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ORIGINAL

NO. 25-2279

FILED

DEC 30 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE SUPREME COURT
OF THE UNITED STATES
Respondent-Appellee

-VS-

NICHOLAS DWAYNE JONES,
Petitioner-Appellant

ON PETITION FOR A WRIT OF
CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE EIGHTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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Nicholas Dwayne Jones, Pro-Se

#28910-044

FCI Greenville

P.O. Box 5000

Greenville, IL 62246

IN THE SUPREME COURT OF THE UNITED STATES
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

NICHOLAS DWAYNE JONES,
Petitioner

vs.

No. 25-2279

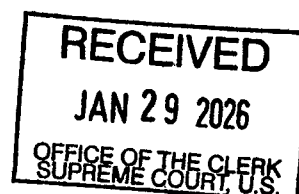
UNITED STATES OF AMERICA,
Respondent

PETITION FOR A WRIT OF CERTIORARI

Comes now, NICHOLAS DWAYNE JONES, and hereby petitions this Honorable Court for a Writ of Certiorari. In support of his petition, Mr. Jones hereby presents the following:

QUESTIONS PRESENTED

1. Whether a criminal defendant's Sixth Amendment right to confrontation may be waived through a stipulation executed by counsel where the trial court fails to conduct any personal colloquy to ensure that the defendant knowingly and voluntarily agreed to waive that right, in violation of *Brookhart v. Janis*, 384 U.S. 1. (1966).
2. Whether the admission of extensive, detailed testimony describing a decade-old prior drug conviction under Federal Rule of Evidence 404(b) including investigative narrative and source-of-supply testimony violates the Due Process Clause where its prejudicial effect substantially outweighs any probative value and the trial court fails to meaningfully limit the evidence under Rule 403.
3. Whether a defendant is denied the Sixth Amendment right to effective assistance of appellate counsel, and meaningful appellate review, where counsel misidentifies the relevant portions of the trial record, omits the most prejudicial evidence from review, and thereby prevents the appellate court from adjudicating a preserved constitutional claim.



LIST OF PARTIES

All parties appearing in the caption of the case in the court of appeals are listed below:

Petitioner:

Nicholas Dwayne Jones

Respondent:

United States of America

RELATED PROCEEDINGS

The following proceedings are directly related to this case:

United States v. Nicholas Dwayne Jones, No. 4:20-cr-00075-SMR-HCA-1
U.S. District Court for the Southern District of Iowa;
Judgement of Conviction entered April 18, 2022

Nicholas Dwayne Jones v. U.S., No 22-1816
U.S. Court of Appeals for the Eighth Circuit;
Judgement affirmed July 24, 2023
Rehearing and rehearing en banc denied September 26, 2023

Nicholas Dwayne Jones v. U.S., No 23-6430
Supreme Court of the United States
Petition for writ of certiorari denied February 20, 2024

Nicholas Dwayne Jones v. U.S., No. 4:24-cv-00156-SMR
U.S. District Court for the Southern District of Iowa

Motion under 28 U.S.C. § 2255 denied May 29, 2025

Nicholas Dwayne Jones v. U.S., No. 25-2279

United States Court of Appeals for the Eighth Circuit

Rehearing and Rehearing en banc denied December 12, 2026

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OPINIONS BELOW

[x] For Cases from Federal Courts:

The opinion of the United States Court of Appeals for the Eighth Circuit denying rehearing and rehearing en banc in the § 2255 proceeding was entered on December 12, 2025.

The opinion of the United States District Court for the Southern District of Iowa denying petitioner's motion under 28 U.S.C. § 2255 (Nicholas Dwayne Jones v U.S., No. 4:24-cv-00156-SMR) was entered on May 29, 2025.

JURISDICTION

The judgement of the United States Court of Appeals for the Eighth Circuit was entered on December 12, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1). This petition is timely filed under Supreme Court Rule 13.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Sixth Amendment to the United States Constitution provides, in relevant part:

"In all criminal prosecutions, the accused shall enjoy the right to be confronted with the witnesses against him".

Federal Rule of Evidence 404(b) provides, in relevant part:

"Evidence of a crime, wrong, or other act is not admissible to prove a person's character".

Federal Rule of Evidence 403 provides:

"The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of unfair prejudice".

STATEMENT OF THE CASE

A. Trial Proceedings

Petitioner was tried in federal court on drug and firearm charges arising from an alleged 2020 drug conspiracy. At trial, the government introduced physical evidence including digital scales and drug exhibits allegedly recovered from Petitioner's bedroom.

Rather than require the government to establish foundation and chain of custody for this evidence through live testimony subject to cross-examination, defense counsel entered into a written stipulation conceding these foundational elements. The trial court never questioned Petitioner personally to determine whether he understood the stipulation or knowingly waived his Sixth Amendment confrontation rights.

