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25-6421

No. _____

FILED
SEP 30 2025
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

WILLIAM J. O'BRIEN III

— PETITIONER

(Your Name)

vs.

UNITED STATES OF AMERICA

RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

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

CRIM. NO 15-cr-0021

PETITION FOR WRIT OF CERTIORARI

WILLIAM O'BRIEN #71915-066

(Your Name)

FCI-MEMPHIS
P.O. BOX 34550

(Address)

MEMPHIS, TN 38184

(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

Is a Writ of Audita Querela under 28 USC 1651, the "All Writs Act", applicable where a defendant was wrongly convicted prior to the Supreme Court's UNITED STATES v. RUAN/KHAN 142 S. Ct. 2370 (June 27, 2022) Decision, and defendant now cannot file a Second or Successive 28 USC 2255, and because of the Supreme Court's decision in JONES v. HENDRIX 143 S. Ct. 1857, 216 L. Ed. 2d 475 (June 22, 2023) where defendant is barred from relief from a 28 USC 2241 petition?

The RUAN/KHAN decision established that the statute of conviction did not cover the Physician's conduct. That claim is cognizable at habeas. Without a Second or Successive 28 USC 2255, nor a 28 USC 2241, the "All Writs Act" under 28 USC 1651 does provide the needed relief with Audita Querela. 28 USC 1651 provides the right to habeas as guaranteed in the United States Constitution Article I, Section 9, Clause 2.

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:

RELATED CASES

NONE

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TABLE OF AUTHORITIES CITED

CASES

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UNITED STATES v RUAN/KHAN 142 S. Ct. 2370
JONES v. HENDRIX 143 S. Ct. 1857
UNITED STATES v. MILLER 599 F. 3d 484 (5th Cir. 2010)
UNITED STATES V. MASSEY 581 F. 3d 178, 174 (3rd Cir. 2009)
UNITED STATES V. BOAL 534 F. 3d 965,967 (8th Cir. 2008)

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4,5

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STATUTES AND RULES

28 USC 1651
28 USC 2255
28 USC 2241

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OTHER

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 2023 U.S. Dist. LEXIS 198487; or, SPECIFICALLY ISSUED FOR THIS WRIT

☐ has been designated for publication but is not yet reported; or, 3/17/25

☐ is unpublished.

☐ For cases from state courts: NA

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 14, 2025 — "Fink" Judgment. C.A. No. 25-1639

☒ No petition for rehearing was timely filed in my case. - See Appendix A

☐ 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: NA

The date on which the highest state court decided my case was JUNE 1st.
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

Unites States Constitution: Art I, Sec. 9, Cl 2

28 USC 1651

28 USC 2255

28 USC 2241

STATEMENT OF THE CASE

The writ of audita querela is "available in criminal cases where there is a legal, as contrasted with an equitable, objection to a conviction that has arisen subsequent to the conviction and [was] not redressable pursuant to another postconviction remedy." 7 Am. Jur. 2d Audita Querela at section 1 (2014).

Movant raises a newly minted legal objection to his convictions, as was the purpose of audita querela. The RUAN/KAHN decision overturned every circuit's understanding of the "high mens rea" needed to convict Medical Professionals on 841 charges. That decision was based on "only" a Good Faith jury instruction. U.S. v VANCE, 585 Fed. Appx. 105; 2014 U.S. App. LEXIS 20405 (4th Cir. 2014)

In O'Brien's case, the jury instructions mis-stated the mens rea requirement, stating that there wasn't one at all. see attached J1, J2

Audita Querela is technically available under 28 U.S.C. at section 1651.

U.S. v HOLDEN, 936 F.2d 1, 5 (1st Cir. 1991)

"...if available at all, the writ of audita querela can only be available where there is no legal objection to a conviction, which has arisen subsequent to that conviction, and which is not redressable pursuant to another post-conviction remedy,"

U.S. v Miller - see next page (5th Cir. 2010)

* this writ is exactly what happened to O'Brien. At the time of his conviction, the law was "interpreted" different from what the Supreme Court found in RUAN/KAHN (2022)

U.S. v. BOAL, 534 F.3d 965, 967 n.2 (8th Cir. 2008)

... available for newly existing legal defense

U.S. v TORRES, 282 F.3d 1241, 1245 n.6 (10th Cir. 2002)

(a writ of audita querela is used to challenge a judgment that was correct at the time it was rendered but which is rendered infirm by matters which arise after its rendition.)

U.S. v MASSEY, 581 F.3d 172, 174 (3rd Cir. 2009)

writ still available for criminal cases

Movant knows that the government will claim that this writ is not available to circumvent the AEDPA's second or successive restrictions. Movant cannot file a 2241 (which was available in the 4th Circuit, where O'Brien did file. JONES v. HENDRIX (2023) Supreme Court ruling has ended any 2241 "savings clause" motions. The Constitution's guarantee of Habeas Corpus can not be eliminated without a Constitutional Amendment. The "All Writs" Act, 28 U.S.C. section 1651 does hold that the original district court has jurisdiction. This issue was exactly the issue that the Supreme Court raised in JONES v HENDRIX. The Dissent to that case is clear that the District Court should look at the "merits" of the case, and make a decision to free "actual" or "legal" innocent petitioners. There is no doubt that O'Brien is being held against the laws of the United States. "IF" O'Brien could file a Direct Appeal, 2255 or Second / Successive 2255 - he would assuredly be released.

REASONS FOR GRANTING THE PETITION

The National Importance for GRANTING this petition is that there are thousands of similarly situated inmates, currently incarcerated, with no vehicle to get the habeas relief guaranteed by the U.S. Constitution.

An inmate who finds that a "New Decision" by the Supreme Court exonerates him but that this same inmate is barred from a Second or Successive 2255. He's also barred from a 2241 (since JONES v. HENDRIX).

Although the Constitution guarantees habeas, there is no current vehicle, recognized by the courts, to free the inmate.

The "All Writs Act" at 28 USC 1651 does provide for the exact remedy with Audita Querela.

The Supreme Court, by granting this writ of certiorari, in this instance, can adhere to the U.S. Constitution's guarantee to habeas relief. This court can uphold the decisions, in each circuit, that Audita Querela is technically available for Criminal Actions -see page 2 of the Original Motion, Appendix "C" quoting the First, Fifth, Eighth, Tenth, and Third Circuits.


Innocent Physicians and Pharmacists are in prison because of the JONES v. HENDRIX decision.

Please give me a vehicle to end this manifest injustice. You are the Supreme Court, only you can fix this.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: September 30, 2025

* MAIL BOX Rule: