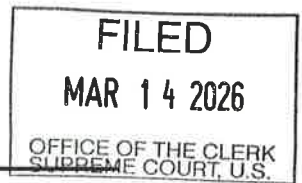


25-6585

No. 25-13084



IN THE

SUPREME COURT OF THE UNITED STATES

PATRICK J. KILLEN, JR.

Petitioner,

v.

UNITED STATES

Respondents.

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Eleventh Circuit

PETITION FOR REHEARING

PATRICK J. KILLEN, JR.
Petitioner
USP Tucson
PO Box 24550
Tucson, AZ 85734



TABLE OF CONTENTS

TABLE OF AUTHORITIES	3
PETITION FOR REHEARING	4
REASONS FOR GRANTING REHEARING	4
CONCLUSION	6

PETITION FOR REHEARING

Petitioner, Patrick J. Killen, Jr. respectfully petitions for rehearing of this Court's February 23, 2026 Order denying his petition for a writ of certiorari.

This Court previously granted Petitioner's Motion for Leave to Proceed In Forma Pauperis.

REASONS FOR GRANTING REHEARING

Rule 44 authorizes a petition for rehearing based on an error of substantial effect. Petitioner's petition explained why this Court's review was warranted in the first instance, namely, the existence of due process violations. This Motion for Rehearing is being filed within the 25 day period based on specific grounds as Petitioner's due process was violated.

In order to file a Successive 2255, a Petitioner must (1) submit new evidence; or, (2) submit new rulings of constitutional law. In his Petition, Petitioner cited *Andrew vs. White* 604 US 86 (2025), *Barnes v Felix*, 145 S. Ct. 1353 (2025), and *Glossip v Oklahoma*, 604 US ____ (2025), all new rulings of constitutional law that were previously unavailable.

The Appellate Court erred when they stated these three (3) cases are not new rulings of constitutional law, when, in fact, they are.

Although the three (3) cases of new rulings of constitutional law apply to Petitioner's original Petition, for purposes this Motion, Petitioner will limit his request to *Andrew vs. White* 604 US 86 (2025).

In *Andrew v White*, as previously established by the Court, the ruling reinforced that the Due Process Clause forbids the introduction of evidence so unduly prejudicial as to render a criminal trial fundamentally unfair.

Under *Andrew v. White*, this Court affirmed that the exclusion of highly prejudicial evidence applies to any criminal proceeding where a trial's fundamental fairness is at stake. While it originated from a capital murder case, the ruling establishes a broader principle that excessive prejudice violates due process. The Court's decision clarified that Supreme Court precedents, such as *Payne v Tennessee*, established a general principal of fundamental fairness, not just a rule limited to specific types of cases.

**TABLE OF AUTHORITIES
FOR PURPOSES OF THIS MOTION**

Andrew vs. White
604 US 86 (2025)

ADDITIONAL TABLE OF AUTHORITIES

Barnes vs. Felix
145 S. Ct. 1353 (2025)

Brady v. Maryland
373 US 83 (1963)

Glossip vs Oklahoma
604 US ____ (2025)

Hemphill vs. New York
595 US 140 (2022)

Katz vs. United States
389 U.S. 347 (1967)

Mapp vs. Ohio
347 US 643 (1961)

Miranda v. Arizona
384 US 436 (1966)

Pope v. Fed. Express Corp.
(974 F.2d 982, 8th Cir. 1992)

Teague v. Lane
489 US 288 (1989)

United States vs. Lall
607 F.3d 1277, 1284 (11th Cir. 2010)

Andrew v White confirms that this due process principle is “clearly established law” for purposes of federal habeas corpus review, meaning it can be applied to challenged convictions, in various contexts. The ruling is designed to be applied to any criminal case where a Defendant can demonstrate that the admission of certain evidence violated their right to a fair trial, not just capital trials.

In the case at hand, the prosecution introduced two (2) pieces of evidence during trial: (1) *Kik Interactive* chats; and, (2) *GigaTribe* chats. No other evidence was presented during trial.

As previously established in Petitioner’s Petition, the three (3) charged victims were listed in the *Kik Interactive* chats, but Petitioner’s name was not included in any of the chats. Had Petitioner actually chatted with these individuals, his name would have been included in the chats but was not.

Introducing this evidence during trial was grossly prejudicial, irrelevant and unfair violating Petitioner’s due process right as it was not proven that Petitioner had anything to do with these witnesses.

The prosecution refused to allow Petitioner to confront the three (3) charged victims, further confirming that Petitioner had nothing to do with the three (3) charged victims and also indicating that the prosecution did not have concrete evidence against Petitioner. Had Petitioner been allowed to confront the three (3) charged victims, it would have been proven that none of them even knew who Petitioner was. This was a violation of Petitioner’s due process right.

Further, during trial, the prosecution introduced evidence as *GigaTribe* chats, however, none of the three (3) charged victims were listed in the *GigaTribe* chats. None of the individuals listed in the *GigaTribe* chats were listed in the Superseding Indictment.

The prosecution introduced the *GigaTribe* chats as evidence for purely prejudicial reasons, making this evidence irrelevant, excessive and unfairly prejudicial violating Petitioner’s due process right.

Additionally, during sentencing, the prosecution stated there were 288 victims, when, in fact, the Superseding Indictment listed three (3) charged victims, all of whom did not testify during trial nor did they testify during sentencing. No evidence was introduced during trial that indicated Petitioner chatted with 288 individuals. The *Kik Interactive* evidence listed three (3) charged victims. The *GigaTribe* evidence which was introduced for purely prejudicial reasons, listed eight (8) individuals, none of whom were charged victims. The 288 individuals did not testify during trial nor testified

during sentencing. Without actual proof that Petitioner chatted with these 288 individuals, the statement that Petitioner chatted with 288 individuals was irrelevant, excessive and rendered the sentencing unfair and prejudicial violating Petitioner's due process right.

Andrew v White clarifies that the Due Process Clause prohibits "fundamentally unfair" evidence at both the guilt and sentencing phases of a trial.

As relevant here, Petitioner's due process was violated when the prosecution (1) introduced *Kik Interactive* evidence that did not have Petitioner's name on it and had nothing to do with Petitioner making it fundamentally unfair; (2) introduced *GigaTribe* evidence that was introduced for purely prejudicial reasons as the three (3) charged victims names' were not in the *GigaTribe* evidence; and, (3) during sentencing the prosecution told the court there were 288 victims when, in fact, there were three (3) charged victims listed in the Superseding Indictment. None of the 288 individuals testified during trial nor during sentencing. Stating that there were 288 victims at sentencing was unfairly prejudicial and fundamentally unfair violating Petitioner's due process right.

The prosecution did not have concrete evidence against Petitioner, and introduced evidence at trial and sentencing for purely prejudicial reasons making the trial and sentencing fundamentally unfair violating Petitioner's due process rights.

CONCLUSION

I hereby certify that this Motion for Rehearing is being presented in good faith, not for delay, and based on substantial grounds. For the foregoing reasons, and those stated in the petition for a writ of certiorari, the Court should grant rehearing.

Respectfully submitted,