

No. 25-6611

IN THE
SUPREME COURT OF THE UNITED STATES

JAMES E FRANTZ - PETITIONER

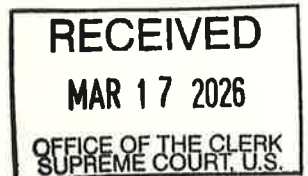
vs.

ANDRE STANCIL, EXEC DIR. COLO. DEPT .OF CO, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO
- RESPONDENT(S)

ON A PETITION FOR WRIT OF CERTIORARI TO the
UNITED STATES COURT OF APPEALS for the TENTH CIRCUIT

PETITION FOR REHEARING
PURSUANT TO SUP. CT. RULE 44

James E. Frantz, CDOC # 158702
Bent County Correction Facility
Unit 4D-364(d)
11560 County Road FF .75
Las Animas, CO 80150

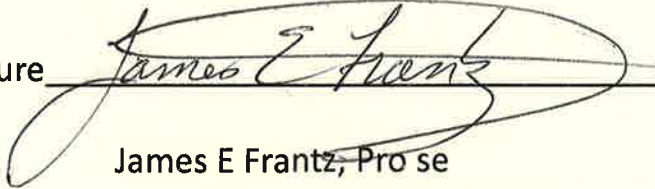


CERTIFICATE OF COMPLIANCE

Pursuant to Supreme Court 44 This petition is presented in good faith and not for delay and in compliance with this rule 44.

This brief has been prepared in compliance with Supreme Courts rules 33.2, 34 and 44 and the word limits of 1500 or 5 pages. this document contains 1024 words and 4 pages.

Signature

A handwritten signature in cursive script, appearing to read "James E. Frantz", is written over a horizontal line. The signature is fluid and somewhat stylized, with a large loop at the end.

James E Frantz, Pro se

Disposition of Substantive Claims

1) The paucity of jurisprudence relating to the resolution of substantive innocence claims in the context of habeas corpus comprises the substantial grounds not previously presented as grounds for this action. In particular is the ambiguity of justifiable disposition of writs for certiorari grounded in substantive innocence claims.

2) A petition presented for a writ of habeas corpus and subsequently for certiorari review grounded in the subject matter of substantive innocence creates unique issues for disposition. The only proper disposition for such claims are limited to Supreme Court Rule 16.1 or 16.2, the determination of which is dependent upon the respondent's action under Sup. C. Rule 15.2.

3) The penultimate foundation underpinning criminal law is that which is articulated in *United States v Goodman*, 457 U.S. 368, 372, 102 SCT 2485 (1982),

the Court has recognized this basic-and itself uncontroversial-principle. For while an individual certainly may be penalized for violating the law, he just as **certainly may not** be punished for exercising a protected statutory or constitutional right." (emphasis added)

This is not a Supreme Court holding. This is the articulation of what law and justice require (28 USCS 2243) when a person's substantive rights are violated.

The phrase "certainly may not" is an absolute, it is not conditional, it is timeless. Uncontroversial is the fact that "statutory or constitutional" refers to substantive rights. A substantive innocence claim is subsumed within this recognition of the Court in *Goodwin*.

4) Substantive innocence claims were recognized as cognizable in habeas corpus under *Davis v United States*, 417 U.S. 333, 346, 94 SCT 2298 (1974)

the appropriate inquiry was whether the claimed error of law was "a fundamental defect which inherently results in a complete miscarriage of justice,"***

where the need for the remedy afforded by the writ of habeas corpus is apparent.***
[and when a]conviction and punishment are for an act that the law does not make
criminal. (internal citations omitted)

Substantive innocence claims as cognizable under habeas corpus is re-affirmed in *Jones v Hendrix*, 599 U.S. 455, 486 (2023). Substantive innocence claims are “*Goodwin*” claims. No claim of substantive innocence has been decided in the Supreme Court since *Davis* in 1974.

5) To properly resolve a substantive innocence claim as necessitated by *Goodwin*, such claims must be adjudicated upon the merits. Failure to do so infringes upon the very mandate of *Goodwin*, “certainly may not.” Failure to do so in essence implies that a person can be punished for exercising protected activities simply because the court declines to decide.

6) When the lower courts decline to resolve a substantive innocence claim, the duty to do so falls upon the Supreme Court in a writ for certiorari. The obligation to adjudicate upon the merits is no less binding. Law and justice (§ 2243) as mandated by the axiom of *Goodwin* are just as imperative in a writ for certiorari as in petitions for habeas corpus.

7) A claim of substantive innocence must be considered as prima facially true unless rebutted by the opposing party or misstatements of the facts or law.

