

**IN THE
SUPREME COURT OF THE UNITED STATES**

ANTHONY WAYNE MARCH,
Petitioner (Pro se, Indigent)

v.

UNITED STATES OF AMERICA,
Respondent.

Case No. 25A222 (Docket No. 25-7225)

**PETITION FOR REHEARING PURSUANT TO
SUPREME COURT RULE 44.2**

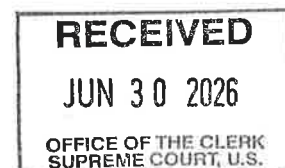
INTRODUCTION

Pursuant to Supreme Court Rule 44.2, Petitioner respectfully seeks rehearing of this Court's denial of certiorari. This Petition does not revisit the substantive merits of Petitioner's motion under 28 U.S.C. § 2255. It presents a structural and jurisdictional defect in the procedural posture within which the judgment below was entered and affirmed.

After the district court ordered a response under Rule 4(b) of the Rules Governing § 2255 Proceedings, the Government failed to plead or otherwise defend. The Clerk entered default under Federal Rule of Civil Procedure 55(a). That default was never vacated under Rule 55(c), and the court did not proceed under Rule 55(d). Instead, without restoring the pleading posture displaced by default, the district court improperly dismissed the action under Rule 12(b)(6).

On appeal, the court of appeals denied a certificate of appealability under 28 U.S.C. § 2253(c). Section 2253(c)(1) provides that "[u]nless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken." This Court has held that the COA requirement is jurisdictional. Gonzalez v. Thaler, 565 U.S. 134, 142 (2012). Slack v. McDaniel requires issuance of a certificate when reasonable jurists could debate the correctness of the procedural ruling. 529 U.S. 473, 484 (2000). Execution of that threshold inquiry is a prerequisite to appellate authority. Miller-El v. Cockrell, 537 U.S. 322, 336–37 (2003); Buck v. Davis, 580 U.S. 100, 115–18 (2017).

An unvacated Rule 55(a) default displaces adversarial pleading posture. Rule 12(b)(6) presupposes an operative adversarial pleading stage. Restoration of the pleading stage requires vacatur under Rule 55(c).



Without restoration, those procedural states are structurally incompatible. And without execution of Slack's threshold inquiry, the statutory condition precedent to appellate jurisdiction under § 2253(c) remains unsatisfied.

This Petition therefore presents a question antecedent to the merits: whether a federal judgment entered in a procedurally incompatible posture—and affirmed without satisfaction of Congress's jurisdictional sequencing requirement—may serve as the lawful predicate for denial of certiorari.

Rule 44.2 authorizes rehearing where substantial structural grounds exist. Where rule-defined stages are displaced without restoration and statutory jurisdictional conditions are not executed as prescribed, the judgment rests upon structural incompatibility.

I. RULE 44.2 AUTHORIZES REHEARING WHERE STRUCTURAL LEGITIMACY OF THE JUDGMENT IS IMPAIRED.

Supreme Court Rule 44.2 permits rehearing upon “intervening circumstances of a substantial or controlling effect or other substantial grounds not previously presented.” The Rule presupposes that denial of certiorari rests upon a judgment rendered within lawful adjudicative bounds. Rehearing does not disturb finality; it protects the structural conditions that make finality legitimate.

Finality is indispensable to judicial stability. Calderon v. Thompson, 523 U.S. 538, 550 (1998). But Calderon did not elevate repose above lawful authority. It recognized that “[t]he profound interests in repose” attach to judgments entered within the proper exercise of judicial power. *Id.* at 556. Repose cannot validate a judgment entered outside the procedural framework that defines lawful adjudication.

This Court has intervened where the integrity of adjudication itself was compromised. In Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238, 245–46 (1944), the Court vacated a judgment to protect “the integrity of the judicial process.” In McNabb v. United States, 318 U.S. 332, 341–42 (1943), the Court enforced procedural discipline to preserve “civilized standards of procedure.” These decisions rest on a constitutional premise: judicial power derives legitimacy from fidelity to lawful procedural structure.

Rule 44.2 operates within that supervisory tradition. It authorizes rehearing where denial of review would otherwise rest upon a judgment entered in structural incompatibility with governing procedural law. Its function is institutional. It ensures that this Court's discretionary denial does not implicitly ratify a judgment resting upon a compromised procedural foundation.

