

No. _____

IN THE
Supreme Court of the United States

JULIUS OMAR ROBINSON,

Petitioner,

v.

BRIAN LAMMER,

Respondent.

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

Motion for Leave to Proceed *In Forma Pauperis*

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Petitioner, by his undersigned counsel, asks leave to file the attached Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit without prepayment of costs and to proceed in forma pauperis. Petitioner was represented by counsel in the Seventh Circuit under the Criminal Justice Act, 18 U.S.C. § 3006A(b).

This motion is brought pursuant to Rule 39.1 of the Rules of the Supreme Court of the United States.

Respectfully submitted,

AMY KARLIN
Interim Federal Public Defender

DATED: June 2, 2026

By: s/ Jonathan C. Aminoff
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PETITION FOR WRIT OF CERTIORARI

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Question Presented

In *Smith v United States*, 360 U.S. 1 (1959), this Court held that the Government's failure to charge by indictment a death-eligible crime, and instead proceed (with the defendant's consent) via information, deprived the convicting court of the power to hear the case.

In *Alleyne v. United States*, 570 U.S. 99 (2013), this Court confirmed that when a finding of fact alters the legally prescribed punishment so as to aggravate it, the fact necessarily forms a constituent part of a separate, aggravated offense.

In the case at bar, the Government admittedly failed to charge the aggravating factors used to justify Robinson's death sentence in his indictment. Thus the separate, aggravated offense of capital murder was never charged via indictment. Per *Smith*, did the Government's violation of the Fifth Amendment's Indictment Clause deprive the convicting court of jurisdiction to hear the case and sentence Robinson to death? And does this Court's decision in *Jones v. Hendrix*, 599 U.S. 465 (2023) foreclose Robinson's ability to litigate this issue in a 28 U.S.C. § 2241 habeas petition in violation of the Suspension Clause?

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Parties to the Proceedings

The petitioner is Julius Robinson, imprisoned at the United States Penitentiary at Terre Haute, Indiana. The current warden of the facility is Brian Lammer. Prior case captions reflected T.J. Watson, who was the prior warden of the facility.

Prior Proceedings

Section 2241 Proceedings

U.S Court of Appeals for the Seventh Circuit

- *Robinson v. Lammer*, 162 F.4th 853 (7th Cir. 2025) [Pet. App. B]

U.S. District Court for the Southern District of Indiana

- *Robinson v. Watson*, S.D. IN 2:20-cv-00640-JPH-MG [Pet. App. C]

Section 2255 Proceedings

U.S. Supreme Court

- *Robinson v. United States*, 589 U.S. 1209 (2020)
- *Robinson v. United States*, 565 U.S. 827 (2011)

Fifth Circuit

- *In re Robinson*, 917 F.3d 856 (5th Cir. 2019) [Pet. App. D]
- *United States v. Robinson*, 2010 U.S. App. LEXIS 11675 (5th Cir. 2010) [Pet. App. F]

U.S. District Court

- *Robinson v. United States*, N.D. TX 4:05-CV-756-Y [Pet. App. E]

Criminal Proceedings

U.S. Supreme Court

- *Robinson v. United States*, 543 U.S. 1005 (2004)

Fifth Circuit

- *United States v. Robinson*, 367 F.3d 278 (5th Cir. 2004) [Pet. App. H]

U.S District Court

- *United States v. Julius Omar Robinson*, N.D. TX Case No. 4:00-CR-260-Y-2 [Pet. App. I]

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United States District Court Northern District of Texas, Superseding Indictment, Case No. 00-CR-0260-Y, June 19, 2001	Pet. App. J 138-176

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**PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

Julius Robinson (“Robinson” or “Petitioner”) petitions for a Writ of Certiorari to review the final order of the United States Court of Appeals for the Seventh Circuit in this case denying his appeal and affirming the judgment of the United States district court dismissing his petition for writ of habeas corpus for lack of jurisdiction.