This stipulation removed the government's burden to prove critical evidentiary elements of the charged offenses and deprived Petitioner of the opportunity to challenge the reliability and authenticity of the evidence.

Separately, over defense objection, the government introduced extensive testimony concerning Petitioner's 2011 drug conviction under Rule 404(b). Rather than limiting the evidence to the fact of conviction, the government elicited a detailed investigative narrative from a law enforcement officer describing controlled purchases, informants, and source-of-supply conclusions. The testimony spanned several transcript pages and portrayed Petitioner as a long-standing drug trafficker.

The trial court not only permitted this testimony but actively participated in questioning the witness, reinforcing the prejudicial narrative. No meaningful limiting instruction was provided.

Petitioner was convicted and sentenced to 322 months' imprisonment.

B. Direct Appeal and Post-Conviction Proceedings

On direct appeal, appellate counsel challenged the admission of the 2011 conviction but misidentified the relevant portions of the trial transcript, citing only the

brief reading of the certified conviction order and omitting the detailed and inflammatory testimony that formed the basis of the prejudice.

As a result, the court of appeals reviewed an incomplete and misleading record and rejected the Rule 404(b) claim.

Petitioner subsequently sought relief under 28 U.S.C. § 2255, raising Sixth Amendment confrontation and ineffective-assistance claims. The district court denied relief, and the Eighth Circuit denied a certificate of appealability and later denied rehearing and rehearing en banc.

REASONS FOR GRANTING THE WRIT

I. THE DECISION BELOW CONFLICTS WITH THIS COURT'S PRECEDENT REQUIRING A KNOWING AND VOLUNTARY WAIVER OF FUNDAMENTAL TRIAL RIGHTS.

This Court has long held that certain constitutional rights particularly those affecting the basic framework of the trial may not be waived absent a knowing and voluntary personal decision by the defendant. Brookhart v. Janis, 384 U.S. 1 (1966).

In Brookhart, the Court reversed a conviction where defense counsel purported to waive confrontation rights without the defendant's informed consent. The Court emphasized that a defendant's silence or counsel's agreement cannot substitute for a personal waiver of fundamental rights.

Here, the stipulation conceded foundational elements of the government's proof and eliminated cross-examination of key evidence. The trial court failed to ask Petitioner any questions whatsoever regarding the stipulation or its consequences.

The Eighth Circuit's refusal to recognize this error as structural directly conflicts with Brookhart and undermines the constitutional requirement that waivers of trial rights be knowing and voluntary.

II. THE ADMISSION OF EXTENSIVE 404(b) TESTIMONY VIOLATED DUE PROCESS AND EXEMPLIFIES A RECURRING PROBLEM IN FEDERAL DRUG PROSECUTIONS.

Federal Rule of Evidence 404(b) permits limited use of prior-acts evidence for

specific purposes, but it does not authorize the government to present a mini-trial of a defendant's past crimes.

In this case, the government elicited a detailed investigative narrative of a decade-old conviction, including informant use and source-of-supply conclusions. The testimony had minimal probative value regarding the charged offense but carried overwhelmingly prejudicial force.

This Court has recognized that the Due Process Clause forbids convictions based on propensity evidence that renders the trial fundamentally unfair. See Old Chief vs. United States, 519 U.S. 172 (1997).

The decision below permits precisely the sort of character-based prosecution that the Constitution forbids and warrants this Court's intervention.

III. PETITIONER WAS DENIED MEANINGFUL APPELLATE REVIEW DUE TO CONSTITUTIONALLY DEFICIENT PERFORMANCE BY APPELLATE COUNSEL.

The Sixth Amendment guarantees not only the presence of counsel on appeal but effective assistance that permits meaningful review. Penson v. Ohio, 488 U.S. 75 (1988).

Here, appellate counsel's failure to cite the actual prejudicial testimony prevented the court of appeals from reviewing the real constitutional violation. This was not a strategic choice but a fundamental breakdown in advocacy that constructively denied Petitioner appellate review of a preserved claim.

Without this Court's review, constitutional errors of this magnitude will remain insulated from scrutiny.

CONCLUSION

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

Respectfully submitted on this 8 day of February, 20 26.

Nicholas Dwayne Jones

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CERTIFICATE OF SERVICE

I, NICHOLAS DWAYNE JONES, the Petitioner in the foregoing Petition For Writ of Certiorari, hereby declare under the penalty of perjury that the foregoing was served on the Solicitor General of the United States by depositing it in the FCI Greenville Federal Prison mail system, with postage pre-paid, for the purposes of mailing, on this 8th day of February, 20 26, in accordance with the prison mailbox rule.

Nicholas Dwayne Jones

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