

**STATEMENT OF THE CASE
& RULE 20.4(A) STATEMENT**

This case arises as a result of evidence that became discoverable after the underlying criminal case became final in 2015. Although the evidence existed and could have been discovered prior to the petitioner's first §2255 Motion became final with the exercise of due diligence, the appointed counsel, Thomas Hawker, refused to investigate and heed the petitioner's direct instruction to research the State of Georgia Legislative Archives for evidence clouding the title of the respective property locations that might provide federal jurisdiction to the federal government. In fact, the petitioner raised a lack of territorial jurisdiction claim in the initial §2255 Motion. However, the district judge errantly DENIED the Motion to Expand the Record with the proffered evidence, and further DENIED the timely filed Motion for F.R.Evid.201(e) evidentiary hearing. The district judge then re-characterized the movant's claim alleging the movant was making "conclusory statements", and errantly refused to take the necessary judicial notice of the Georgia Sec-of-State authority who after a diligent search, "found no records responsive to our request" for copies of the "cession of legislative jurisdiction" to the United States OR a copy of the required 'Notice of Acceptance.' In his denial of the motioned evidentiary hearing, district judge Duffey abused his discretion in that the movant/petitioner is, "still entitled to be heard"; AND the district court FAILED to take the required judicial notice. See Bowen v. Johnston, 306 US 19,23(1939) that,

"Federal courts **will** take judicial notice of state statutes"[or lack thereof]. Id., 306 US at 23.

At the time of denying the initial §2255 motion in 2015, with failing to take the judicial notice and denying expansion of the record, the district judge thereby allowed himself to consider the claim under summary review of a 'facial attack' in which the court can shield the government/plaintiff by accepting the hearing in the diff. claim. ⁴ Id.

accepting the pleading in the indictment/complaint as true. If he had accepted the proffered evidence and expanded the record, the court need not treat the pleadings as true, and should have held the evidentiary hearing to provide a 'plenary review' on a 'factual attack' to resolve any material factual dispute(s) to the territorial jurisdiction of the court.

The petitioner makes note here that the then AUSA/Prosecutor, Justin S. Anand, without being sworn in during a pre-trial hearing, testified; again while not under oath, that,

"The defendant was on public property.",

but did not clarify whether the property was federal public property or state public property. The proffered evidence proves it is neither. Cf., Schuchardt v. President of the U.S., 839 F.3d 336,343(3rd Cir.2016).

The judgments appended below from the lower district and circuit courts, are a unique departure from decisions of this Court that require that convictions based upon lack of jurisdiction due to false statement made by the government be set aside at any time after conviction. Effectively, such statements bring a 'FRAUD UPON THE COURT' preventing the court from performing its proper function. As such, it represents a breach in the wall erected by the Fifth Amendment to the Constitution and the decisions of this Court that were designed to protect a citizen from being convicted by the government through the use of false statements KNOWINGLY made by the government to convict the citizen. This is the primary reason that this §2241 Petition is required to be heard by no other court except this Supreme Court.

The petitioner therefore submits that without the required factual information being produced in hand and in the record, the claim would not be "ripe" to be adequately argued or ... otherwise the lack of territorial jurisdiction was NOT discoverABLE until a new application was made with the necessary information in hand. This did not occur until the petitioner managed to contact on his own the Georgia Sec-of-State on August 1, 2024. See

petitioner's FOIA/Open Records Act Request appended Appendix 'C'.

On August 15, 2024, the Georgia Sec-of-State authored in its response that, "The Sec-of-State Office does not retain records responsive to your request." See copy of letter appended at Appendix 'C'.

With this now discoverable evidence in hand, the petitioner timely filed a Motion to Vacate pursuant to 28 USC §2255(f)(4). District court [Doc.396]. The judge dismissed the Motion as "impermissibly successive". See [Doc.402] appended Appendix 'B'. Please note that this decision makes no mention of the petitioner's Motion to Expand the Record with the proffered evidence; Appendix 'C'; that was also incidentally denied by Magistrate Catherine M. Salinas.

On page 5 of this district court decision in the footnote, district judge Boulee seems to at least recognize that the movant was making a 'factual attack' to the territorial jurisdiction of the district court; that was not previously ABLE to be discovered 'without the authoritative undisputed evidence in hand', noting the 11th Circuit precedent in Stewart, 646 F.3d at 863(11th Cir.2011),

"[i]f the purported defect did not arise, or the claim did not ripen, until after the conclusion of the previous petition, the later petition based on that defect may be non-successive" quoting precedent Leal Garcia v. Quarterman, 572 F.3d 214,221(5th Cir.2009).

Again, there is no mention of the Motion to expand the Record with the proffered evidence appended Appendix 'C'. Again, judge Boulee errantly but with purpose, re-characterized petitioner/movant's claim away from the fact that federal courts are limited to prosecute only those illegal activites that the petitioner had committed in Georgia where a 'Notice of Acceptance' of jurisdiction had been previously given to the State Governor. The proffered evidence PROVES beyond-reasonable-doubt that no 'Notice of Acceptance' has ever been given.