The structural framework of federal adjudication is defined by statute and rule. The Federal Rules of Civil Procedure are promulgated pursuant to the Rules Enabling Act, 28 U.S.C. § 2072(a), which authorizes

“general rules of practice and procedure.” Section 2072(b) preserves separation-of-powers discipline by prohibiting procedural rules from abridging substantive rights. The Rules therefore carry the force of law. Sibbach v. Wilson & Co., 312 U.S. 1, 13–14 (1941). Federal courts are bound to apply them as written. Hanna v. Plumer, 380 U.S. 460, 471 (1965). They operate as mandatory procedural enactments. Shady Grove Orthopedic Assocs. v. Allstate Ins. Co., 559 U.S. 393, 406 (2010).

Rule-defined procedural stages are discrete. Pleading, default, vacatur, and adjudication are not interchangeable conventions; they are structured states created by rule. They define the framework within which Article III judicial authority operates.

Article III vests the “Judicial Power” subject to structural constraints. U.S. Const. art. III, § 1. Judicial authority is exercised within a framework defined by law. Muskra v. United States, 219 U.S. 346, 361 (1911). Separation-of-powers discipline preserves the legitimacy of final judgments. Plaut v. Spendthrift Farm, Inc., 514 U.S. 211, 218–19 (1995). Structural coherence is the condition of lawful adjudication.

This Court has distinguished structural defects from ordinary error. Structural defects “affect the framework within which the trial proceeds.” Arizona v. Fulminante, 499 U.S. 279, 309–10 (1991). They undermine the adjudicative process itself. United States v. Gonzalez-Lopez, 548 U.S. 140, 148–50 (2006). Structural error doctrine recognizes that certain deviations compromise legitimacy irrespective of outcome.

The present case implicates the adjudicative framework itself. Rule-defined procedural stages were not observed in sequence. A distinct stage created by Rule 55(a) was not restored under Rule 55(c), yet adjudication proceeded under Rule 12(b)(6). That merger of incompatible procedural states constitutes structural incompatibility in the exercise of judicial power.

Ordinary legal error does not warrant rehearing under Rule 44.2. Structural incompatibility does. When a judgment rests upon collapse of rule-defined stages without invocation of the mechanism prescribed for restoration, the legitimacy of the adjudicative framework is impaired.

Rehearing in that circumstance preserves—not undermines—the institutional interests that finality serves. Finality attaches to judgments rendered within lawful structural bounds. Where those bounds are transgressed, rehearing safeguards the integrity of the judicial process and the legitimacy of this Court’s discretionary review.

II. RULE 55 DEFAULT AND RULE 12 DISMISSAL DEFINE DISTINCT PROCEDURAL STATES THAT CANNOT COEXIST WITHOUT RESTORATION.

The Federal Rules establish a sequenced procedural architecture. That sequencing is structural, not discretionary. Each rule-defined stage presupposes the procedural posture created by the stage that precedes it, and each continues to govern until altered through the mechanism the Rule itself prescribes. Judicial authority operates within that architecture; it does not revise it.

Rule 4(b) of the Rules Governing § 2255 Proceedings permits summary dismissal only where “it plainly appears” that the movant is not entitled to relief. By ordering a response under Rule 5, the district court determined that adversarial engagement was required. That determination placed the case in live pleading posture.

Rule 55(a) defines the next procedural state. When a party “has failed to plead or otherwise defend,” the clerk “must” enter default. Fed. R. Civ. P. 55(a). “Must” denotes a mandatory command. Lopez v. Davis, 531 U.S. 230, 241 (2001). Entry of default therefore marks a rule-defined transition: the absence of a responsive pleading is formalized, and adversarial pleading posture is displaced.

The consequence of that displacement is settled doctrine. Upon entry of default, well-pleaded factual allegations are deemed admitted for purposes of default judgment. Nishimatsu Constr. Co. v. Houston Nat’l Bank, 515 F.2d 1200, 1206 (5th Cir. 1975). Default is not ministerial; it is a legally operative procedural condition.

Rule 55(c) supplies the exclusive mechanism for altering that condition: “[t]he court may set aside an entry of default for good cause.” Restoration of adversarial pleading posture therefore requires vacatur under Rule 55(c). Until vacatur occurs, the default posture governs the case.

