No. 25-________

IN THE

Supreme Court of the United States

PATRICK ALBERT BYERS, JR.

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

At petitioner's federal murder trial in 2009, Baltimore City Police Detective Wayne Jenkins testified against petitioner. A jury convicted petitioner, and the district court sentenced him to life imprisonment. After the district court's judgment was affirmed on direct appeal in 2011, petitioner moved for post-conviction relief under 28 U.S.C. § 2255, which the district court denied in 2015. Petitioner's original § 2255 motion did not raise a due process claim that Jenkins had committed perjury at trial. In 2017, Jenkins was charged in federal court with various offenses related to his widespread corruption and violent conduct as a police detective in Baltimore – what the district court in petitioner's case described as "rampant." In 2018, Jenkins was convicted and sentenced to a lengthy term of imprisonment. In 2020, a book was published providing detailed information about Jenkins' rampant corruption and perjury. In 2021, petitioner filed a Rule 60(b) motion, seeking to raise a new claim that Jenkins had committed perjury at petitioner's trial. The district court, concluding that evidence of Jenkins' rampant corruption and perjury was not known to petitioner when the court denied § 2255 relief in 2015, granted petitioner relief under Rule 60(b) and permitted petitioner to raise a perjury claim. The district court denied the perjury claim on the merits in 2022 and again, on reconsideration, in 2025. On appeal, citing *Gonzalez v. Crosby*, 545 U.S. 524 (2005), the Fourth Circuit vacated the district court's judgment for lack of jurisdiction – concluding that the district court had erred by affording petitioner relief under Rule 60(b) and holding that petitioner's perjury claim was barred by § 2255(h)'s limitation on second or successive claims.

In view of the foregoing, the question presented is:

Whether, when a member of the prosecution team concealed material information that would have supported a constitutional claim during the litigation of a defendant's initial § 2255 motion, a district court may later grant Rule 60(b) relief and permit the defendant to amend his original motion and raise the new claim on the ground that the concealment undermined the integrity of the initial § 2255 proceeding.

PARTIES TO THE PROCEEDING

The only parties to the proceeding are those two that appear in the caption of the case in this petition: (1) Patrick Albert Byers, Jr.; and (2) the United States of America. *See* Sup. Ct. R. 14.1(b)(i).

RELATED PROCEEDINGS

This case arises from the following proceedings:

- *United States v. Patrick Albert Byers, Jr.*, No. 1:08-cr-00056-RDB-1 (corresponding Civil Action No. 1:12-cv-2348), United States District Court for the District of Maryland. Judgment in the § 2255 post-conviction proceeding was entered on December 22, 2022. Petitioner's motion for partial consideration was granted in part and denied in part on July 7, 2025, which revised the court's final judgment.

- *United States v. Patrick Albert Byers, Jr.*, No. 25-6563, United States Court of Appeals for the Fourth Circuit. Judgment was entered on March 30, 2026.

There are no other proceedings in state or federal trial or appellate courts, or in this Court, directly related to this case within the meaning of this Court's Rule 14.1(b)(iii).

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ORDERS BELOW

The order of the Fourth Circuit vacating the district court's judgment for lack of jurisdiction and *sua sponte* denying petitioner authorization to file a successive § 2255 motion (**Appendix A**) is unreported but available at 2026 WL 867905. The district court's 2022 memorandum order partially granting petitioner relief under Federal Rule of Civil Procedure 60(b) (**Appendix B**) is unreported but available at 2022 WL 846260. The district court's 2022 memorandum opinion denying petitioner's amended § 2255 motion (**Appendix C**) is unreported but available at 2022 WL 17850122. The district court's 2025 memorandum opinion granting in part and denying in part petitioner's motion for reconsideration and granting petitioner a Certificate of Appealability (**Appendix D**) is unreported but available at 2025 WL 1865777.

