ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

25-6835

TERM 2025

LAURENCE SESSUM,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

Petitioner, proceeding pro se, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit.

Laurence Sessum
Inmate#34457-058
USP Lewisburg
P.O. Box 1000
Lewisburg, PA 17837
Petitioner, Pro Se

QUESTIONS PRESENTED

1. Whether this Court's contemporaneous-evidence requirement from Lee v. United States, 582 U.S. 357 (2017), applies only to accepted-plea cases and is therefore inapplicable to rejected-plea ineffective-assistance claims governed by Lafler v. Cooper, 566 U.S. 156 (2012), and Missouri v. Frye, 566 U.S. 134 (2012).

2. Whether the Fourth Circuit violated the Sixth Amendment and the Certificate-of-Appealability standard in Buck v. Davis, 580 U.S. 100 (2017), by denying a COA despite (a) factual disputes requiring an evidentiary hearing, (b) evidence supporting deficient performance and prejudice under Strickland, Lafler, and Frye, and (c) a ruling conflicting with United States v. Brown, No. 22-7105 (4th Cir. May 20, 2025), and the sister-circuit precedents relied on in Brown, creating a Rule 10(a) conflict.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

OPINIONS BELOW

The Fourth Circuit's denial of a Certificate of Appealability (July 8, 2025) is unpublished. The denial of rehearing en banc (Sept. 16, 2025) is unpublished. The district court's denial of Petitioner's § 2255 motion (Mar. 4, 2024) is unpublished.

JURISDICTION

The district court denied § 2255 relief on March 4, 2024. The Fourth Circuit denied a COA on July 8, 2025, and denied rehearing en banc on Sept. 16, 2025. This petition is timely under Rule 13. Jurisdiction exists under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS

The Sixth Amendment guarantees the right to effective assistance of counsel.

28 U.S.C. § 2253(c) governs COAs.

28 U.S.C. § 2255 governs post-conviction relief.

18 U.S.C. § 3143(b)(1)(B)(iv) governs release pending appeal.

STATEMENT OF THE CASE

This case concerns the proper application of the Sixth Amendment during plea bargaining and the correct standard for granting a Certificate of Appealability under Buck v. Davis.

Petitioner lost a plea offer that would have resulted in a five-year sentence because counsel failed to respond to the government's acceptance-deadline email for three days. By the time counsel replied, Petitioner had been indicted, and the original plea offer was no longer available. Petitioner has now served more than twenty additional months beyond the plea term he would have accepted.

A. Evidentiary Hearing Demonstrated Deficient Performance

At the government's request, the district court held an evidentiary hearing on November 8, 2023. Evidence established that:

- A formal plea offer existed.
- Petitioner expressed willingness to accept.

• Counsel received an email asking for an update.

• Counsel failed to reply for three days.

• The plea offer expired during this delay.

• Petitioner had been indicted by the time counsel responded.

• Emails confirmed Petitioner's willingness and counsel's delay.

• Counsel testified the prosecutor asked whether Petitioner "would plead to anything."

Under Strickland, Frye, and Lafler, this conduct constitutes deficient performance.

B. The District Court Applied the Wrong Prejudice Standard.

The court relied on Lockhart v. Fretwell and Lee v. United States rather than the controlling Lafler/Frye standard. This Court held in Lafler:

"A fair trial does not remedy counsel's failure during plea bargaining."

The district court never analyzed whether Petitioner would have accepted the plea, whether the prosecutor would have maintained it, whether the court would have accepted it, or whether the resulting sentence would have been lower.

C. Wheeler Confirms These Errors

In United States v. Wheeler, the Fourth Circuit held that reversal is required when a district court applies the wrong legal standard, ignores material evidence, or makes clearly erroneous factual findings. All three occurred here.

D. Continuing Prejudice and Denial of Bail

Because of these errors, Petitioner was also denied release under 18 U.S.C. § 3143(b)(1)(B)(iv), despite having served more than twenty excess months beyond the five-year plea he would have accepted.

REASONS FOR GRANTING THE WRIT

I. The Fourth Circuit's Decision Conflicts with Brown and Multiple Federal Circuits

United States v. Brown (4th Cir. 2025) held that Lee does not apply to rejected-plea claims and that sentencing disparity strongly supports the probability a defendant would have accepted a plea.

Sister Circuits Agree:

- Fifth Circuit (Anaya v. Lumpkin): Lee is irrelevant in rejected-plea cases.
- Sixth Circuit (Smith): Sentencing disparity is powerful evidence.
- Tenth Circuit (Kearn): Disparity almost always satisfies Lafler prejudice.
- D.C. Circuit (Knight): Disparity is contemporaneous evidence.
- Third Circuit (Baker): Disparity is central to the Lafler inquiry.

The panel below ignored Brown and created both a circuit split and an intra-circuit conflict (forbidden under Gibbons v. Gibbs).

II. The District Court Misapplied Lafler and Frye

Instead of applying Lafler's prejudice standard, the district court relied on Lockhart and Lee. Under Lafler, prejudice exists when:

- a plea offer existed,
- Petitioner would have accepted it,
- the government would have maintained it,
- the court would have accepted it, and

• the resulting sentence would have been lower.

All elements are satisfied.

III. The Fourth Circuit Violated Buck v. Davis

A COA must issue when reasonable jurists could debate the correctness of the decision or the issues deserve encouragement to proceed further. The record clearly meets this standard.

IV. This Issue Is Nationally Important

Ninety-five percent of federal convictions result from plea bargaining. Misapplication of Lee has produced systemic inconsistency across federal courts. Petitioner's twenty-plus months of excess incarceration underscore the urgency for this Court's review.

CONCLUSION

For these reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

/s/ Laurence Sessum
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MOTION TO PROCEED IN FORMA PAUPERIS

Petitioner is indigent and incarcerated and respectfully seeks leave to proceed in forma pauperis pursuant to Supreme Court Rule 39 and 28 U.S.C. § 1915.

AFFIDAVIT IN SUPPORT OF IFP MOTION

I, Laurence Sessum, declared under penalty of perjury:

1. I am the Petitioner.
2. I am unable to pay the filing fee.
3. I possess no assets.
4. I receive only institutional wages.
5. I am incarcerated at USP Lewisburg.
6. All statements herein are true and correct.

Signature: Laurence Sessum