Opinions Below

The district court dismissed the Robinson’s petition based on a lack of jurisdiction. Petitioner’s Appendix (“Pet. App.”) C at 009-028. That order was a final, appealable order, requiring no certificate of appealability. 28 U.S.C. § 2253; Fed. R. App. P. 22(b); *Bush v. Pitzer*, 133 F.3d 455, 456 (7th Cir. 1997).

Robinson filed a timely notice of appeal. In a published opinion, the Seventh Circuit affirmed, finding that 28 U.S.C. § 2255(e) as recently interpreted by this Court in *Jones v. Hendrix*, 599 U.S. 465 (2023), striped the district court of jurisdiction to consider Robinson’s petition. Pet. App. B 002-008; *Robinson v. Lammer*, 162 F.4th 853 (7th Cir. 2025). The Seventh

Circuit denied Robinson's petitioner for rehearing and rehearing en banc.

Pet. App. A 001.

Jurisdiction

The Seventh Circuit denied Robinson's petition for rehearing on March 4, 2026. Pet. App. A 001. This Court has jurisdiction under 28 U.S.C. § 1254(1).

Constitutional and Statutory Provisions Involved

28 U.S.C. § 2255(e) provides that:

An application for a writ of habeas corpus in behalf of a prisoner who is authorized to apply for relief by motion pursuant to this section, shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced him, or that such court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention

The Fifth Amendment provides, in part, that:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger;

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Statement of the Case

In a multi-count superseding indictment, Julius Robinson was charged, along with 43 other alleged co-conspirators, with various drug and weapons offenses stemming from his involvement in a wholesale marijuana and cocaine selling operation led by co-defendant Nathan Henderson. *United States v. Henderson, et. al.*, N.D. TX 00-CR-260 at Dkt. 1. Pet. App. J 138-176. In the course of this alleged criminal enterprise, three people were killed: Johnny Shelton, Juan Reyes, and Rudolfo Resendez. Robinson was accused of directly participating in the killings of both Shelton and Reyes and charged with their murders. Specifically,

- Count Three charged Robinson with violating the continuing criminal enterprise statute and the murder charge subsumed therein, 21 U.S.C. § 848 (1996), but failed to allege any of the statutory aggravating factors set forth at 21 U.S.C. § 848(n) (1996).
- Count Seven charged Robinson with causing the death of Shelton in violation of 18 U.S.C. § 924(j), but failed to allege any of the gateway intent factors in 18 U.S.C. § 3591(a) or statutory aggravating factors in 18 U.S.C. § 3592(c).
- Count 11 charged Robinson with causing the death of Reyes in violation of 18 U.S.C. § 924(j), but again failed to allege any of the

gateway intent factors in 18 U.S.C. § 3591(a) or statutory aggravating factors in 18 U.S.C. § 3592(c).

- Count 12 charged Robinson causing the death of Resendez in violation of 21 U.S.C. § 841(a)(1), but failed to allege any of the statutory aggravating factors set forth in 21 U.S.C. § 848(n) (1996)
- Count 15 charged Robinson with causing the death of Resendez in violation of 18 U.S.C. § 924(j), but again failed to allege any of the gateway intent factors in 18 U.S.C. § 3591(a) or statutory aggravating factors in 18 U.S.C. § 3592(c).

Despite the above deficiencies, the Government noticed its intent to seek the death penalty against Robinson for these five counts relating to the deaths of Shelton, Reyes, and Resendez. *Id.* at Dkt. 1222. Robinson moved to dismiss the notice based on the defective indictment, but the district court denied Robinson's motion. Pet. App. I 133-137.

Robinson was convicted of various charges including the five charges relating to the deaths of Shelton, Reyes, and Resendez. *Id.* at Dkt. 1636, 1641. Following a short penalty trial, Robinson was sentenced to death on counts three, seven, and eleven, and to life on the remaining two. *Id.* at Dkt. 1740.

On direct appeal, Robinson challenged his defective indictment. The government conceded error, but argued that it was harmless. The Fifth

Circuit found the error harmless. *United States v. Robinson*, 367 F.3d 278 (5th Cir. 2004); Pet. App. H 119-132.

