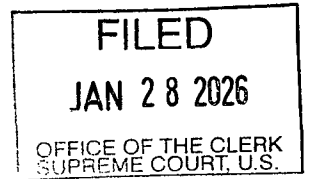


25-7335
No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



KEVIN LAWRENCE,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

Kevin Lawrence
Pro Se Petitioner
6831 Date Palm Dr.
Katy, Texas 77493

April 2, 2026

QUESTIONS PRESENTED

1. Whether due process is violated when a court of appeals fails to serve a pro se litigant under custodial supervision with notice of its judgment and mandate, resulting in the loss of the opportunity to seek panel rehearing, rehearing en banc, and timely review by this Court, through no fault of the litigant.
2. Whether a court of appeals may refuse to recall its mandate on timeliness grounds when the asserted untimeliness was caused by the clerk's failure to provide notice of judgment as required by the Federal Rules of Appellate Procedure.
3. Whether a court of appeals' refusal to recall its mandate after a litigant demonstrates lack of service of judgment denies meaningful access to the courts in violation of the Due Process Clause.

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Rule 14.1(d)

The judgment of the United States Court of Appeals for the Fifth Circuit in *United States v. Lawrence*, No. 23-60265, affirming the denial of Petitioner's motion for a new trial, was entered on July 24, 2025. The court of appeals' decision is unpublished and is reproduced in the Appendix at App. 8–10.

The order of the United States District Court for the Southern District of Mississippi in Case No. 3:17-cr-00149-DPJ-FKB denying Petitioner's motion for a new trial pursuant to Federal Rule of Criminal Procedure 33 was entered on April 10, 2023 (Dkt. No. 381) and is reproduced in the Appendix at App. 12.

STATEMENT OF JURISDICTION

The United States Court of Appeals for the Fifth Circuit entered judgment affirming the district court on July 24, 2025. The court issued its mandate on August 14, 2025.

Petitioner did not receive notice of the judgment or mandate. On December 30, 2025, after independently reviewing the docket and discovering that judgment had been entered months earlier, Petitioner promptly filed a motion in the United States Court of Appeals for the Fifth Circuit seeking recall of the mandate due to lack of notice.

On January 7, 2026, the Fifth Circuit entered a docketed order stating that no action would be taken on the motion to recall the mandate because the time to file such a motion had expired. The court did not address Petitioner's lack-of-notice claim.

This petition seeks review of the judgment entered by the United States Court of Appeals for the Fifth Circuit on July 24, 2025. Petitioner did not receive notice of the judgment or mandate. This petition is submitted with a notation of untimeliness due to lack of notice.

This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

A. Underlying Criminal Proceedings and Post-Trial Motion

Petitioner Kevin Lawrence was convicted in the United States District Court for the Southern District of Mississippi in October 2018. Following conviction and sentencing, Petitioner pursued post-trial relief.

On April 10, 2023, the district court entered an order denying Petitioner's motion for a new trial pursuant to Federal Rule of Criminal Procedure 33 (Dkt. No. 381). Petitioner timely filed a notice of appeal.

B. Proceedings in the Court of Appeals

Petitioner proceeded pro se before the United States Court of Appeals for the Fifth Circuit in Case No. 23-60265. On July 24, 2025, the Fifth Circuit entered an unpublished opinion affirming the district court's denial of the Rule 33 motion. The court of appeals issued its mandate on August 14, 2025.

At the time judgment was entered and the mandate issued, Petitioner remained under custodial supervision. Petitioner was not served with the Fifth Circuit's opinion, judgment, or mandate.

As a result, Petitioner was unaware that judgment had been entered and was deprived of the opportunity to seek panel rehearing, rehearing en banc, or timely review by this Court.

C. Lack of Notice and Motion to Recall Mandate

Petitioner first learned of the Fifth Circuit's judgment after independently reviewing the docket in late December 2025. Upon discovering that judgment had been entered months earlier without service, Petitioner promptly filed a motion in the court of appeals seeking recall of the mandate.

In that motion, Petitioner explained that he had not received notice of judgment or mandate and that the lack of service caused the expiration of rehearing and certiorari deadlines through no fault of his own.

The court of appeals declined to recall the mandate. On January 7, 2026, the court entered a docket notation stating that no action would be taken because the motion was out of time. Only after Petitioner sought relief did the clerk serve him with copies of the previously entered July 24, 2025 judgment and mandate. By that time, the relevant appellate deadlines had expired.

REASONS FOR GRANTING THE PETITION

I. The Failure to Serve Notice of Judgment and Mandate Deprived Petitioner of Due Process and Meaningful Review

The Due Process Clause requires notice reasonably calculated to apprise interested parties of the pendency of proceedings and afford them an opportunity to present objections. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). Service of judgment is not a technical formality; it is the mechanism that triggers a litigant's ability to seek rehearing and further review.

Federal Rule of Appellate Procedure 36(b) requires the clerk to serve all parties with a copy of the judgment upon entry. Petitioner was not served as required.

Here, Petitioner—proceeding pro se and under custodial supervision—was not served with notice of the Fifth Circuit's judgment or mandate. As a result, the time to seek panel rehearing, rehearing en banc, and review by this Court expired without his knowledge. The loss of appellate remedies occurred through no fault of Petitioner. Enforcing jurisdictional deadlines in the absence of service contradicts fundamental principles of due process and fairness.

II. The Court of Appeals' Refusal to Recall the Mandate Converted a Clerical Breakdown into a Forfeiture of Review

Recall of the mandate exists to remedy extraordinary circumstances and prevent manifest injustice. *Calderon v. Thompson*, 523 U.S. 538, 549–50 (1998). The absence of notice of judgment constitutes such an extraordinary circumstance because it deprives a litigant of the opportunity to seek further review.

Petitioner first received actual service of the judgment and mandate in January 2026, after filing his motion to recall, confirming that prior service had not occurred. The court of appeals nevertheless declined to recall its mandate on timeliness grounds without addressing the service failure that caused the delay. Timeliness presupposes notice. Where delay results from a failure of service rather than neglect by the litigant, refusal to recall the mandate transforms a clerical omission into a permanent forfeiture of appellate and Supreme Court review.

III. The Denial of Notice Foreclosed Review of Preserved Constitutional Claims

Because Petitioner did not receive notice of the judgment or mandate, he was denied the opportunity to seek rehearing on preserved constitutional claims and to petition this Court within

the prescribed time period. The combined effect of the service failure and the refusal to recall the mandate denied Petitioner meaningful access to the courts.

IV. This Case Presents an Important and Recurring Question

This petition presents a straightforward but significant question: whether appellate rights and access to this Court may be lost solely because a pro se litigant under custodial supervision was not served with notice of judgment. The issue implicates the integrity of appellate procedure and the constitutional guarantee of due process. Clarification from this Court is warranted to ensure that procedural deadlines are not enforced in a manner that extinguishes rights without notice.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted. The Court should grant review of the judgment entered July 24, 2025 by the United States Court of Appeals for the Fifth Circuit and remand the case with instructions to consider Petitioner's motion to recall the mandate in light of the undisputed lack of notice of judgment and mandate.

Respectfully submitted,
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6831 Date Palm Dr.
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April 2, 2026