JURISDICTION

The Fourth Circuit issued its opinion and judgment on March 30, 2026. Petitioner did not file a petition for rehearing. This petition was timely filed within 90 days of the Fourth Circuit's order. This Court thus has jurisdiction under 28 U.S.C. § 1254.[1]

STATUTORY PROVISIONS AND RULES INVOLVED

28 U.S.C. § 2244(b)(3) provides:

[1] Although 28 U.S.C. § 2244(b)(3)(E) provides that the "denial of an authorization by a court of appeals to file a second or successive application ... shall not be the subject of a petition ... for a writ of certiorari," petitioner does not seek review of the Fourth Circuit's *sua sponte* denial of authorization for a subsequent § 2255 motion. Instead, he seeks review of the Fourth Circuit's threshold ruling that Rule 60(b) did not authorize the district court to permit petitioner to raise his due process perjury claim in petitioner's original § 2255 proceeding. Section 1254 thus provides this Court with jurisdiction.

(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

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28 U.S.C. § 2255(h) provides:

A second or successive [§ 2255] motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain – (1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or (2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.

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Federal Rule of Civil Procedure 60(b) provides:

(b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

> (1) mistake, inadvertence, surprise, or excusable neglect;
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> (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
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> (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
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> (4) the judgment is void;
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> (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
>
> (6) any other reason that justifies relief.

STATEMENT OF THE CASE

A. Procedural Background

A federal grand jury charged petitioner with several offenses: two related charges under 18 U.S.C. § 1958(a) (conspiracy to use an interstate communication facility for a murder-for-hire of Carl Lackl and aiding and abetting use of interstate communication facility for a murder-for-hire of Lackl); two related charges under 18 U.S.C. § 1512(a)(1)(C) (conspiracy to murder a federal witness (Lackl) and murdering a federal witness (Lackl)); three related charges under 18 U.S.C. §§ 924(c), 924(j), and 924(o) (using a firearm in furtherance of a crime of violence, *i.e.*, murder of Lackl as charged in Counts One through Four; killing Lackl with a firearm; and conspiracy to do so); possession of a firearm by a felon, in violation of 18 U.S.C. § 922(g)(1); and using a firearm in the course of a drug-trafficking crime, in violation of 18 U.S.C. § 924(c). JA83.

In 2009, a jury convicted petitioner of the charges in Counts One through Eight but acquitted him of Count Nine. JA3194-3195. The district court imposed six life-without-parole sentences for petitioner's first six convictions; a concurrent 20-year prison sentence for his § 924(o) conviction; and a concurrent 10-year prison sentence for his § 924(g) conviction. JA52 (notation on docket sheet).

In 2011, the U.S. Court of Appeals for the Fourth Circuit affirmed petitioner's convictions and sentences on direct appeal. *United States v. Byers*, 649 F.3d 197 (4th Cir. 2011).

In 2012, petitioner filed a timely *pro se* § 2255 motion, JA64[2] (notation on docket sheet), which petitioner supplemented on February 7, 2013. JA65 (notation on docket sheet). The district court denied § 2255 relief on September 16, 2015. JA3214. On March 21, 2016, petitioner filed a *pro se* motion for discovery stating his intent to file a motion under Federal Rule of Civil Procedure 60(b). JA3262. On November 26, 2021,[3] petitioner filed a motion under Rule 60(b)(2) & (b)(6). 3266. On March 22, 2022, the district court granted petitioner partial relief under Rule 60(b)(6)[4] and ap-

[2] "JA" refers to the Joint Appendix filed in the Fourth Circuit.

[3] The motion was placed in the prison's mail system on November 22, 2021. JA3271. *See Houston v. Lack*, 487 U.S. 266 (1988) (discussing the "mailbox rule" applicable to incarcerated *pro se* litigants).

[4] Rather than rule on the merits of petitioner's 2021 Rule 60(b) motion, the district court treated a 2016 *pro se* motion for discovery filed by petitioner – in which he stated in intent to
(continued)

pointed undersigned counsel to prepare and file an amended § 2255 motion for petitioner challenging three of his eight convictions – including a perjury claim challenging petitioner's conviction of the charge in Count Eight. App. B. After the district court denied respondent's motion for reconsideration of the court's March 22, 2022 order, JA3361, petitioner filed an amended § 2255 motion, which included a subsidiary motion for leave to add additional claims – including a perjury claim that challenged all eight of petitioner's convictions. JA3367.