Rule 55(d) confirms the structural significance of that posture in cases involving the United States. It regulates entry of default judgment against the Government and presupposes continued operation of Rule 55(a) and Rule 55(c). It does not authorize their displacement. The Rule thus recognizes default as a distinct procedural state even in litigation against the sovereign.

Rule 12(b)(6), by contrast, assumes an operative adversarial pleading framework. A motion to dismiss for failure to state a claim tests legal sufficiency within a live issue-joined posture. Its function depends upon the existence of responsive pleading structure.

An unvacated Rule 55(a) default and a Rule 12(b)(6) dismissal therefore rest upon incompatible procedural premises. Default extinguishes adversarial pleading posture. Rule 12(b)(6) requires it.

Restoration of that posture requires vacatur under Rule 55(c). Without restoration, the structural predicate for Rule 12 adjudication does not exist.

The Federal Rules do not authorize courts to merge these states by implication. The Rules Enabling Act mandates fidelity to the procedural framework Congress authorized. 28 U.S.C. § 2072(a). Courts may interpret the Rules; they may not disregard the sequencing the Rules establish. Hanna v. Plumer, 380 U.S. 460, 471 (1965). Collapsing default posture into adversarial pleading posture without invoking Rule 55(c) substitutes judicial discretion for rule-defined transition.

This incompatibility is structural, not discretionary. Even if a complaint were legally insufficient, the Rules prescribe the procedural path by which that determination must occur. Sequencing defines the lawful exercise of judicial power.

The distinction between ordinary legal error and structural incompatibility is dispositive. A court may misapply Rule 12(b)(6) within a proper adversarial posture; that is reviewable error. But where Rule 12(b)(6) adjudication proceeds while Rule 55(a) default remains operative and unvacated, the court does not merely err within a rule-defined stage—it adjudicates outside the stage the Rules authorize.

Article III permits mistaken reasoning. It does not permit exercise of judicial authority outside the structural bounds established by governing law. Muskrat v. United States, 219 U.S. 346, 361 (1911). When distinct rule-defined procedural stages are collapsed without restoration, the resulting judgment rests upon a framework the Federal Rules do not permit.

The incompatibility here is concrete. Rule 55(a) default was entered. No Rule 55(c) vacatur restored adversarial pleading posture. Yet dismissal unjustly proceeded under Rule 12(b)(6). The Rules prescribe a single mechanism for restoration. That mechanism was not invoked.

A judgment resting upon collapse of rule-defined procedural stages without restoration cannot claim structural legitimacy under the Rules that govern federal adjudication.

III. THE COURT OF APPEALS' DENIAL OF A CERTIFICATE OF APPEALABILITY FAILED TO EXECUTE THE STATUTORY JURISDICTIONAL SEQUENCING MANDATED BY 28 U.S.C. § 2253(c) AND SLACK v. McDANIEL.

Section 2253(c)(1) provides in categorical terms: “Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken.” 28 U.S.C. § 2253(c)(1). The statute does not describe a prudential filter. It establishes a jurisdictional condition precedent to appellate authority.

This Court has repeatedly confirmed the jurisdictional character of that requirement. In Gonzalez v. Thaler, 565 U.S. 134, 142 (2012), the Court held that § 2253(c)(1) is “jurisdictional.” In Hohn v. United States, 524 U.S. 236, 248 (1998), the Court emphasized that issuance of a certificate is a statutory prerequisite to appellate review. A court of appeals does not possess authority to adjudicate the merits of a § 2255 appeal unless the certificate requirement has been satisfied.

Slack v. McDaniel defines the content of that jurisdictional condition. 529 U.S. 473, 484 (2000). Where the district court denies relief on procedural grounds, Slack holds that a certificate must issue if “jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Id.* The Slack inquiry is antecedent to merits adjudication. It does not ask whether the petitioner will ultimately prevail. It asks whether the procedural ruling is debatable among reasonable jurists.

Miller-El v. Cockrell reinforced that the certificate determination is “a threshold inquiry.” 537 U.S. 322, 336 (2003). It is not an opportunity to resolve the merits. The Court explained that a COA determination “requires an overview of the claims” but does not permit “full consideration of the factual or legal bases.” *Id.* at 336–37. Buck v. Davis reiterated the same sequencing command: courts may not “invert the statutory order of operations” by deciding the merits first and denying a certificate on that basis. 580 U.S. 100, 115–18 (2017).

