

25-6247

ORIGINAL

No. _____

Supreme Court, U.S.
FILED

NOV 06 2025

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Jackie Brooks — PETITIONER
(Your Name)

vs.

United States — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Fifth Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jackie Lee Brooks
(Your Name)

P.O. Box 7000
(Address)

Texarkana, Texas 75505
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Whether a 28 U.S.C. § 2255 petitioner who alleges constitutionally ineffective assistance of counsel for failing to object to the Government's Due Process-violating breach of a proffer agreement at sentencing satisfies the "substantial showing" standard for a Certificate of Appealability (COA) under Slack v. McDaniel, 529 U.S. 473 (2000).

2. Whether a court of appeals may impose a jurisdictional or procedural bar, contrary to the remedial purpose of § 2253(c)(2) and the mandate of Miller-EL v. Cockrell, 537 U.S. 322 (2003), to deny a COA on the basis that a claim of procedural error such as the denial of an evidentiary hearing was first articulated in the COA pleadings.

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:

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ 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☒ is unpublished.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☒ is unpublished.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☐ is unpublished.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 September 22, 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).

☐ 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

Sixth Amendment to the United States Constitution (Right to Effective Assistance of Counsel), as Defined by Strickland v. Washington, 466 U.S. 668 (1984).

Fifth Amendment to the United States Constitution (Due Process guarantee against breach government promise), as defined by Santobello v. New York, 404 U.S. 257 (1971).

28 U.S.C. § 2253(c)(2): A certificate of appealability may issue only if the applicant has made a substantial showing of the denial of a constitutional right.

STATEMENT OF THE CASE

1. Conviction and Breach of Proffer Immunity. Petitioner Jackie Lee Brooks was convicted and sentenced in the Northern District of Mississippi. Prior to sentencing, Petitioner engaged in proffer sessions under an agreement providing that his statements were immunized and would not be used to enhance his sentence. In a clear breach of this agreement, the Government proceeded to weaponize information information derived from those protected proffer sessions to significantly increase Petitioner's offense level at sentencing, directly violating his constitutional rights.

2. Counsel's Failure and Evidentiary Void. At the sentencing hearing, counsel stood silent, offering no objections to the Government's improper use of the immunized statements. Counsel further failed to request or insist upon an evidentiary hearing necessary to challenge the source and veracity of the damaging, contested information contained in the Presentence Report (PSR).

3. District Court § 2255 Denial. The district court denied Petitioner's 28 U.S.C. § 2255 motion on the merits. Crucially, the district court refused to grant an evidentiary hearing to investigate the facts surrounding the proffer breach and counsel's omissions, thereby affirming the sentence based on contested facts without a proper record.

4. Fifth Circuit Procedural Trap. Petitioner sought a COA. The court denied the COA, ruling that Petitioner's specific claim that counsel was ineffective for failing to secure an evidentiary hearing "is raised for the first time in his COA pleadings and this court lacks jurisdiction to consider it." (App. A.) The Fifth Circuit denied the COA without meaningful substantive review, relying on a procedural hyper-formalism to effectively terminate the appeal.

REASONS FOR GRANTING THE PETITION

This Petition warrants review to resolve two nationally important issues: the proper application of the COA standard to interwoven Sixth and Fifth Amendment claims, and a demonstrable Circuit conflict regarding the use of procedural bars to deny appellate review.

A. Sixth Amendment Claim Presents a Substantial Debatable Constitutional Denial under Slack.

The Fifth Circuit's summary conclusion that Petitioner failed to meet the Slack standard misapplies this Court's precedent by refusing to recognize the patent debatability of the constitutional claim presented:

1. Constitutional Gravity of the Breach: The Government's use of a defendant's immunized proffer statements to secure an enhanced sentence undermines the Due Process guarantee of Santobello v. New York, 404 U.S. 257, 92 S. Ct. 495, 30 L. Ed. 2d 427 (1971). What good is a proffer agreement if the resulting sentence is immunized from appellate scrutiny? A reasonable jurist could readily debate the district court's decision to affirm a sentence predicated on a prosecutorial breach.

2. The Strickland Debatability: Counsel's dual failure to object to the breach and to demand an evidentiary hearing to resolve the contested facts constitutes a clear lapse in performance. Given that the challenged

information was central to the sentence enhancement, a reasonable jurist could debate whether this deficient performance prejudiced the outcome under *Strickland v. Washington* 466 U.S. 668, 104 S. Ct. 2052, 80 L. ed. 2d 674 (1984). The Fifth Circuit's denial fails to provide the required liberal appellate scrutiny of this debatable issue.

B. The Fifth Circuit's Procedural Bar Creates an Irreconcilable Circuit Split and Eviscerates the 28 U.S.C. § 2253(c) Mandate.

The Court of Appeals' holding that it "lacks jurisdiction" to consider a procedural fault claim because it was "first raised in his COA pleadings" is a fundamental error that creates a severe jurisdictional trap.

1. **Conflict with Congressional Mandate:** The COA mechanism is remedial, designed to filter frivolous claims, not create non-statutory grounds for jurisdictional forfeiture. This ruling directly conflicts with the remedial purpose of 28 U.S.C. § 2253(c) and the substantive-review requirement of Miller-El v. Cockrell, 537 U.S. 322, 123 S. Ct. 1029, 154 L. Ed. 2d 931 (2003). The Fifth Circuit has created a procedural hurdle that prevents the appellate court from even considering whether the denial of an evidentiary hearing (a procedural error) was itself a debatable decision that should satisfy the COA standard.

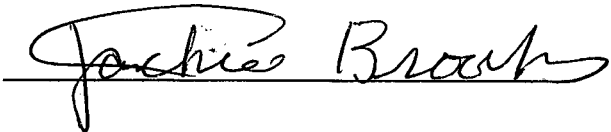
2. **Creation of a Jurisdictional Trap:** This categorical bar places the Fifth Circuit in direct conflict with the more liberal, substantive approach adopted

by sister circuits (e.g., the [Ninth] and [Eleventh] Circuits) regarding the scope of issues that may be addressed at the COA stage. This practice effectively insulates district court procedural errors from appellate review. This Court's intervention is essential to secure uniformity of national standards for the interpretation of 28 U.S.C. § 2253(c), preventing procedural rules from denying substantive access to justice.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 11-04-25