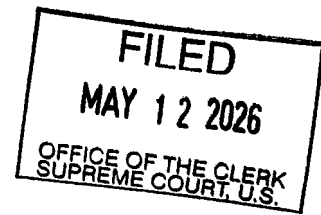


ORIGINAL

No. 25-7501



IN THE  
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 2025

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FREYA D. PEARSON

Petitioner,

UNITED STATES OF AMERICA,

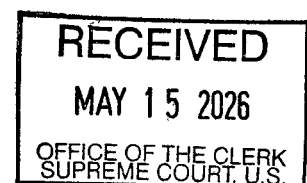
Respondent,

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

---

Freya D. Pearson (Pro Se)  
P.O. BOX 27  
Conyers, GA 30012  
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freya@finalityisnotjustice.com



## **Questions Presented**

1. Whether an inferior court exceeds the limits of Article III judicial power and the Supremacy Clause when it issues and permits an appellate judgment to remain operative where the underlying proceeding nullified a constitutional mandate of this Court governing the structure of a first appeal as of right?
2. Whether an inferior court may, consistent with the Supremacy Clause, treat compliance with this Court's controlling constitutional mandate governing the structure of a first appeal as of right as discretionary in operation by permitting a judgment to remain operative despite a proceeding that failed to satisfy those requirements?
3. Whether considerations of finality or the passage of time permit an appellate judgment to remain operative where the underlying proceeding failed to comply with this Court's controlling constitutional mandate governing the structure of a first appeal as of right?

## **LIST OF PARTIES**

**Freya D. Pearson - Petitioner (Pro Se)**

**United States of America - Respondent**

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## **OPINIONS BELOW**

The unpublished per curiam opinion of the United States Court of Appeals for the Eighth Circuit is reproduced in Appendix A. The judgment was entered on May 6, 2019.

## **JURISDICTION**

The Court of Appeals denied review on April 2, 2026 and denied rehearing April 09, 2026.

This petition is being filed within 90 days after judgment, pursuant to Supreme Court Rules 13.1 and 13.3.

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

## **Constitutional Provisions**

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## **STATEMENT OF THE CASE**

### **DISTRICT COURT PROCEEDINGS**

Petitioner was charged in the United States District Court with three counts of wire fraud, four counts of money laundering, one count of tax evasion, and one count of false statements. The government proceeded on a “fraud by omission” theory, alleging that Petitioner failed to disclose the intended use of funds in connection with a private loan.

Following trial, Petitioner was convicted, and judgment was entered by the district court.

### **COURT OF APPEALS PROCEEDINGS**

Petitioner filed a direct appeal as of right.

In January 2018, appointed appellate counsel moved to withdraw. The court of appeals granted counsel’s motion while the appeal remained pending.

Petitioner was not provided substitute counsel, was not notified before being required to proceed without representation, did not knowingly and voluntarily waive the right to counsel, and was not afforded the procedural safeguards required by *Anders v. California*, 386 U.S. 738 (1967).

The appeal proceeded without counsel, and the court of appeals affirmed the judgment and denied counsel in the same order in June 2019.

## **RECALL OF THE MANDATE PROCEEDINGS**

After the court of appeals affirmed the judgment on May 6, 2019, Petitioner continued to challenge the constitutional validity of the appellate proceeding. The court had permitted appointed counsel to withdraw, ordered the appeal to proceed pro se, and denied Petitioner's subsequent request for the appointment of counsel.

Following issuance of the mandate, Petitioner filed a pro se motion to recall the mandate on November 25, 2019. That motion raised, among other issues, that the appeal had proceeded without conflict-free counsel and that counsel had been permitted to withdraw without notice from the court, leaving Petitioner to proceed without representation.

The court of appeals denied the motion the following day, on November 26, 2019, without substantive explanation.

Petitioner continued to seek review, including proceedings in this Court, which ultimately concluded with the denial of rehearing on February 24, 2020.

Years later, Petitioner again sought to correct the same structural defect through a renewed motion to recall the mandate. That motion specifically asserted that the first appeal as of right had proceeded without counsel, without a knowing and voluntary waiver, and without the safeguards required by *Anders v. California*,

386 U.S. 738 (1967).

After the court of appeals denied recall, Petitioner filed a petition for panel rehearing and rehearing en banc directed to that denial, presenting the full court with the question of whether an appellate judgment may stand where the first appeal as of right proceeded without counsel, without waiver, and without *Anders* safeguards.