The statute and precedent therefore establish a defined order:

1. Identify the procedural ruling.
2. Determine whether reasonable jurists could debate its correctness.
3. If debatable, issue a certificate.
4. Only then proceed to merits review.

That sequencing is not stylistic. It is jurisdictional. Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 94 (1998), held that jurisdiction must be established as a threshold matter before a federal court proceeds to adjudication. The principle applies with equal force where Congress has conditioned appellate authority upon satisfaction of a statutory prerequisite.

The procedural ruling at issue here is whether dismissal under Rule 12(b)(6) may proceed while a Rule 55(a) default remains operative and unvacated. That question implicates the structural sequencing of the Federal Rules. As Section II demonstrates, the Rules define default and adversarial pleading as distinct procedural states. Whether those states may be merged without vacatur under Rule 55(c) is not governed by express controlling authority of this Court.

The absence of controlling authority is itself dispositive under Slack. A question unaddressed by this Court, involving the interaction of Rule 55 default and Rule 12 dismissal in a § 2255 proceeding, is

necessarily one upon which reasonable jurists could disagree. Slack does not require certainty of error. It requires debatability.

Courts have acknowledged that default in habeas proceedings is disfavored but not meaningless. See Bermudez v. Reid, 733 F.2d 18, 21 (2d Cir. 1984). Bermudez held that default does not automatically entitle a petitioner to release. It did not hold that default may be disregarded without vacatur. The distinction is critical. Disfavor of default judgment does not erase the structural consequences of entry of default under Rule 55(a). Whether vacatur is required before Rule 12 adjudication is therefore, at minimum, debatable.

Slack required issuance of a certificate if that procedural ruling was debatable among jurists of reason. 529 U.S. at 484. Miller-El prohibits collapsing the threshold inquiry into merits adjudication. 537 U.S. at 336–37. Buck prohibits inverting the statutory order of operations. 580 U.S. at 115–18.

Where a court of appeals denies a certificate without executing the Slack inquiry as defined by these precedents, the statutory condition precedent to appellate jurisdiction is not satisfied. Section 2253(c)(1) is categorical: “an appeal may not be taken” absent issuance of a certificate. If the certificate determination is not made in accordance with Slack’s standard, appellate authority has not been properly perfected.

Jurisdiction cannot be assumed. It must be established. Steel Co., 523 U.S. at 94. When Congress imposes a jurisdictional prerequisite, courts are not free to treat it as discretionary. Arbaugh v. Y & H Corp., 546 U.S. 500, 514 (2006), distinguished jurisdictional conditions from claim-processing rules and emphasized that when Congress clearly states a jurisdictional limitation, courts must enforce it as such.

Section 2253(c) is such a limitation. Gonzalez, 565 U.S. at 142. The certificate requirement defines the outer boundary of appellate power in collateral review. If the Slack threshold was not executed according to its defined standard, the appellate judgment rests upon an unfulfilled jurisdictional condition.

The consequence is structural. A merits affirmance entered without proper satisfaction of a statutory jurisdictional prerequisite does not rest upon the lawful exercise of appellate authority. Article III authority depends upon statutory authorization. See Bowles v. Russell, 551 U.S. 205, 213 (2007) (holding that statutory time limits on appeal are jurisdictional and cannot be waived). Where Congress has conditioned appellate authority upon a defined threshold determination, courts lack authority to proceed absent compliance.

The question here is not whether the district court was correct. It is whether reasonable jurists could debate the correctness of adjudicating under Rule 12(b)(6) while Rule 55(a) default remained operative

and unvacated. Given the absence of controlling authority resolving that interaction, the answer under Slack is necessarily yes.

If yes, issuance of a certificate was mandatory. If issuance was mandatory, denial of a certificate prevented lawful perfection of appellate jurisdiction. If appellate jurisdiction was not lawfully perfected, the judgment affirmed below rests upon incomplete statutory authorization.

This Court's denial of certiorari assumes that the judgment below was entered within the bounds of lawful appellate authority. Where the statutory sequencing requirement imposed by § 2253(c) and Slack was not executed as prescribed, that assumption is materially undermined.

Rehearing under Rule 44.2 is warranted not to reconsider the merits of Petitioner's § 2255 claims, but to ensure that denial of review does not rest upon a judgment affirmed without satisfaction of Congress's jurisdictional command.