On December 22, 2022, the district court denied that amended § 2255 motion and motion for leave to raise new claims in part and dismissed the motions in part. App. C. On December 30, 2022, petitioner filed a motion for partial reconsideration of the court's December 22, 2022 order, which the court granted on July 7, 2025. App. D. Although the court granted the motion for reconsideration to the extent that the court permitted petitioner leave to raise a broader perjury claim that challenged all of his convictions, the court denied that amended perjury claim on the merits but did not otherwise change the court's December 22, 2022 order regarding any other claim that petitioner had raised. App. D, at 15-16. The court also granted petitioner a Certificate of Appealability concerning his amended perjury claim. App. D, at 16-19.

file a Rule 60(b) motion in the future – as a Rule 60(b) motion. App. D, at 6-7. The district court thereby denied petitioner's Rule 60(b) motion as "moot." *Id.* at 7 n.6.

On March 30, 2026, the Fourth Circuit vacated the district court's judgment for lack of jurisdiction and *sua sponte* denied petitioner authorization to file a successive § 2255 motion. App. A. The Fourth Circuit thus did not address the merits of petitioner's perjury claim.

B. Statement of the Facts

1. Evidence at Petitioner's Trial

The Fourth Circuit's opinion on direct appeal offered a detailed description of the prosecution's evidence at trial.[5] Because petitioner's perjury claim requires consideration of all the evidence introduced at trial, petitioner sets forth the Fourth Circuit's detailed discussion of the evidence related to petitioner's convictions:

> On March 4, 2006, Larry Haynes was shot and killed [in Baltimore]. Around 3:30 p.m., Baltimore Police Detective Thomas Martin was sent to the scene and recovered .40 caliber shell casings and a .40 caliber bullet nearby. Also during the investigation of the murder scene, police recovered a .40 caliber semiautomatic handgun in an adjacent alley on the 500 block of North Montford Street.
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> While he was still at the scene, Detective Martin was informed that Carl Lackl had contacted police and claimed to have witnessed the shooting. Detective Martin interviewed Lackl later that afternoon. Lackl explained that he and Connie Mays were driving along North Montford Street and stopped on the 500 block for Lackl to urinate. He stepped into an alley. Lackl then heard several gunshots, stepped out of the alley and observed a man he did not know running in Lackl's direction along North Montford Street. Lackl saw the man throw a gun onto the roof of a garage right next to an alley across the street from the alley Lackl was in. This gun was later recovered by law enforcement. ... Because police found the gun lying on the ground in the alley rather than on the roof of the garage, Detective Martin surmised that the gun simply "bounced off and landed in the alley." ... The man continued running in a northbound direction and made eye contact with Lackl as he passed him. Lackl then saw Haynes, who had been shot eight times, lying on the ground about

[5] The trial testimony appears in Volumes 1 through 6 of the Joint Appendix.

one-half block away. Lackl approached Haynes to see if he could help but left him there at the insistence of Mays. When Lackl returned home, he recounted what he had witnessed to his girlfriend Malinda Humes and told her he wanted to call the police and report the shooting. Although Humes, fearing potential retribution from the suspect, advised him not to "get involved," Lackl contacted police headquarters and met with Detective Martin. According to Detective Martin, Lackl's description of where the suspect discarded the firearm "precisely" matched the actual location where police had recovered the firearm earlier.

Fortuitously, Baltimore City Police that same day arrested Joseph Parham on unrelated drug possession charges. According to Detective Martin, Parham volunteered information about the Haynes murder, explaining that he also had been on North Montford Street earlier that day and had observed a person he knew only as "Pat" arguing with Haynes. Parham was standing close by when he heard gunshots and then saw Pat shoot Haynes. Parham, who lived on North Montford Street, knew both Pat and Haynes from his neighborhood and knew Haynes dealt drugs in that area. Moreover, Parham told Detective Martin that this was not the first North Montford Street shooting in which Pat had been involved. Parham did not know Pat's full name, but he knew that Pat previously had "shot a car wash guy in the 500 block of Montford" about "a half block from where ... Haynes was murdered." ... Detective Martin then consulted police records to find out who "Pat" was and found the file on the 2004 shooting of [Carlile] Coleman on the 500 block of North Montford Street. Detective Martin learned that, as Parham had suggested, a suspect named "Pat" – Patrick Byers – had been arrested for shooting Coleman. Police records contained a photograph of Byers, which Detective Martin then used in compiling a photo array of "suspects" in the Haynes shooting, containing photographs of Byers and six other individuals. Parham identified Byers from this array as the person who shot Haynes.