The court of appeals denied rehearing on April 9, 2026.

The procedural history demonstrates that this was not a delayed objection. Petitioner raised the absence of counsel at multiple stages, including immediately following issuance of the mandate and again after later proceedings confirmed that no existing mechanism would correct the defect. The problem is not waiver or delay. The problem is that each available corrective mechanism remained discretionary, even though the right at issue was mandatory.

## **INTRODUCTION**

This petition concerns the enforceability of this Court's constitutional mandate governing representation on a first appeal as of right and the limits of inferior court authority when that mandate is not followed. The case presents a structural problem that arises when an appellate proceeding occurs outside of the constitutional framework that this Court has held is necessary to ensure its validity, yet the resulting judgment is permitted to remain operative without any mechanism ensuring that the constitutional right that this Court has mandated is actually delivered.

The decision below raises the question of whether constitutional requirements defined by this Court remain binding in operation or whether considerations of finality and the passage of time may effectively replace the structural protections that are necessary to ensure the reliability of the appellate process.

The questions presented do not concern the content of the Sixth Amendment right to counsel on a first appeal as of right. This Court has already settled that question. The first appeal as of right must occur with counsel unless the right is knowingly and voluntarily waived. Where appointed counsel seeks to withdraw, the safeguards established in *Anders v. California*, 386 U.S. 738 (1967), ensure that the appellate process remains constitutionally reliable. These requirements are structural conditions that are necessary to ensure the constitutional validity of the appellate judgment itself.

The proceeding below occurred without counsel, without a valid waiver, and without the safeguards required by *Anders*. The court of appeals nevertheless issued and permitted the appellate judgment to stand and subsequently denied recall of the mandate, leaving intact a judgment produced through a process that conflicts with the controlling precedent of this Court governing the structure of a first appeal as of right.

This petition does not ask the Court to revisit the right itself. It asks whether an inferior court possesses authority to issue and permit a judgment to remain operative where the proceeding that produced the judgment occurred outside of the constitutional structure that this Court requires.

The decision below permits the constitutional mandate governing the first appeal as of right to be nullified in operation while remaining intact in doctrine. Where no mandatory corrective mechanism exists to ensure that the defendant actually receives the appellate proceeding that the Constitution requires, the constitutional guarantee becomes contingent upon discretionary enforcement rather than secured through mandatory compliance.

A first appeal as of right conducted without counsel and without the procedural safeguards required by this Court is not merely erroneous. It is constitutionally unreliable because the defect affects the validity of the appellate judgment itself.

Time cannot cure a structural defect. The resulting judgment cannot derive independent constitutional legitimacy from considerations of finality. Finality serves an administrative

function, but administrative considerations cannot supply constitutional validity where the structural conditions required by this Court's precedents have not been satisfied.

If inferior courts may issue and permit judgments to stand despite proceedings conducted in conflict with this Court's controlling mandates, then the binding force of this Court's constitutional determinations is nullified in operation rather than controlling in fact. The Constitution does not permit rights that exist only at the discretion of the tribunal bound to apply them.

This case presents a structural enforcement problem that arises when the constitutional defect occurs at the appellate level itself. When the first appeal as of right proceeds outside of the constitutional framework that this Court has held is necessary to ensure its validity, no mandatory mechanism exists to ensure that the defendant actually receives the appellate proceeding that the Constitution requires. This Court's precedents assume compliance with those structural conditions, yet the existing framework provides no mechanism to ensure that compliance occurs in practice.

Recall of the mandate is discretionary. Review in this Court is likewise discretionary, and this Court has repeatedly explained that it is not a court of error correction. The absence of any mandatory corrective mechanism leaves the constitutional mandate acknowledged in doctrine but unsecured in practice. In that circumstance, the court of appeals exercises final authority over the constitutional validity of its own judgment, functioning in effect as a second Supreme Court.

This Court's review is warranted to clarify that inferior courts lack authority to issue and permit judgments to stand where the underlying proceeding conflicts with controlling Supreme Court precedent governing the structural requirements of a first appeal as of right, and to ensure that constitutional mandates remain binding in operation as well as in doctrine.