IV. THE COLLAPSE OF RULE-DEFINED PROCEDURAL STAGES IMPLICATES THE FIFTH AMENDMENT AND EXCEEDS THE STRUCTURAL LIMITS OF ARTICLE III.

The Federal Rules function within constitutional structure. They define the procedural architecture through which Article III judicial power is exercised. When a rule-defined procedural state is displaced without invocation of the mechanism prescribed for its alteration, adjudication proceeds outside the framework that lawfully authorizes it. That departure implicates both the Fifth Amendment's guarantee of due process and the structural limits of Article III.

The Fifth Amendment prohibits deprivation of liberty without due process of law. U.S. Const. amend. V. Due process requires adherence to the lawful procedures that govern adjudication where liberty is at stake. Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950). When government establishes procedural conditions for the adjudication of rights, arbitrary displacement of those conditions violates due process. Logan v. Zimmerman Brush Co., 455 U.S. 422, 433–34 (1982).

The Federal Rules of Civil Procedure, promulgated under the Rules Enabling Act, 28 U.S.C. § 2072(a), carry the force of law. Sibbach v. Wilson & Co., 312 U.S. 1, 13–14 (1941). They define binding procedural stages. Federal courts are obligated to apply them as written. Hanna v. Plumer, 380 U.S. 460, 471 (1965). Once promulgated, the Rules constrain judicial discretion; they do not yield to it. Shady Grove Orthopedic Assocs. v. Allstate Ins. Co., 559 U.S. 393, 406 (2010).

Entry of default under Rule 55(a) creates a defined procedural condition. That condition governs until vacated under Rule 55(c). Adjudicating under Rule 12(b)(6) while default remains operative displaces

that rule-defined condition without invoking the mechanism prescribed for its alteration. The displacement is not merely erroneous; it substitutes a procedural framework the Rules do not authorize.

Under Mathews v. Eldridge, 424 U.S. 319, 335 (1976), procedural due process turns on the private interest affected, the risk of erroneous deprivation created by the procedures employed, and the governmental interest asserted. Each factor underscores constitutional significance here.

First, the interest at stake is liberty. A motion under 28 U.S.C. § 2255 challenges federal custody. The private interest is therefore fundamental.

Second, the risk of erroneous deprivation increases when rule-defined sequencing collapses. Default alters litigation posture, burden allocation, and the legal consequences of silence. Proceeding under Rule 12(b)(6) without restoring adversarial pleading posture replaces the rule-defined structure with an unauthorized one. That structural substitution increases the probability that adjudication rests upon a framework not sanctioned by law.

Third, governmental interests in efficiency cannot justify abandonment of prescribed procedural safeguards. In Honda Motor Co. v. Oberg, 512 U.S. 415, 434 (1994), the Court invalidated a procedural regime that removed structural protections necessary to ensure reliable adjudication. Structural safeguards cannot be displaced for administrative convenience.

The Fifth Amendment and the Federal Rules converge on a single structural command: a rule-defined procedural state cannot be displaced without lawful restoration.

The constitutional dimension is equally grounded in Article III. Judicial power is conferred by the Constitution and exercised within statutory and rule-defined limits. U.S. Const. art. III, § 1. Courts do not possess free-standing authority to revise procedural architecture. Muskrat v. United States, 219 U.S. 346, 361 (1911). The Rules Enabling Act embodies separation-of-powers discipline by authorizing rulemaking while preserving substantive boundaries. 28 U.S.C. § 2072(b).

Once promulgated, the Rules delineate the lawful scope of adjudicative authority. Plaut v. Spendthrift Farm, Inc., 514 U.S. 211, 218–19 (1995), emphasized that structural adherence to separation-of-powers principles preserves the legitimacy of final judgments. Judicial power exercised outside the rule-defined framework exceeds the authority that Article III contemplates.

Structural error doctrine confirms the gravity of such deviation. In Arizona v. Fulminante, 499 U.S. 279, 309–10 (1991), the Court explained that structural defects affect “the framework within which the trial proceeds.” In United States v. Gonzalez-Lopez, 548 U.S. 140, 148–50 (2006), the Court held that certain

errors require automatic reversal because they undermine the structural integrity of adjudication itself. The principle is not limited to trial rights; it reflects a constitutional commitment to lawful framework.