Having obtained Byers's name and photograph from the Coleman file, Detective Martin took a similar photo array to Lackl's home. Lackl identified Byers as the man he saw running from the area where Haynes was shot. According to Detective Martin, Lackl's identification "seemed very certain." ... Lackl then wrote, "I Carl Lackl believe that ... the person I picked out is the person that threw the gun onto the roof of the garage," and signed his name. ...

Based on the identifications by Parham and Lackl, Detective Martin arrested Pat Byers for shooting Haynes and charged him with first degree murder. Byers admitted that he and his associates were involved in the sale of heroin in the North Montford Street area. Byers further admitted having been in the North Montford Street area around the time of the shooting to check on his drug sales for the day. Byers also conceded that he knew Haynes and that he believed Haynes had recently shot and killed Byers's cousins. Nevertheless, Byers claimed that there were no problems between him and Haynes. Detective Martin did not reveal that police had already recovered the gun, but Byers volunteered that he had hidden a gun near a garage on North Montford Street and that he had intended to turn it over to an "Officer Kevin" in exchange for having drug charges against him dropped.

As Byers's trial for the Haynes murder approached, Parham began to express reluctance to testify. In April 2007, with trial scheduled for July 10, 2007, Parham recanted his identification of Byers and claimed that he fabricated the entire story. Thus, Lackl became the sole eyewitness in the Haynes murder case.

On July 2, 2007, with trial scheduled to begin in one week, Lackl was shot to death in front of his home on Philadelphia Road. Lackl had been trying to sell his used Cadillac and had received a call that evening from someone claiming to be interested in buying the car. The caller indicated he was in the area, so Lackl went outside and waited with his young daughters in front of his house. When a car subsequently stopped in front of his house, Lackl approached. Before he reached the car, however, an occupant sitting in the front passenger seat shot Lackl three times and killed him.

Baltimore County police officers were dispatched to Lackl's home to investigate the shooting and learned that Lackl had been expected to testify the following week in a state murder trial at which Byers would be facing a first-degree murder charge. Byers was in state custody when Lackl was killed.

Investigating officers traced phone calls coming into Lackl's residence on the day of the murder (including calls just minutes before the murder) to a cell phone owned by Marcus Pearson. Ultimately, Pearson cooperated and admitted his role in Lackl's murder. According to Pearson, in June 2007, Goodman offered Pearson $2500 to kill Lackl for Byers, explaining that Byers was facing trial on murder charges and needed to eliminate Lackl as a witness. Pearson agreed to "take care of it" and called Byers, who had a contraband cell phone with him in jail, to verify the $2500 offer for Lackl's murder. ... The government introduced evidence seized from Byers's jail cell shortly after the murder, including documents containing Lackl's home address. Pearson testified that Goodman gave him this same address as well as Lackl's phone number. Goodman also informed Pearson that Lackl was selling a used Cadillac, information Pearson used to lure Lackl out of his house.

Rather than commit the murder himself, Pearson, a member of the "Bloods" street gang, recruited Jonathan Cornish, a young gang member known as a "baby gangsta," to do the actual shooting. As a "baby gangsta," Cornish was obligated to perform the murder for free.

On the day of the murder, Pearson supplied Cornish with a handgun and directed Cornish and Michael Randle, also a member of the Bloods, to follow Pearson and Tammy Graham, Pearson's girlfriend, to Lackl's house. Graham knew nothing about the murder-for-hire scheme; Pearson simply told her to drive down Philadelphia Road so that he could look at a car that was for sale. On the way, Pearson intended to use a "burner" phone that he had acquired solely for the purpose of making an untraceable call to Lackl before the murder. Pearson told Lackl on the phone that he was interested in the Cadillac, that he was nearby, and that Lackl should wait for him outside. As they drove by Lackl's house without stopping, Pearson and Graham saw Lackl standing by his car in the front yard. Cornish and Randle also passed by initially but then returned. As Cornish and Randle came to a stop, Lackl approached the front passenger window where Cornish was sitting. Cornish shot Lackl twice while he was standing and a third time after he fell to the ground. Moments after killing Lackl, Cornish called Pearson and reported that he had finished the job. In turn, Pearson immediately called Byers and reported that Lackl was dead; Byers then indicated that other prisoners wanted to have witnesses eliminated as well. Pearson disposed of the burner phone on the way home; however, he had mistakenly used his personal cell phone to make the call to Lackl, and that phone call eventually led police to him.

