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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. Sineneng-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

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

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:

COA_required = 1
("1" meaning "must issue")

The Fourth Circuit produced:

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.

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.

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.

November 25th, 2025