In November 2024, the petitioner timely filed Notice of Appeal to the

11/06/2024 district court decision. On December 4, 2024, the petitioner then timely filed the Appellant Brief in USCA11 Appeal No. 24-13918 together with appellant's Motion to supplement the Record with the Georgia State proffered letter in support of the Appeal. In the 3-page decision of 07/01/2025, appended Appendix 'A', Circuit Judge Abudu, "DENIED AS UN[N]ECESSARY" the appeal; errantly accepting the district court opinion denying the §2255(f)(4) Motion as "successive" and acknowledging the Motion to Supplement the Record with the non-justiciable non-debatable evidence. Here too, the circuit judge failed to supplement the record or take the necessary judicial notice. On page 3, circuit Judge Abudu as well with biased purpose, errantly re-characterized appellant's argument that,

"federal officials cannot prosecute federal crimes committed in Georgia." and cites Stewart v. United States, 646 F.3d 856,859,863(11th Cir.2011).

Again, petitioner's claim is that "unless and until notice of acceptance of jurisdiction is given, federal courts are without jurisdiction to punish under criminal laws of the United States." See Adams v. United States, 319 US 312(1943) full text appended Appendix 'E'.

S.Ct.Rule 20 Reason for not making Application to district court in which appellant is held

Petitioner makes this application to this Court in aid of the pending Petition for Writ of Certiorari to the U.S. Court of Appeals for the 11th Circuit Appeal No. 24-13918 filed with this Court on August 10, 2025 and will aid with this Court's appellant jurisdiction warranting exceptional exercise of this Court's discretionary powers, in that adequate relief cannot be obtained in any other form, or from any other court. Petitioner finds no

authority for the district court in the State of New Jersey where the petitioner is currently held has any power to either expand the record or take the necessary judicial notice of evidence that is proffered that is not already in the record of the case in the district court of the 11th Circuit; where the petitioner was convicted and sentenced. The district court in New Jersey is likely to construe the petition as a Motion attacking the conviction under a 'successive' §2255 motion. Since the initial §2255 Motion became final in 2015, the transfer of such application from the 3rd Circuit to the sentencing district court in Atlanta would likewise be denied since the case became final.

Since the §2255(f)(4) Motion was filed in the 11th Circuit district court already as previously discussed, this petition is made pursuant to Bowen v. Johnston, 306 US 19(1939) where,

"[I]t is not necessary for the United States Supreme Court, on appeal from a denial of habeas corpus upon the ground that the Federal court in which the defendant was convicted had no jurisdiction to try the defendant.. to remand the case to the [respective] district court, but it may dispose of the question at once by its own decision", Id., at 28, under its original power of determining not only its own jurisdiction, but also the jurisdiction of the court from which the appeal originates.

Moreover, S.Ct. Rule 10(a) is applicable where the U.S. Court of Appeals for the 11th Circuit has entered a decision in direct conflict with both 11th Circuit and Supreme Court precedents on the same important matter; and decided an important federal jurisdictional question in a way that conflicts with decisions of this Court and other district and circuit court precedent decisions that has so far departed from acceptable and usual course of judicial proceedings as to call for an exercise of this court's supervisory power. Such departures will be set forth, briefed, and discussed hereunder.

REASONS FOR GRANTING THE PETITION

I. Unless and until notice of acceptance of jurisdiction has been given, federal courts are without jurisdiction to punish under criminal laws of the United States.

On August 15, 2024, the Georgia Secretary-of-State published its response to the petitioner's August 1, 2024 FOIA/Open Records Act Request for copies of the Georgia legislature's "cession of legislative jurisdiction" and the respective 'Notice of Acceptance' that were allegedly on file within the Georgia State Archives or Land Titles Registry. There the Sec-of-State states,

"The.. State's Office does not retain records responsive to your request." As such factual information comes from the "source whose accuracy cannot reasonably be questioned"; see F.R.Evid.201(b); the federal courts "must take judicial notice if the court is supplied with the necessary information so that it can accurately and readily be determined". See F.R.Evid.201(c).

Title 40 USC §3112; formerly §255; states in pertinent part,
"(b)... The individual shall indicate acceptance of jurisdiction by filing a Notice of Acceptance with the governor of the state." -and that-
(c) It is conclusively presumed that jurisdiction has not been accepted until the government accepts jurisdiction.."