Robinson challenged his convictions and sentences in a section 2255 proceeding in the Northern District of Texas. Although the government conceded Robinson's entitlement to an evidentiary hearing, the District Court summarily denied Robinson's section 2255 motion and denied him a COA. Pet. App. H 119-132. The Fifth Circuit affirmed. *United States v. Robinson*, 2010 U.S. App. LEXIS 11675 (5th Cir. 2010); Pet. App. G 073-118.

Robinson then moved to reopen his section 2255 proceedings pursuant to Federal Rule of Civil Procedure 60(b) based on a series of intervening Supreme Court decisions which called into question the District Court's prior decision to, amongst others, deny Robinson's request to amend his section 2255 motion to include his indictment claim. The district court considered the motion a second or successive section 2255 motion and transferred it to the Fifth Circuit. Pet. App. E 051-060. The Fifth Circuit held that Robinson's Rule 60(b) motion was a disguised second or successive section 2255 motion and denied it as barred by the second or successive rules. *In re Robinson*, 917 F.3d 856 (5th Cir. 2019); Pet. App. D 029-050.

Robinson then filed a section 2241 petition raising 5 claims for relief. Of relevance to this petition is claim 1 in which Robinson argued that the trial court lacked jurisdiction over the death-eligible offenses because the

superseding indictment did not charge Robinson with a capital offense. Following the Court’s decision in *Jones v. Hendrix*, 599 U.S. 465 (2023), the district court dismissed Robinson’s petition for lack of jurisdiction. Pet. App. C 009-028. Robinson appealed to the Fifth Circuit, who affirmed the district court’s judgment. *Robinson v. Lammer*, 162 F.4th 853 (7th Cir. 2025); Pet. App. B 002-008.

On December 23, 2024, President Joseph R. Biden commuted Robinson’s death sentences to sentences of life imprisonment.

Reasons for Granting the Writ

I. As the Circuits are now split on whether an indictment error is jurisdictional, the Court must clarify this issue.

Federal Rule of Criminal Procedure 7(a)(1)(A) and 7(b) makes clear that crimes punishable by death must be prosecuted by indictment. The Court interpreted the indictment requirement in the context of a capital case in *Smith v. United States*, holding that the failure to indict someone for a capital crime deprived the adjudicating court of the power to hear the case.

Smith is contrasted with this Court’s decision in *United States v. Cotton*, 535 U.S. 625 (2002). In *Cotton*, a noncapital case, the Court held that “defects in an indictment do not deprive a court of its power to adjudicate a case.” *Id.* at 630. The Court based this conclusion in part on the fact that while jurisdictional defects “require correction regardless of whether the

error was raised in district court,” “the grand jury right can be waived,” a proposition for which it cites *Smith* and Rule 7. *Cotton*, 535 U.S. at 630. But this aspect of *Smith*’s holding was limited to noncapital cases; *Smith* also holds, of course, that the grand jury right cannot be waived in capital cases. *Smith*, 360 U.S. at 9. Because its holding was premised on the waivability of the grand jury right in noncapital cases, nothing in *Cotton* undermines *Smith*’s holding that a nonwaivable defect in an indictment is jurisdictional, and therefore can be raised at any time.

Of note, however, the *Cotton* Court explained the Court had “some time ago departed from [the] view that indictment defects are ‘jurisdictional.’” *Cotton*, 535 U.S. at 631. But this statement must be considered in its proper context. In support of this finding, the *Cotton* Court relied upon *Lamar v. United States*, 240 U.S. 60 (1916) and *United States v. Williams*, 341 U.S. 58 (1951). Both *Lamar* and *Williams* rejected jurisdictional challenges based on defective indictments. *Lamar*, 240 U.S. at 64; *Williams*, 341 U.S. at 58. But both *Lamar* and *Williams* were noncapital cases, and both predated *Smith*. See *Lamar*, 240 U.S. at 64; *Williams*, 341 U.S. at 59. Because the Supreme Court decided *Smith* notwithstanding *Lamar* and *Williams*, those cases obviously did not preclude *Smith*’s holding regarding the jurisdictional nature of a nonwaivable grand jury error in a capital case.