8) The disposition of a petition for a writ of certiorari is dependent upon the action a respondent takes under Sup. C. Rule 15.2. If the respondent waives the opposition brief, the respondent is conceding the absence of any misstatements of fact or law. Therefore the proper disposition is that prescribed by 16.1.

If the respondent submits an opposition brief challenging the petition for a writ, then the proper disposition is a grant of certiorari as prescribed in 16.2. The controlling axiom of *Goodwin* makes a disposition under 16.3 inappropriate as a rejection of the “uncontroversial” mandate stated in *Goodwin*; a rule of law not a procedural rule. Nor do procedural rules su-

persede substantive law.

- 9) Denial of a writ of certiorari is a disposition of indifference to the merits of the petition. When the asserted claim of wrong is that of a substantive matter of innocence, then this indifference is to what law and justice require; that no person should suffer punishment for engaging in protected statutory or constitutional activity.
- 10) Without an adjudication on the merits of the claim there is no finality to a substantive innocence claim and thus no resolution to the absolute unconditional obligation of *Goodwin*.
- 11) Broad as the Court's discretion over procedural rules, neither the Constitution nor justice conceives that authority as to perpetuate the punishment of a person for engaging in protected statutory or constitutional activities.

The Instance Case

The petition submitted to the Court for certiorari review is singularly presented with a substantive claim of innocence and the legal consequences arising therefrom.

The unambiguous and unchallenged claim made is that the petitioner, Dr. James Frantz, is being punished for engaging in the statutory and constitutional protected activity of the practice of medicine by a valid and properly licensed physician. This is his "Goodwin" claim.

In response to Sup. Ct. rule 15.2, the respondent waived the opportunity to submit a brief in opposition. Such an action is a concession per the rule that there exist no perceived misstatements of fact or law in the presentation by Dr. Frantz. This in turn is an acknowledgment that the petitioner's substantive innocence claim is one subsumed within the criteria and obligations of *United States v Goodwin* as argued above.

As the merits of a substantive innocence claim are the facts and law that support the claim, the waiver of an opposition brief is also a concession to the merits of the assertion. As such the proper disposition cannot be one of Sup. Ct. Rule 16.3.

This action would not be in the Supreme Court had the lower courts recognized their duty under *Davis* and *Jones* to address and resolve this cognizable substantive innocence claim. This neglect constitutes plain error and invites the supervisory powers of the Supreme Court to intervene and correct. This in turn invokes Rule 16.1 for a summary order addressing these deficiencies.

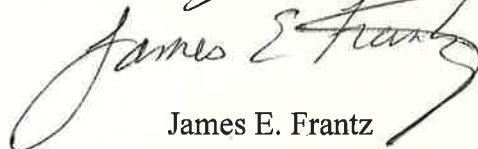
CONCLUSION

The absence of constitutional or statutory authority allowing indifference to substantive innocence claims supports the substantial grounds for granting a rehearing.

Respectfully Submitted March 6, 2026

Resubmitted April 27, 2026

& May 22, 2026

A handwritten signature in black ink, appearing to read "James E. Frantz", with a long horizontal flourish extending to the right.

James E. Frantz

Supreme Court Rule 44 Certificate of Compliance

This petition is being presented in good faith and not for delay.

The grounds for this petition are ones of intervening circumstances which in turn create substantial grounds not previously decided under any prior case precedent.

1) In an attempt to submit a supplemental and reply motion pursuant to rule 15.6/.8 the court had already denied my petition for the writ of certiorari. These motion were generated following notification by the respondent's counsel was waiving an opposition motion under rule 15.2. Even though my motion was postmarked timely as March 6, it was not "received" until March 26, three days following the Court's order to deny

2) The substantial impact of this waiver upon the merits of my petition have not been considered by the Court and remain viable and impactful upon the proper disposition of the writ.

3) Not previously considered by the Court is the controlling nature of the declaration in *United States v Goodwin* with respect to the absolute impermissible punishment of a person who has not violated the law. This principle in turn affects the proper disposition of cases wherein the claim is one of a substantial deprivation and in particular one of substantial innocence.

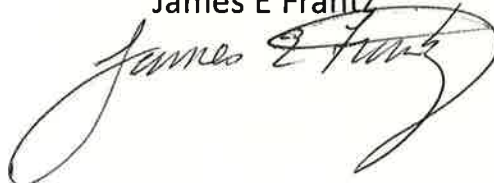
4) It is incongruous and contradictory to this *Goodwin* principle to not correct the punishment for a person not only because that person has violated no law, but in which the law itself establishes a substantive and constitutional right to the conduct a question.

For these reasons there exist intervening and substantial causes for consideration of a rehearing motion.

Per 28 U.S.C. § 1746:

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 24, 2026.

James E Frantz

A handwritten signature in cursive script, reading "James E Frantz", written in black ink.