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No. 25-6181 — Graham H. Schiff, Petitioner v. Warden (Respondent Proper= MD AG)

## Supplemental Brief for Petitioner

*(11/24/25)* Petitioner respectfully submits this supplemental brief under Rule 15.8 to address this Court's recent decision in *Clark v. Sweeney*, 607 U.S. \_\_\_ (2025), which directly affects the adjudicatory errors underlying the Fourth Circuit's denial of a Certificate of Appealability ("COA") in this case.

### **I. Sweeney Establishes a Principle That Applies Directly Here: Courts Cannot Deviate from Mandatory Adjudicatory Requirements**

This Court reaffirmed a core structural rule:

**"In our adversarial system of adjudication, we follow the principle of party presentation."**  
*Sweeney*, slip op. at 3 (quoting *United States v. Sinjeneng-Smith*, 590 U.S. 371, 375 (2020)).

And further:

**Courts "call balls and strikes"; they don't get a turn at bat.**  
*Sweeney*, slip op. at 3 (quoting *Lomax v. Ortiz-Marquez*, 590 U.S. 595, 599 (2020)).

The Fourth Circuit in *Sweeney* violated this rule by **granting relief on a claim never asserted**. That was reversed because such deviation:

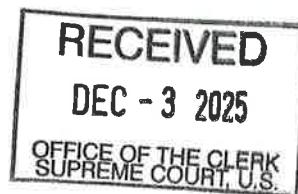
**"departed so drastically from the principle of party presentation as to constitute an abuse of discretion."**

*Id.*

Here, the Fourth Circuit committed the **mirror-image structural error**:

- **In *Sweeney*: the Fourth Circuit granted relief it had no authority to grant.**
- **Here: the Fourth Circuit refused to grant relief it was *required* to grant.**

In both situations, the court **abandoned mandatory adjudicatory rules**, and under *Sweeney*, that requires correction.





## II. The Mathematical Logic of § 2254(d)(1) Shows That Relief Was Required, Not Optional

AEDPA's "contrary to" clause functions with the determinacy of a mathematical operation.

Under § 2254(d)(1), relief must issue when the state judgment contradicts clearly established Supreme Court precedent.

This can be expressed symbolically:

**If:**

State Holding  $\perp$  Supreme Court Precedent  
( $\perp$  = "in logical contradiction with")

**Then:**

§ 2254(d)(1)  $\Rightarrow$  Mandatory Habeas Relief

No discretion enters the equation.

No subjective weighting is permitted.

The output is mathematically determined by the inputs.

In Petitioner's case:

- *Brandenburg v. Ohio*
- *Watts v. United States*
- *Snyder v. Phelps*
- *United States v. Stevens*

all prohibit criminalization of pure content-based speech, yet the state courts upheld such convictions and the federal district court adopted the same legally impossible reasoning.

Thus, under the AEDPA formula:

**Contradiction + Clearly Established Law = Relief Required**

But the Fourth Circuit short-circuited this system by denying a COA.

**This is equivalent to:**

**Contradiction + Clearly Established Law = No Review**

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Mathematically, that is the introduction of a **contradictory rule**, analogous to rewriting the equation's output by fiat.

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### III. The Denial of COA Is a Structural Error Under Sweeney's Logic

*Miller-El v. Cockrell* makes COA issuance mandatory where:

"reasonable jurists could debate" the constitutional claim.  
537 U.S. 322, 327 (2003).

But here, the claim is *not* merely debatable—it is predetermined by binding precedent. Thus, denying review violates a **mandatory gatekeeping rule**, just as *Sweeney* condemned.

**Mathematically:**

Let **F** = First Amendment prohibition on criminalizing speech

Let **S** = State judgment criminalizing speech

Let **C** = Conflict ( $S \perp F$ )

If **C** exists, then:

$\text{COA\_required} = 1$   
(“1” meaning “must issue”)

The Fourth Circuit produced:

$\text{COA\_required} = 0$

which is a logically invalid output—akin to evaluating:

$$2 + 2 = 5$$

This is not a difference of opinion.

It is a **mathematical impossibility**, meaning the court exited the rule-bound system entirely.

*Sweeney* held that such deviation from required adjudicatory rules is reversible structural error.

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## IV. A Virus Analogy: The Fourth Circuit's Error Corrupted the Logic of § 2254

Computer systems fail when a corrupted instruction invalidates the operating code. The same is true of statutory systems grounded in mandatory rules.

- AEDPA provides a **deterministic framework** for when habeas relief must issue.
- Denying a COA despite a clear *Brandenburg-Snyder-Stevens* contradiction is a **logic violation** akin to a virus rewriting a function's output.

If lower courts can do this without correction, then:

**§ 2254 becomes non-functional.**

**Constitutional protections become arbitrary.**

**Habeas ceases to be a “Great Writ” and becomes a lottery.**

*Sweeney*'s warning is clear:

When courts abandon required rules—whether by granting unauthorized relief (*Sweeney*) or denying required relief (here)—the adversarial system breaks down.

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## V. Supplemental Question Presented — Sweeney's Rule Applies Here

Petitioner respectfully supplements the Questions Presented with:

**Whether the rule applied in Sweeney—that summary reversal is warranted when a court of appeals deviates from mandatory adjudicatory requirements—applies equally when a court denies relief required as a matter of law, rather than improperly granting relief never requested.**

This case raises the inverse of *Sweeney* but the same error:

- A court of appeals violated mandatory rules.
- That deviation requires correction.
- The structural harm undermines AEDPA and Article III.

## VI. Conclusion

The Fourth Circuit's COA denial was not discretionary error.  
It was a mathematical, structural, and doctrinal impossibility under:

- *Brandenburg*
- *Watts*
- *Snyder*
- *Stevens*
- *Miller-El*
- And the logic clarified in *Sweeney*

This Court should grant certiorari to restore AEDPA's mandatory framework and reaffirm that constitutional adjudication cannot be overridden by arbitrary judicial preference.

*Matthew Schlosser*  
November 25th, 2025