Despite the line drawn by *Smith* and *Cotton* between capital cases with jurisdictional requirements for indictments and non-capital cases with waivable indictment requirements, courts routinely misapply *Cotton* to such an extent that a circuit split has emerged. The Fifth and Seventh Circuits, as demonstrated by their actions in this case, view *Cotton* as having overruled *Smith*, and thus find indictment errors in all cases to be non-jurisdictional. The Second Circuit, however, recognizes the *Smith-Cotton* distinction, as is evident from its analysis in *Matthews v. United States*, 622 F.3d 99 (2d Cir. 2010).

This case provides the Court a unique opportunity to clarify this issue and affirm its holding in *Smith*, while also solidifying the Suspension Clause exception the Court previewed in *Jones*.

II. Given the Circuits’ extreme response to *Jones v. Hendrix*, the Court should provide guidance on the correct application of the Suspension Clause.

As noted in the panel opinion, *Robinson v. Lammer*, 162 F.4th 853, 856 (2025), the United States Supreme Court has held that the Suspension Clause only protects the right to file a writ of habeas corpus as the writ was understood at the time the Suspension Clause was adopted. Subsequent expansions of the writ are not protected by the Suspension Clause. *Jones v. Hendrix*, 599 U.S. 465, 482-483 (2023). And while the original writ was primarily reserved for a pre-trial challenge, the Court recently acknowledged

that, historically, a post-judgment challenge could be made as to jurisdiction: “...an important exception existed in both English and American law: A habeas court could grant relief if the court of conviction lacked jurisdiction over the defendant or his offense.” *Brown v. Davenport*, 596 U.S. 118, 129 (2022). Robinson brings such a claim here.

While Robinson’s section 2241 petition was pending in the district court, this Court issued its decision in *Jones v. Hendrix*. Shortly thereafter, the district court dismissed Robinson’s petition and the Seventh Circuit summarily affirmed. But the Seventh Circuit didn’t just affirm, the 3-judge panel in Robinson’s case actually summarily overturned over 20 years of precedent, including an en banc decision, concerning the reach of section 2241 petitions notwithstanding the saving clause in section 2255(e). Pet. App. B 002-008. The Seventh Circuit’s ultimate conclusion is effectively that section 2241 no longer exists for federal inmates challenging any aspect of their convictions or sentences.

Even if the Seventh Circuit is reading *Jones* accurately, which Petitioner maintains they are not, the Court previewed the Suspension Clause as an exception to *Jones*’ limitation on the availability of section 2241 relief. The *Jones* Court considered whether barring Jones from seeking relief via § 2241 was a suspension of the writ. The Court held that because Jones’ specific claim would “extend the writ of habeas corpus far beyond its scope

when the constitution was drafted and ratified” the Suspension Clause argument fails. *Jones*, 599 U.S. at 482-83. For this proposition, the Court’s analysis was largely driven by *Ex parte Watkins*, 3 Pet. 193 (1830), which limited a reviewing court, in habeas, from looking “‘beyond the judgment’ to ‘reexamine the charges on which it was rendered’ for substantive errors of law—even ‘if ... the [sentencing] court ha[d] misconstrued the law, and ha[d] pronounced an offence to be punishable criminally, which [was] not so.’” *Jones*, 599 U.S. at 482 (quoting *Watkins*, 3 Pet. at 202). *Jones* thus leaves open, at minimum, the possibility of raising claims in section 2241 petitions that are either non-statutory or that would have been cognizable in habeas at the time the Suspension Clause was adopted.

In *Brown v. Davenport*, published just a year prior to *Jones*, the Court noted—with citation to the *Watkins* decisions’ interpretation of the very first United States habeas statute—that the right to bring a post-judgment jurisdictional claim was well established. *Brown v. Davenport*, 596 U.S. 118, 129 (2022) (Even when post-judgment writs were traditionally barred, “an important exception existed in both English and American law: A habeas court could grant relief if the court of conviction lacked jurisdiction over the defendant *or his offense*.”) (emphasis added).