## **SUMMARY OF ARGUMENT**

This case presents a structural question concerning the enforceability of this Court's constitutional mandates and the limits of inferior court authority when those mandates are not followed. The first appeal as of right is a constitutionally significant proceeding whose validity depends upon the presence of counsel unless the right is knowingly and voluntarily waived. Where appointed counsel seeks to withdraw, *Anders v. California*, 386 U.S. 738 (1967), requires procedural safeguards designed to ensure that the appellate process remains constitutionally reliable. These requirements are not discretionary; they define the constitutional framework within which adjudicative authority may be exercised.

The appellate proceeding in this case occurred without counsel, without a valid waiver, and without the safeguards required by *Anders*. The court of appeals nevertheless affirmed the judgment and denied recall of the mandate, leaving intact a judgment produced through a constitutionally deficient process. The defect was presented to the full court, yet discretionary review mechanisms failed to ensure compliance with this Court's mandates.

The constitutional violation is not cured by the passage of time. The purpose of the right to counsel on a first appeal as of right is to ensure that legal issues requiring specialized knowledge are identified within the time permitted for appellate review. Constitutional validity cannot arise from a process conducted in conflict with this Court's mandates, nor can finality supply what the Constitution forbids.

This case exposes a structural enforcement gap. When the constitutional defect occurs at the appellate level, no mandatory mechanism exists to ensure that the defendant receives the appellate proceeding that the Constitution requires. Collateral review presupposes the existence of a valid appeal and cannot recreate the conditions necessary for the first appeal as of right. Recall of the mandate is discretionary. Rehearing en banc is discretionary. Review in this Court is discretionary. A mandatory constitutional guarantee cannot depend for its enforcement on discretionary mechanisms exercised by the tribunal alleged to have violated it.

The decision below effectively permits an inferior court to exercise final authority over the constitutional validity of its own judgment, functioning in effect as a second Supreme Court. The Supremacy Clause does not permit inferior courts to nullify this Court's constitutional mandates in operation while leaving them intact in doctrine. Article III does not authorize courts to issue or sustain judgments produced through proceedings conducted outside of the constitutional structure that this Court has defined.

This Court's intervention is necessary to reaffirm that constitutional mandates governing the structure of adjudicative proceedings must remain binding in operation and that inferior courts lack authority to issue and permit judgments to stand where the underlying proceeding conflicts with controlling Supreme Court precedent.

## **REASONS FOR GRANTING THE WRIT**

### **I. The decision below permits an appellate judgment to stand in conflict with controlling Supreme Court precedent governing the structure of a first appeal as of right.**

This Court has long recognized that the first appeal as of right occupies a critical position in the constitutional framework of criminal adjudication. Because the appeal serves as the primary mechanism through which legal error is identified and corrected, the reliability of that proceeding carries constitutional significance. The Sixth Amendment right to counsel extends to the first appeal as of right because the appellate process requires legal knowledge, procedural skill, and strategic judgment beyond the capacity of most defendants to provide for themselves. *Douglas v. California*, 372 U.S. 353 (1963).

The constitutional structure governing the first appeal as of right has been clearly defined. Counsel must be provided unless the defendant knowingly and voluntarily waives representation. Where appointed counsel seeks to withdraw, the procedural safeguards established in *Anders v. California*, 386 U.S. 738 (1967), must be followed. These safeguards protect both the defendant's right to counsel and the integrity of the appellate process.

The proceeding at issue occurred without counsel, without a valid waiver, and without the procedural safeguards required by *Anders*. The appellate judgment was nevertheless

permitted to stand. The denial of recall of the mandate leaves intact a judgment produced through a process that does not conform to the constitutional structure that this Court has defined.

Structural constitutional requirements define the conditions under which adjudicative authority may be exercised. Where those conditions are not satisfied, the resulting judgment lacks the constitutional validity that is necessary to sustain its continued operation, because the defect affects the framework within which the proceeding occurs. Structural error therefore does not depend upon a showing of prejudice. *Penson v. Ohio*, 488 U.S. 75 (1988).

The question presented is not whether the appellate proceeding produced the correct result. The question is whether a judgment produced through a proceeding that conflicts with controlling Supreme Court precedent governing the structure of a first appeal as of right may nonetheless remain operative.

Inferior courts possess authority to interpret precedent and apply it to individual cases. They do not possess authority to issue and permit judgments to stand where the underlying proceeding occurred in a manner incompatible with controlling constitutional mandates defined by this Court. Where the constitutional structure governing a proceeding has not been satisfied, the resulting judgment cannot derive constitutional validity from considerations of finality.