Here, the framework itself was altered. Rule 55(a) established a procedural condition. Rule 55(c) defined the exclusive mechanism for restoration. That mechanism was not invoked. Adjudication nonetheless proceeded under Rule 12(b)(6). The collapse of those stages alters the framework within which judicial power was exercised.

Article III tolerates incorrect reasoning within lawful structure. It does not permit exercise of judicial authority outside the structural limits defined by governing law. When a federal court displaces a rule-defined procedural state without restoration and adjudicates within a substituted framework, the resulting judgment exceeds the constitutional bounds of Article III adjudicative authority.

This defect is independent of the merits of Petitioner's underlying claims. It concerns the lawful scope of judicial power. Where denial of certiorari would rest upon a judgment entered outside that scope, Rule 44.2 authorizes rehearing to preserve the structural integrity of federal adjudication.

V. STRUCTURAL CLARIFICATION IS NECESSARY TO PRESERVE THE INTEGRITY OF FEDERAL COLLATERAL REVIEW.

Section 2255 governs federal collateral review nationwide. It provides the exclusive statutory mechanism by which federal prisoners challenge the legality of their custody. 28 U.S.C. § 2255(a). Congress paired that remedy with defined procedural safeguards, including the hearing mandate of § 2255(b) and the appellate gatekeeping requirement of § 2253(c). Together with the Federal Rules of Civil Procedure and the Rules Governing § 2255 Proceedings, these enactments form a coherent procedural system.

That system depends upon structural predictability. Rule-defined procedural stages allocate burdens, define issue formation, and regulate the transition from pleading to adjudication. Section 2253(c) regulates the transition from district court judgment to appellate review. Each component operates within a sequenced framework. The legitimacy of collateral review depends upon fidelity to that sequencing.

If a Rule 55(a) default may remain operative while adjudication proceeds under Rule 12(b)(6) without restoration under Rule 55(c), the defined boundaries between procedural stages lose structural force. Default becomes a procedural abstraction rather than a rule-defined state. Rule-defined transitions become discretionary. The predictable architecture Congress authorized through the Rules Enabling Act, 28 U.S.C. § 2072(a), becomes contingent upon case-specific judicial preference.

Similarly, if a court of appeals may deny a certificate of appealability without executing Slack's threshold inquiry according to its defined standard, § 2253(c)'s jurisdictional limitation becomes advisory.

Congress imposed the certificate requirement as a condition on appellate authority. Gonzalez v. Thaler, 565 U.S. 134, 142 (2012). Slack v. McDaniel, 529 U.S. 473, 484 (2000), defined its content. Miller-El v. Cockrell, 537 U.S. 322, 336–37 (2003), and Buck v. Davis, 580 U.S. 100, 115–18 (2017), enforced its sequencing. If that sequencing may be bypassed without consequence, the statutory boundary between district court adjudication and appellate jurisdiction erodes.

The structural stakes extend beyond this case. Collateral review frequently involves pro se litigants and delayed responses by government actors. The procedural consequences of silence, default, restoration, and threshold appellate screening are not peripheral details; they are recurring features of federal practice. Where rule-defined stages may be displaced without restoration, litigants cannot rely upon the procedural architecture Congress enacted.

The Court has long recognized that predictable procedural structure undergirds judicial legitimacy. In Plaut v. Spendthrift Farm, Inc., 514 U.S. 211, 218–19 (1995), the Court emphasized that adherence to structural limits preserves the authority of final judgments. In Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 94 (1998), the Court reaffirmed that jurisdiction must be established as a threshold matter before adjudication proceeds. Structural sequencing is not a technicality; it defines the lawful exercise of judicial power.

Rehearing here would not expand collateral review. It would clarify structural boundaries. It would confirm that rule-defined procedural states retain operative force until lawfully altered. It would reaffirm that § 2253(c)'s jurisdictional condition must be executed according to Slack's defined standard before appellate authority attaches.

The alternative is structural uncertainty. If procedural stages may collapse without restoration and statutory jurisdictional prerequisites may be treated as discretionary filters, the architecture of federal collateral review becomes unstable. That instability is not theoretical. It affects every litigant who relies upon rule-defined sequencing and statutory gatekeeping.

Rule 44.2 exists to ensure that this Court's denial of certiorari does not rest upon a judgment entered in structural incompatibility with governing law. Where rule-defined procedural states were displaced without restoration and statutory jurisdictional sequencing was not executed as prescribed, the structural integrity of federal adjudication is implicated.