Consistent with *Brown*, the *Smith* Court relied on *Ex parte Wilson*, 114 U.S. 417 (1885), for its ultimate holding that prosecutor’s information and

defendant's waiver of indictment were not binding and "did not confer power on the convicting court to hear the case." In *Wilson*, the petitioner filed a habeas petition to challenge his sentence of 15-years imprisonment based on charges brought in an information. The Court began its analysis with the principle, echoed in the *Jones* suspension of the writ discussion, that:

It is well settled by a series of decisions that this court, having no jurisdiction of criminal cases by writ of error or appeal, cannot discharge on *habeas corpus* a person imprisoned under the sentence of a circuit or district court in a criminal case, unless the sentence exceeds the jurisdiction of that court, or there is no authority to hold him under the sentence.

Id. at 420-421. The Court concluded that when the offense at issue is a capital or infamous crime, and the defendant has not been indicted for the offense, the district court exceeds its jurisdiction when sentencing the defendant for that offense. *Id.* at 429. And in this context the Court granted the petitioner's habeas petition, finding this an appropriate exercise of habeas jurisdiction.

Indeed, the Court consistently held that judgments from criminal courts could be challenged in habeas if the ultimate sentence imposed strayed outside of the court's authority. *Ex parte Lange*, 85 U.S. 163, 176 (1873) ("If a justice of the peace, having jurisdiction to fine for a misdemeanor, and with the party charged properly before him, should render a judgment that he be hung, it would simply be void. Why void? Because he had no power to render

such a judgment. So, **if a court of general jurisdiction should, on an indictment for libel, render a judgment of death, or confiscation of property, it would, for the same reason, be void.**”) (emphasis added).

* * *

While it is certainly true that between the Antiterrorism and Effective Death Penalty Act of 1996, and this Court’s jurisprudence, the writ of habeas corpus has been severely diminished. Indeed, *Jones v. Hendrix* was obviously intended to limit federal inmates’ ability to seek post-conviction review. However, Robinson presented a straightforward jurisdictional claim that relied on a Suspension Clause analysis. Despite the law being on his side, Robinson’s case was summarily denied. The district court and Seventh Circuit’s adjudication of this case displays an exaggerated response to *Jones v. Hendrix*, which is rampant amongst the circuits, that obscures federal courts’ ability to adjudicate a properly filed habeas petition. The Court should take this opportunity now to clarify the Indictment Clause and Suspension Clause analysis before the Circuit Courts further erroneously erode habeas jurisdiction.

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III. CONCLUSION

For these reasons, the Court should grant certiorari.

Respectfully submitted,

AMY KARLIN
Interim Federal Public Defender

DATED: June 2, 2026

By: s/ Jonathan C. Aminoff
Jonathan C. Aminoff*
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Deputy Federal Public Defender
Attorneys for Petitioner
**Counsel of Record*

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On Petition for a Writ of Certiorari
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for the Seventh Circuit

CERTIFICATE OF SERVICE

I, Jonathan C. Aminoff, a Deputy Federal Public Defender in the Office of the Federal Public Defender who was appointed as counsel for Petitioner under the Criminal Justice Act, 18 U.S.C. § 3006(A)(b), hereby certify that on June 2, 2026, a copy of **PETITION FOR WRIT OF CERTIORARI** was mailed postage prepaid to:

The names and addresses of those served are as follows:

Jonathan Bradshaw
Assistant United States Attorney
Colorado Bar No. 43838
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I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 2, 2026.

s/ Jonathan C. Aminoff
JONATHAN C. AMINOFF
Attorney for Petitioner
**Counsel of Record*

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for the Seventh Circuit

CERTIFICATE PURSUANT TO RULE 33

Pursuant to Rule 33.2, I hereby certify that this petition is less than 40 pages, and therefore complies with the page limit set out in Rule 33. This brief was prepared in 13-point Century Schoolbook font.

Respectfully submitted,

AMY KARLIN
Interim Federal Public Defender

DATED: June 2, 2026

By: s/ Jonathan C. Aminoff
JONATHAN C. AMINOFF
Deputy Federal Public Defender
Attorney for Petitioner
**Counsel of Record*