## **II. The constitutional mandate governing the first appeal as of right exists to prevent finality from displacing accuracy in adjudication.**

The constitutional structure governing the first appeal as of right reflects a fundamental principle: constitutional compliance must be upheld before finality is permitted to attach. The first appeal represents the only stage of review in which the defendant is guaranteed both access to the record and the legal expertise necessary to identify error within the time constraints governing appellate procedure. The mandate requiring counsel ensures that the appellate process functions as a meaningful safeguard against legal error at the point in the adjudicative process when correction remains realistically possible. *Evitts v. Lucey*, 469 U.S. 387 (1985).

Where an appeal proceeds without counsel, legal issues requiring specialized knowledge frequently remain unidentified within the time permitted for appellate briefing. Once the appellate judgment becomes operative, claims not identified during the appellate process may later be characterized as forfeited, outside of the record, procedurally defaulted, or subject to standards of review that do not permit reconstruction of the adversarial process that the Constitution requires to occur during the first appeal itself.

Subsequent proceedings do not recreate the structural conditions that are necessary to perform the function that the first appeal is intended to serve. Later review mechanisms operate within frameworks that presume the validity of the appellate judgment and impose substantial limitations on the development of issues that were not identified at the time the appeal occurred.

The structural mandate recognized by this Court reflects the principle that reliability in adjudication depends upon the presence of procedural safeguards at the time that those safeguards are intended to operate. When the first appeal proceeds without counsel, the constitutional function of the appellate process is compromised at the moment the Constitution requires reliability to be ensured.

When adjudicative systems operate under persistent pressure to resolve cases efficiently, structural constitutional safeguards risk being treated as procedural formalities rather than binding conditions of valid adjudication. Over time, departures from those safeguards may become normalized through repeated acceptance of outcomes produced without the procedural conditions that this Court has held are necessary to ensure constitutional reliability.

The structural defect in this case was presented to the court of appeals through a petition for rehearing en banc, providing the full court an opportunity to determine whether a first appeal as of right conducted without counsel, without waiver, and without the safeguards required by *Anders* could constitutionally support an operative judgment. The court declined rehearing, leaving the structural defect uncorrected. The absence of correction at the en banc stage

illustrates how constitutional mandates may remain controlling in doctrine yet become optional in operation when enforcement depends upon discretionary review.

Once the adjudicative system proceeds beyond the first appeal without the structural conditions that are necessary to ensure reliability, later proceedings operate upon a presumption of validity that was never constitutionally secured. Finality, although administrative in purpose, begins to function as a substitute for accuracy.

Later review cannot restore the structural function that the first appeal is designed to perform because the constitutional safeguard operates at a specific procedural moment. When that moment passes without counsel, the opportunity for meaningful adversarial testing of potential legal error is lost within the framework that is designed to ensure its identification.

The present case illustrates the practical significance of this structural protection. The legal deficiencies arising from the absence of counsel did not become immediately apparent at the time the appeal was permitted to proceed without representation. Their significance emerged only through extended legal analysis undertaken after the appellate judgment had already become operative. The difficulty of identifying such defects without legal training underscores why this Court has treated the presence of counsel on the first appeal as a structural condition that is necessary to ensure the reliability of adjudicative outcomes.

Where the structural safeguards governing the first appeal as of right are not implemented in practice, the constitutional function of appellate review is displaced by the administrative operation of finality. Finality cannot precede the implementation of the constitutional protections that are necessary to ensure adjudicative reliability.

### **III. Inferior Courts Lack Authority Under Article III and the Supremacy Clause to Issue or Sustain Judgments Produced Through Proceedings Conducted in Conflict with This Court's Constitutional Mandates**

Article III vests judicial power in the federal courts, but that power is not unbounded. Federal courts exercise adjudicative authority within a constitutional framework that defines the conditions under which judicial determinations may validly occur. Where this Court has identified structural requirements that are necessary to ensure the constitutional reliability of a proceeding, those requirements operate as binding conditions governing the lawful exercise of adjudicative authority.

The first appeal as of right is one such proceeding. This Court has held that the constitutional validity of that appeal depends upon the presence of counsel, unless representation is knowingly and voluntarily waived. Where appointed counsel seeks to withdraw, the safeguards established in *Anders v. California*, 386 U.S. 738 (1967), ensure that the appellate

process remains constitutionally reliable. These requirements define the structural framework within which an appellate judgment may lawfully be produced.