In 1943, this Court was presented with (2) questions certified by the 5th Circuit Court of Appeals similar to the (2) questions presented here. In Richard Adams v. United States of America, 319 US 312(1943), before Thurgood Marshall became renown as a Supreme Court associate Justice, he argued this case for (3) defendants convicted of rape of an actual woman at Camp Claiborne in Louisiana; a military camp to which the United States federal government had acquired proprietary title. However, the government had not given notice of acceptance of jurisdiction at the time of the alleged offense" and "The

District Court did not have jurisdiction to try and sentence the appellants for the offense of rape." The unanimous Court found,

"Unless and until notice of acceptance of jurisdiction has been given, federal courts are without jurisdiction to punish under criminal laws of the United States." Id., 319 US 312.

Moreover,

"the Act created a **definite method of acceptance** of jurisdiction, so that ALL persons could KNOW whether the federal government had obtained 'no jurisdiction at all [as in this case], or partial jurisdiction, or exclusive jurisdiction.'" Id., 319 US at 314.

"Since the government had not accepted jurisdiction in the manner required by the Act, the federal court had no jurisdiction of this proceeding." Id., 319 US at 315.

Also, see a copy of AG Janet Reno's actual 'Notice of Acceptance' over the SEATAC Detention facility in 1997 appended at Appendix 'D' as evidence of the knowledge of the U.S. Dept. of Justice knowing of the constitutional and statutorial requirements.

The same requirements and citations apply in this case, and the reviewing federal Court has no other authority but to announce the fact of the lack of jurisdiction, enter such in the record, and dismiss the cause under review.

Numerous Supreme Court cases have arisen from controversies concerning the relation of federal and state powers over government property and pointed the way to practical adjustments.

The full text of Adams, *supra* is appended Appendix 'E' hereunder for this court's convenience.

Adams was explained in United States v. Charles King, 781 F.Supp.315(D.C.N.J.1991) appended Appendix 'F' hereunder. Magistrate Simandle explained that,

Although the issue has arisen infrequently, the various Courts of appeals have consistently interpreted section 255 [now §3112] as requiring the head of the acquiring federal agency to give notice of acceptance of

jurisdiction to the Governor of the State where the acquired land is situated." Id., @ p.12, -and-

"The various district courts also agree that Congress intended that federal acceptance of jurisdiction over land acquired after 1940 may be indicated solely by giving notice of acceptance under section 255 [now §3112]" (internal citations omitted). See pertinent full text of King, supra appended Appendix 'F'.

The immediate foregoing citations demonstrate just how far removed and errant the (2) lower district and circuit courts are thereby requiring exercise of the supervisory power of this Supreme Court.

II. The United States District Court for the Northern District of Georgia, Atlanta Division was without jurisdiction to prosecute, convict, and sentence the petitioner in light of the proffered newly discoverable evidence from the Georgia State Governor Kemp's Secretary of State Office letter dated "August 15, 2024".

On August 15, 2024, Georgia Sec-of-State published its response to the petitioner's August 1, 2024 FOIA/Open Records Act Request stating,

"The.. State office does not retain records responsive to your request."

This letter is conclusive by federal statute 40 USC §3112 entitled "Federal jurisdiction"; is non-justiciable since it come from the "source whose accuracy cannot reasonably be questioned", see F.R.Evid.201(b), and it "can accurately and readily be determined" that there is a lack of territorial jurisdiction of the district court in Atlanta to either hear, try, or sentence the petitioner. According to Adams, supra and King, supra, this is the,

"definite method of acceptance of jurisdiction so that all persons [NOW] know" the federal district court in Atlanta "has obtained no jurisdiction at all." See Adams, 319 US @ 315.

This letter from Georgia's Sec-of-State is contrary to any assertion

otherwise. Why this is so difficult to understand by alleged jurists of reason in the 11th Circuit is beyond comprehension when a 5th grader can figure it out? This is precisely why this case requires the GRANT of certiorari and for the Writ of Habeas Corpus to be issued by this Supreme Court. A loud and clear message needs to be sent to the 11th Circuit courts that precedent decisions of their own circuit; ie. Bowen v. Johnston, supra and Adams v. United States, supra; and of this Court will not be departed from in this union of States.

"The remedy of habeas corpus is available whenever it is found that the court in which the petitioner was tried had no jurisdiction to try him, or that in its proceedings his constitutional rights were denied." Bowen v. Johnston, 306 US @ 23; see also Hd/note 9, id., at 26; and Hd/note 11, id., at 26.

Bowen, supra contains at least 15 precedent decisions that are all relevant in this case. Bowen incidently is also a State of Georgia case.

Here the petitioner has been denied his 5th Amendment Constitutional right of 'Due Process of Law' to be tried by a court with competent jurisdiction to proceed.

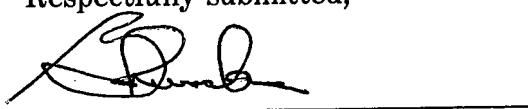
SUMMARY

The answer to Question for Review number I. is ... Yes. The answer to Question for Review number II. is also .. Yes.

CONCLUSION

The petition for a writ of habeas corpus should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Doe", is written over a horizontal line.

Date: September 5, 2025