Within 15 minutes of the shooting, Pearson called Goodman's cell phone to set up a time and place for him to collect payment for killing Lackl. Graham drove Pearson to meet Goodman on the way home, although she was unaware of the purpose of the meeting. Pearson met with Goodman in Goodman's black Thunderbird, and Goodman paid $2200, $300 less than promised. Pearson paid Cornish and Randle $100 each and later took Graham for a night at the Baltimore Inner Harbor Marriott hotel. Graham also testified at trial, corroborating much of Pearson's story. Specifically, she testified that on the day of the murder, Graham agreed to drive Pearson to Philadelphia Road to look at a car for sale. She confirmed that Cornish and another individual followed her and Pearson to Philadelphia Road; that Pearson made a phone call in transit asking for Lackl to come outside; that she did not stop and the car following them made a U-turn back to Lackl's house; and that they stopped shortly after driving down Philadelphia Road and Pearson got into Goodman's car.

Cornish also cooperated with the government and testified at trial, confirming basic details about the murder presented through Pearson's testimony. Cornish further admitted that he was the triggerman who shot Lackl.

The government introduced numerous summaries of calling records obtained by investigators for cell phones recovered from Pearson, Goodman, and Cornish, and for the phone number linked to Byers's contraband cell phone. Although Byers's phone was not recovered, Pearson identified its number, and records established frequent calls from that number to members of Byers's family and to Byers's girlfriends. Phone records reflected calls between all of these phones on the day of the murder. The heaviest contact occurred between the Goodman and Byers cell phones, which made 12 "direct connect" contacts on the day of the murder; the evidence also established numerous contacts in the month before the murder. Likewise, phone records showed several July 2 calls between Pearson's phone and Byers's phone, as well as calls between Pearson and Goodman mere moments before and after Lackl was shot.

Goodman was arrested on September 5, 2007, and officers recovered the cell phone that he had used to communicate with Byers before and after the murder. Goodman was questioned at Baltimore County Police headquarters for more than 6 hours about his involvement in the Lackl murder, but Goodman maintained his innocence. ...

As noted previously, the government presented evidence that Byers arranged for Lackl's murder because of Lackl's expected trial testimony identifying Byers as the individual Lackl saw running with a gun from the scene of the murder of Haynes. Byers countered the government's motive evidence by eliciting testimony that undermined the strength and reliability of Lackl's photographic identification. The defendants highlighted Lackl's habitual drug use during the time that he witnessed the shooting of Haynes; established through cross-examination of Detective Martin that DNA linked to Quinten Hogan, a gang member who lived near the location of the Haynes murder, was found inside the gun that Lackl saw Byers discard; and questioned Detective Martin about the failure of investigators to submit a photographic lineup to witnesses who were in a store on the corner where Haynes was shot.

> In response, the government moved to introduce under Federal Rule of Evidence 404(b) evidence about the 2004 shooting of Carlile Coleman on North Montford Street within a block of where Haynes was killed. Over the objections of defense counsel, the district court permitted the government to present evidence that Coleman survived the shooting and later identified Byers from a photographic lineup as the person who shot him over the drug dispute. The government also presented evidence suggesting that Byers was an established drug dealer in the North Montford Street/Jefferson Street area and that Byers shot Coleman and killed Haynes – himself a drug dealer – to protect Byers's "turf."
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> Baltimore City Police Detective Wayne Jenkins testified that he was assigned to the narcotics unit in 2006 and worked the North Montford/Jefferson Street area on a daily basis. Detective Jenkins knew Byers as an informant and daily saw Byers near the garage on North Montford Street where Lackl indicated the handgun had been thrown after the Haynes murder. Moreover, Detective Jenkins noted that there was significant drug traffic at the corner of North Montford and Jefferson where Haynes was killed, and, based on his training, information gleaned from numerous prior narcotics investigations in that area, and personal observation, Jenkins believed "that was [Byers's] intersection, that was his corner . . . [h]is street shop." Trial Transcript, Nov. 16, 2009, at 116. Although Detective Jenkins had never personally witnessed Byers making a sale, he saw Byers routinely standing at his corner conversing with drug dealers "all day long." *Id.* at 118.
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> Finally, Detective Jenkins testified that drug dealers routinely engaged in territorial disputes and fought over street corners that served as distribution points. Detective Jenkins concluded that Byers was giving him information in an attempt to eliminate the competition from rival dealers – Byers supplied Detective Jenkins with tips about drugs being sold in the general area but never gave him information about drug sales at the corner of North Montford and Jefferson.