When a proceeding occurs outside of that framework, the resulting judgment does not merely contain legal error. It is produced through a process that this Court has already deemed to be constitutionally insufficient to ensure reliable adjudication. Structural constitutional requirements are not procedural preferences. They are constitutional conditions that are necessary to ensure the validity of the adjudicative process itself.

Inferior courts possess authority to resolve cases and controversies. They do not possess authority to issue or sustain judgments where the proceeding was conducted outside of the constitutional conditions that this Court has held are required. Under the Supremacy Clause, this Court's constitutional determinations operate as binding limitations on inferior court authority. Inferior courts may apply those determinations. They may not revise them, disregard them, or treat compliance with them as discretionary.

Where the constitutional conditions required for a first appeal as of right are absent, the resulting judgment cannot derive constitutional legitimacy from the mere fact that a decision was rendered, nor from finality, procedural posture, or the discretionary denial of corrective relief. The validity of an appellate judgment depends upon the constitutional adequacy of the proceeding that produced it, because adjudicative authority does not exist where the governing constitutional conditions have not been satisfied.

Here, counsel was absent, no knowing and voluntary waiver occurred, and the safeguards required by *Anders v. California*, 386 U.S. 738 (1967), were not implemented. The constitutional structure governing the proceeding was therefore not satisfied, and adjudicative authority to issue and sustain the resulting judgment was lacking.

In such circumstances, issuing and allowing the judgment to stand exceeds the limits imposed by the constitutional framework that this Court has defined, by giving legal force to a result that was produced through a constitutionally insufficient proceeding.

Before any question of remedy arises, the Constitution itself defines the limits of adjudicative authority. An inferior court does not possess authority to determine whether a constitutional mandate of this Court will operate in practice. The hierarchical structure of Article III does not permit inferior courts to decide whether controlling precedent will be applied or disregarded.

When an inferior court issues and permits a judgment to remain operative despite a proceeding that conflicts with this Court's constitutional mandate, it does not interpret that mandate. It uses discretion to allow the mandate to be bypassed in operation. The Supremacy Clause does not permit inferior courts to exercise authority in a manner that gives effect to judgments which are produced outside of controlling constitutional conditions.

The question presented therefore concerns not only whether this Court's mandate must be followed, but whether adjudicative authority exists to issue or sustain a judgment that is produced through a proceeding that is conducted in conflict with that mandate.

Where the constitutional structure governing the first appeal as of right has not been satisfied, the resulting judgment cannot derive constitutional validity from any subsequent procedural mechanism.

The constitutional limitations that define the structure of adjudicative proceedings also define the limits of adjudicative authority itself.

#### **IV. The absence of a mandatory corrective mechanism leaves the constitutional mandate without an enforcement pathway.**

The structural defect in this case arises from the absence of the constitutionally required framework governing the first appeal as of right. That defect cannot be remedied through ordinary collateral review, because collateral proceedings presuppose the existence of a constitutionally valid appellate judgment.

Recall of the mandate is not interchangeable with other forms of post-conviction review. It serves a distinct function by allowing an appellate court to correct defects affecting the validity of its own judgment where the integrity of the appellate proceeding itself is implicated.

The denial of recall did not identify any constitutional principle capable of sustaining the validity of the appellate judgment. The absence of any identified constitutional authority supporting the continued operation of that judgment illustrates the structural problem that is presented here: the mandate remains controlling in doctrine, yet no mechanism ensured its application in practice.

That problem is not resolved through collateral review. Section 2255 does not provide a mechanism to correct a structural constitutional defect that occurred at the appellate level. The district court lacks authority to reconstruct or supply a constitutionally compliant first appeal as of right and cannot exercise supervisory authority over the appellate court's judgment. Collateral review presumes the existence of a valid appellate proceeding; it does not recreate one where the constitutional structure was never satisfied.

No other judicial mechanism is capable of correcting the constitutional violation that occurred at the appellate level. Recall of the mandate was available, but its discretionary denial left the structural defect uncorrected. A mandatory constitutional guarantee was thus subjected to a discretionary corrective mechanism under which enforcement of this Court's mandate

depended upon institutional choice rather than obligation. The constitutional guarantee therefore remains acknowledged in doctrine but unavailable in practice.

Where the first appeal as of right occurred without counsel and without the safeguards that are required, the defect is not limited to the outcome of the appeal. It concerns the constitutional adequacy of the appellate proceeding itself. If the proceeding did not occur within the structure that is required by this Court, the resulting judgment cannot substitute for the appellate review that the Constitution guarantees.