Rehearing is therefore warranted to preserve the coherence of the procedural system Congress enacted and this Court has repeatedly enforced.

**VI. REHEARING IS NECESSARY TO PREVENT STRUCTURAL DISTORTION OF
RULE-DEFINED FEDERAL ADJUDICATION.**

This case presents a structural question concerning whether rule-defined procedural states retain operative force until lawfully altered, and whether statutory jurisdiction conditions retain binding until satisfied under the standards Congress prescribed.

If Rule 55(a) default may remain operative while adjudication proceeds under Rule 12(b)(6) without vacatur under Rule 55(c), rule-defined procedural states cease to function as binding transitions. If § 2253(c)'s certificate requirement may be denied without execution of Slack's threshold inquiry, statutory jurisdictional sequencing ceases to function as a condition precedent to appellate authority.

Neither outcome is compatible with the structure of federal adjudication.

The Rules Enabling Act authorizes procedural rulemaking while preserving separation-of-powers discipline. 28 U.S.C. § 2072(a)(b). Once promulgated, the Federal Rules govern adjudication “in all civil actions.” Fed. R. Civ. P. 1. This Court has repeatedly confirmed that validity promulgated Rules carry binding force. Sibbach v. Wilson & Co., 312 U.S. 1, 13-14 (1941); Hanna v. Plummer, 380 U.S. 460, 471 (1965); Shady Grove Orthopedic Assocs. v. Allstate Ins. Co., 559 U.S. 393, 406 (2010). Judicial authority operates within that framework. It does not revise it.

Congress's imposition of a certificate-of-appealability requirement in § 2253(c) is equally binding. It conditions appellate authority. Gonzalez v. Thaler, 565 U.S. 134, 142 (2012). Slack v. McDaniel defines when that condition is satisfied. 529 U.S. 473, 484 (2000). Miller-El v. Cockrell, 537 U.S. 322, 336-37 (2003), Buck v. Davis, 580 U.S. 100, 115-18 (2017), enforce its sequencing. When Congress attaches a jurisdictional condition to appellate power, courts lack authority to proceed absent compliance. Bowles v. Russell, 551 U.S. 205, 213 (2007).

The structural principle admits no deviation; rule-defined procedural transitions occur through rule-defined mechanisms, and statutory jurisdiction conditions attach until satisfied under governing standards. Courts do not possess authority to bypass either.

Permitting procedural displacement without restoration alters the baseline of federal litigation. Default would no longer operate as a defined procedural state. Vacatur would no longer function as the exclusive mechanism for restoration. Certification issuance would no longer serve as a jurisdictional threshold. The system would no longer operate as Congress enacted or as this Court has enforced.

Structural boundaries exist to prevent precisely that distortion. In Plaut v. Spendthrift Farm, Inc., 514 U.S. 211, 218-19 (1995), the Court reaffirmed that adherence to structural limits preserves the legitimacy of power. In Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 94 (1998), the Court required jurisdictional sequencing before merits adjudication. Structural sequencing defines the lawful scope of adjudication.

The issue here is not expansion of collateral review or revision of Slack. It is whether courts may collapse rule-defined procedural states without invoking the mechanisms those rules prescribe, and whether appellate courts may deny jurisdictional certificates without executing the statutory threshold Congress required.

If such collapses are permitted to stand without reasoned clarification, the operative force of rule-defined structure dissolves. Federal adjudication depends upon the premise that procedural states carry defined legal consequences until lawfully altered. When that premise dissolves, predictability dissolves with it.

Rule 44.2 exists to ensure that this Court's denial of certiorari does not rest upon structural displacement of rule-defined procedure or statutory jurisdiction sequencing. Rehearing in this context does not disturb finality. It restores structural coherence.

Where rule-defined procedural states were displaced without restoration and statutory jurisdictional sequencing was not executed as prescribed, the resulting judgment exceeds the structural limits that govern federal adjudication.

Rehearing is necessary to reaffirm that federal courts exercise judicial power within architecture Congress enacted and this Court has enforced.

VII. RELIEF REQUESTED.

For the foregoing reasons, Petitioner respectfully petitions the Court to grant rehearing pursuant to Supreme Court Rule 44.2. This Petition does not seek reconsideration of the substantive merits of Petitioner's motion under 28 U.S.C. § 2255. It presents antecedent structural and jurisdictional questions concerning the lawful exercise of judicial power.