United States v. Byers, 649 F.3d 197, 201-06 (4th Cir. 2011).

The district court's 2015 order denying petitioner's original section 2255 motion summarized petitioner's defense at trial (referring to petitioner as "Petitioner"):

The Defense's Case

A. Cross-Examination of Marcus Pearson

Due to the numerous statements and explanations provided by Pearson to investigators, defense counsel undertook a lengthy cross-examination of Pearson at trial. The full extent of the topics covered by Petitioner's counsel are too lengthy to fully recite here, but they included a potential dispute between Pearson and Byers over a woman and a recorded statement by Pearson suggesting that he wanted Petitioner to remain in jail.

B. Evidence that Lackl Was an Unreliable Witness

Petitioner's counsel also attempted to characterize Lackl's identification as unreliable. In particular, counsel repeatedly offered evidence that characterized Lackl as an unreliable drug addict. Detective Martin acknowledged that Lackl had a heroin problem. Apr. 6, 2009 Tr. at 170. Additionally, Lackl only made eye contact with the shooter for "a second" according to Detective Martin's recount of Lackl's statement. *Id.* at 151.

C. Attacks on the Haynes Murder Investigation

Defense counsel also attacked the quality of the investigation into the Haynes murder. Primarily through the cross-examination of Detective Martin, counsel was able to illustrate that Lackl's account of the murder was inconsistent with those of other eyewitnesses in several respects. In particular, Ms. Cheryl Rookstool, who had seen the shooter, did not identify Byers as the shooter. Another witness suggested that the shooter had run in a different direction than Lackl claimed. Defense counsel also used video footage from the nearby corner store and the outdoor police camera to suggest that Byers was not the shooter.

The cross-examination of Detective Martin revealed several other facts. First, investigators discovered the DNA of Quinten Hogan on the magazine of the Haynes murder weapon in July 2008. Second, trial counsel demonstrated that Detective Martin was distracted throughout the investigation, due to a heavy case load. Apr. 6, 2009 Tr. at 96-97. Detective Martin failed to record the March 20, 2006 interview with Byers (meaning that Detective Martin's memory served as the only record of that conversation), *id.* at 98, and also failed to follow up with several witnesses, *id.* at 203-09; Apr. 7, 2009 Tr. at 46-47. Detective Martin also testified that Petitioner was eager to talk and cooperative, and that Petitioner lived nearby – thereby establishing an innocent reason for

> him to have been in the neighborhood. Apr. 6, 2009 Tr. at 101-03. Detective Martin testified that it was not uncommon for officers to trade guns for charges (as did Detective Jenkins). Additionally, Detective Martin testified that Haynes had a long record and had many enemies. Counsel also suggested that Haynes had a gang affiliation and demonstrated that Hogan, whose DNA was found on the gun, lived nearby and had possible gang affiliation. Apr. 7, 2009 Tr. at 61.
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> **D. Testimony of Cheryl Rookstool**
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> Counsel also elicited the testimony of Cheryl Rookstool. See Apr. 13, 2009 Tr. at 7. Rookstool was standing inside a nearby corner store at the time Haynes was murdered. Soon after the murder she provided investigators with a description of the shooter, yet police investigators never showed her a photo array. *See id.* at 16:20-22. On cross-examination, Petitioner's counsel established that Ms. Rookstool was able to see the shooter's face clearly and that she knew Petitioner from being around the neighborhood. *Id.* at 24:1-6, 26:23-24. Rookstool specifically testified that Byers was not the shooter. *Id.* at 28:4-5
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> **E. Testimony of Darrell Briggs**
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> Defense counsel called Darrell Briggs. Briggs testified that Hogan was a drug dealer in the Montford and Jefferson neighborhoods. Apr. 13, 2009 Tr. at 226-35. Briggs also identified Hogan as "putting up" a "gang member sign." *Id*. at 235:7-10.
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> **F. Alibi for the Coleman Shooting**
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> Defense counsel called Vonda Cole, a relative of Petitioner, who testified that Petitioner was at the North Avenue Maryland District Courthouse just before the Coleman shooting. This testimony was corroborated by court records.