The question presented therefore extends beyond the circumstances of this case. It concerns whether constitutional mandates governing the structure of adjudicative proceedings remain enforceable when their violation cannot be corrected by any court possessing both the authority and the obligation to do so. No mandatory mechanism exists to enforce a mandatory constitutional rule.

Because every available corrective mechanism is discretionary, a court's refusal to act, whether through silence, summary denial, or procedural reframing, operates as the final word.

Clarification from this Court is necessary to ensure that structural constitutional guarantees do not depend upon discretionary review and that inferior courts lack authority to

permit judgments to stand where the underlying proceeding conflicts with controlling Supreme Court precedent governing the structure of a first appeal as of right.

## **V. This case presents an unresolved question concerning the limits of inferior court authority under the Supremacy Clause.**

The Supremacy Clause establishes that the Constitution and the laws of the United States, including authoritative interpretations of the Constitution by this Court, are binding upon inferior courts. The hierarchical structure of the federal judiciary reflects the principle that inferior courts apply controlling precedent rather than determine whether compliance with that precedent is required.

Where this Court has defined the constitutional structure governing a particular proceeding, inferior courts lack authority to alter or disregard those structural requirements. Their authority extends to the application of precedent, not to the modification of constitutional conditions that determine the validity of adjudicative outcomes.

Permitting a judgment to issue and stand where the underlying proceeding conflicts with controlling Supreme Court precedent nullifies the mandate in operation, even if the precedent remains formally undisturbed. The constitutional violation does not become permissible through

the passage of time or the invocation of procedural finality. An inferior court cannot exercise adjudicative power that it did not constitutionally possess.

The question presented concerns whether inferior courts may permit judgments to stand where the proceeding itself conflicts with a constitutional mandate of this Court governing the structure of a first appeal as of right. If inferior courts possess authority to allow such judgments to remain operative, the binding force of this Court's decisions becomes subject to discretionary enforcement by the very courts bound to apply them.

The Supremacy Clause does not permit inferior courts to exercise authority inconsistent with controlling constitutional mandates. The structural protections defined by this Court must remain binding not only in theory, but in the operation of adjudicative proceedings.

## **VI. This Case Presents a Question of Exceptional National Importance Concerning the Enforceability of Constitutional Mandates Governing Appellate Adjudication**

This case presents a question of exceptional national importance concerning the enforceability of this Court's constitutional mandates governing the structure of appellate adjudication.

The first appeal as of right is the principal mechanism through which legal error is identified and corrected in criminal cases. This Court has made clear that the constitutional validity of that proceeding depends upon the presence of counsel unless the right is knowingly and voluntarily waived, and that where counsel seeks to withdraw, the safeguards required by *Anders v. California*, 386 U.S. 738 (1967), ensure the reliability of the appellate process.

The arguments here do not concern the existence of that right. The governing rule is settled. The question is whether that right remains enforceable when the appellate court itself departs from the constitutional structure that this Court has defined. Existing doctrine presumes compliance and provides no mandatory mechanism to ensure correction.

Where a judgment is issued and permitted to remain operative despite a proceeding that is conducted in conflict with this Court's controlling constitutional mandates, the binding force of those mandates is compromised in practice. When compliance depends upon discretionary enforcement rather than a mechanism capable of ensuring that this Court's mandates are applied, those mandates cease to function as binding conditions of adjudication in operation.

This vulnerability reflects a broader structural weakness within the appellate system, where constitutionally deficient proceedings may remain operative without any mandatory mechanism requiring correction.

The consequences extend beyond the individual case. The constitutional structure governing appellate review is designed to ensure that adjudicative reliability is secured before

finality attaches. Where that structure is not implemented in practice, finality begins to operate as a substitute for constitutional compliance rather than as its consequence.

When a first appeal proceeds without counsel and without the safeguards required by *Anders*, defendants lose the only stage of review where legal error can be identified before finality attaches. Issues that would have been raised by counsel become permanently forfeited, leaving convictions to stand, not because they are constitutionally sound, but because the system lacks a mandatory mechanism to correct its own structural failures. The result is a class of judgments that remain operative despite originating from constitutionally unreliable proceedings, an outcome that undermines both the integrity of appellate review and public confidence in the rule of law.