Rehearing is necessary to determine:

1. Whether a district court may adjudicate under Federal Rules of Civil Procedure 12(b)(6) while a Clerk's entry of default under Rule 55(a) remains operative and unvacated under Rule 55(c);
2. Whether a court of appeals may deny a certificate of appealability under 28 U.S.C. § 2253(c) without executing the threshold inquiry required by Slack v. McDaniel, 529 U.S. 473, 484 (2000), as a jurisdictional condition precedent to appellate authority;
3. Whether a judgment entered in procedural incompatibility with rule-defined sequencing, and affirmed without satisfaction of statutory jurisdictional prerequisites, may serve as the predicate for denial of certiorari.

The relief sought is structural clarification. Rehearing is necessary to ensure that:

1. Rule-defined procedural states retain operative force unless altered through the mechanisms the Rules prescribed;
2. Statutory jurisdictional conditions imposed by Congress are executed according to governing standards before appellate authority attaches;
3. Federal courts exercise judicial power within the structural limits defined by the Rules Enabling Act, 28 U.S.C. § 2027, the Federal Rules of Civil Procedure, the Rules Governing § 2255 Proceedings, and 28 U.S.C. § 2253(c), as construed by this Court.

Granting rehearing does not expand collateral review or disturb final judgments entered within lawful procedural bounds. It reaffirms that adjudication operates within rule-defined sequencing and statutory jurisdictional constraints.

Where rule-defined procedural states were displaced without restoration and statutory jurisdictional sequencing was not executed as prescribed, structural clarification is necessary to preserve coherence in federal adjudication.

The Petition of Rehearing should be granted.

VIII. CONCLUSION

This Petition does not seek reconsideration of the substantive merits of Petitioner's § 2255 claims. It presents an antecedent constitutional question—whether the judgment below reflects a lawful exercise of judicial power within the procedural framework Congress enacted.

The Federal Rules establish discrete procedural states. Congress imposed jurisdictional sequencing through 28 U.S.C. § 2253(c). This Court defined the governing standard in Slack v. McDaniels and enforced its threshold character in Miller-El v. Cockrell and Buck v. Davis. Together, those enactments and precedents delineate the boundaries within which federal courts exercise authority in collateral review.

Here, a Rule 55(a) default remained operative. No Rule 55(c) vacatur restored adversarial pleading posture. Adjudication proceeded under Rule 12(b)(6). On appeal, a certificate of appealability was denied without execution of Slack's required threshold inquiry. The rule-defined transition did not occur. The statutory jurisdictional condition was not executed.

Finality attaches only to judgments rendered within lawful structure. Calderon v. Thompson, 523 U.S. 538, 550–56 (1998). It does not attach to judgments entered in procedural incompatibility with governing law. When rule-defined procedural states are displaced without restoration and statutory jurisdictional prerequisites remain unsatisfied, judicial authority exceeds the limits Congress prescribed.

The legitimacy of federal adjudication depends upon adherence to those limits.

The Petition for Rehearing should be granted.

IX. DECLARATION OF ANTHONY WAYNE MARCH (Pursuant to 28 U.S.C. § 1746)

I, Anthony Wayne March, declare as follows:

1. I am the Petitioner in this matter and am currently incarcerated.
2. I have authored the foregoing Petition for Rehearing and affirm that the factual statements contained therein are true and correct to the best of my knowledge.
3. This Petition is filed in good faith and not for purposes of delay.
4. This Petition is placed in the institutional mail system on the date indicated below.
5. This Petition is deemed filed on the date it is delivered to prison authorities for mailing pursuant to Houston v. Lack, 487 U.S. 266 (1988).
6. I am a pro se litigant, my pleadings are accorded liberal construction and held to a less stringent standard than formal pleadings drafted by representing attorneys. See Erickson v. Pardus, 551 U.S. 89, 94, 127 S. Ct. 2197, 167 L.Ed.2d 1081 (2007).

Respectfully submitted without malice for the GRANT of this Petition for Rehearing Pursuant to Rule 44.2 on this **15th day of June, 2026**.

Executed and attested, by:



ANTHONY WAYNE MARCH
Petitioner (Pro se, Indigent)
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