This case also presents an unresolved question concerning the limits of inferior court authority under Article III and the Supremacy Clause. If inferior courts may issue and permit judgments to stand where the underlying proceeding conflicts with this Court's controlling constitutional mandates, then the enforceability of those mandates depends upon the discretion of the very court that is bound to apply them. In that circumstance, the constitutional guarantee is no longer secured as a matter of right, but contingent upon discretionary enforcement.

This Court's review is necessary to clarify that constitutional mandates governing the structure of a first appeal as of right must remain binding in operation, and that inferior courts lack authority to issue and permit judgments to stand where the underlying proceeding conflicts with controlling Supreme Court precedent.

Absent review, the right to counsel on a first appeal as of right risks becoming binding in doctrine but discretionary in operation. The Constitution does not permit a system in which the enforceability of its mandates depends upon discretionary correction by the tribunal alleged to have departed from them.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Where a first appeal as of right proceeds without counsel, without a valid waiver of counsel, and without the safeguards required by *Anders* v. California, 386 U.S. 738 (1967), the resulting appellate judgment is produced through a process that conflicts with controlling Supreme Court precedent governing the structure of that proceeding.

This Court is not a court of error correction. But it has intervened where lower courts apply settled doctrine in a manner that defeats its function. The question here is not the correctness of a particular judgment; it is whether the right to counsel on a first appeal as of right remains enforceable when the appellate court itself departs from the constitutional structure governing the proceeding and no mechanism requires correction.

The Supremacy Clause makes this Court's constitutional mandates binding on inferior courts. Inferior courts therefore lack authority to treat those mandates as discretionary in operation.

When a court of appeals issues and permits a judgment to stand despite the absence of counsel, waiver, and the safeguards required by Anders, it exceeds the constitutional limits of adjudicative authority imposed by Article III and the Supremacy Clause by issuing and sustaining a judgment produced outside of the constitutional framework governing a first appeal as of right. Inferior courts possess authority to apply this Court's constitutional mandates. They do not possess authority to render those mandates discretionary in operation or to issue and sustain judgments produced outside of the constitutional framework that this Court has required.

Review is warranted to clarify that constitutional mandates governing a first appeal as of right must remain binding in operation and that inferior courts lack authority to permit judgments to stand where the underlying proceeding nullified a controlling mandate of this Court.

The appellate court cannot use the consequences of its own constitutional violation to preserve the judgment. The Constitution does not permit a system in which the enforceability of its mandates depends upon discretionary correction by the tribunal that has departed from them.

This Court's precedents presuppose institutional compliance, but they do not identify a mandatory mechanism ensuring correction when the appellate tribunal itself departs from the governing constitutional structure.

The constitutional guarantee of counsel on a first appeal as of right exists precisely because a defendant is not expected to navigate the appellate structure alone. Yet once that constitutionally mandated safeguard was removed, the procedural consequences flowing from its absence were later imposed against the very person that the safeguard existed to protect.

The factual sequence presented here is unusually direct. Counsel withdrew during the pendency of a first appeal as of right. No valid waiver occurred. Replacement counsel was repeatedly requested and denied. The safeguards required by *Anders v. California*, 386 U.S. 738 (1967), were absent. The appellate judgment nevertheless issued and continues to be treated as operative.

At some point, when the constitutional defect is this direct, the persistence of institutional resistance ceases to function merely as procedural adjudication and becomes evidence of the structural enforcement problem itself.

When a mandatory constitutional safeguard can be this plainly absent, yet the institutional focus nevertheless shifts toward preserving the judgment, the enforcement structure itself becomes the constitutional question.

The Constitution does not permit inferior courts to exercise final authority over whether this Court's constitutional mandates will operate in practice.

The Supreme Court must remain Supreme.

Respectfully submitted,



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314-267-5303

May 12, 2026

**UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

No. 17-1438

United States of America

Appellee

v.

Freya D. Pearson

Appellant

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Appeal from U.S. District Court for the Western District of Missouri - Kansas City  
(4:14-cr-00306-BP-1)

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**ORDER**

The motion to recall the mandate is denied.

April 2, 2026

Order Entered at the Direction of the Court:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Susan E. Bindler

**UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

No. 17-1438

United States of America

Appellee

v.

Freya D. Pearson

Appellant

---

Appeal from U.S. District Court for the Western District of Missouri - Kansas City  
(4:14-cr-00306-BP-1)

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**ORDER**

The motion for reconsideration is denied.

April 9, 2026

Order Entered at the Direction of the Court:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Susan E. Bindler

**Additional material  
from this filing is  
available in the  
Clerk's Office.**