JA3232-3235.

2. Petitioner's Post-Conviction Perjury Claim

In his Rule 60(b) motion, petitioner alleged that disgraced former Baltimore City Police Officer Wayne Jenkins gave perjured testimony at petitioner's trial. JA3266. The district court itself cited the growing evidence of the unprecedented level of "corruption" and lawlessness by Jenkins when he was a police detective for Baltimore City – including Jenkins' "rampant perjury" in other cases. App. B, at 7; App. C, at 7.

With the assistance of undersigned appointed counsel, petitioner raised a perjury claim that challenged all his convictions, which was supported by a declaration from petitioner. JA3380-3387, JA3394-3397. Petitioner requested an evidentiary hearing so that Jenkins could be called as a witness. JA3390.

After refusing to conduct an evidentiary hearing, the district court denied the perjury claim on the merits. The court stated that:

> To obtain collateral relief based on claims of perjury, the movant must demonstrate "(1) that the testimony at issue was false; (2) that the prosecution knew or should have known of the falsity; and (3) that a reasonable probability exists that the false testimony may have affected the verdict." *United States v. Basham*, 789 F.3d 358, 376 (4th Cir. 2015). ... As this Court reasoned in its prior decision, Jenkins' testimony largely consisted of "circumstantial evidence of motive – namely, that Byers was involved in the drug trade and that he was responsible for the Haynes murder," but the prosecution presented significant additional evidence of Byers' guilt. (ECF No. 562 at 19 (citing *Byers v. United States*, Crim No. RDB-08-56, Civ. No. RDB-12-2348, 2015 WL 5450179, at *4 (D. Md. Sept. 16, 2015).) As this Court explained in its prior decision, "[t]his Court and the Fourth Circuit have consistently found alleged perjury harmless when substantial corroborating evidence gave the jury ample grounds to convict." (ECF No. 562 at 16.) In this case, this Court and the Fourth Circuit have determined that the prosecution presented significant evidence of Byers' guilt at trial. *See Byers*, 649 F.3d at 204 (summarizing evidence); *accord Byers*, 2015 WL 5450179, at *4-*5.

App. D, at 15-16.

However, as the district court also recognized, the prosecution relied on Jenkins' testimony as part of its evidence of petitioner's alleged motive to kill Lackl (i.e., petitioner's alleged desire to stop Lackl from testifying against petitioner at his trial for the Haynes murder charge):

> The Government used Jenkins' testimony both in relation to the firearm possession charge in Count Eight *and* to provide additional circumstantial evidence of Byers' motive for Lackl's murder, which undergirded the charges in Counts One, Two, Three, Four, Five, Six, and Seven. *See* (ECF No. 95). Jenkins testified that: (1) he knew Byers as an informant whom he met in person to discuss narcotics transactions approximately ten-to-fifteen times; (2) he spoke to Byers on the telephone numerous times each week; (3) he saw Byers in the area where Haynes was murdered; (4) Byers sold narcotics in the area where Jenkins frequently saw him; (5) Byers called him to report Haynes' murder and provide details, including descriptions of the shooter; (6) Haynes' murder was the only time Byers informed him about a violent crime; (7) Byers met with him in person on the day of Haynes' murder to report what he had heard about the murder; (8) Byers seemed abnormally nervous during their meeting about Haynes' murder; (9) before Byers was arrested for Haynes' murder, he was evading police because he feared arrest for the murder; (10) he attempted to help arrest Byers by assuring him over the phone that detectives only wanted to speak to him; (11) Byers' grandmother called Jenkins two or three times; and, (12) he did not make a police report or take notes when Byers reported Haynes' murder because he believed that Byers was not being truthful and instead sought to use Jenkins to legitimize his claim of his innocence. (ECF No. 380 at 110-149, 153-160, 165-172.)
>
> The substance of this testimony exceeded evidence related to Count Eight and provided further support for the Government's theory that Byers orchestrated Lackl's death. Jenkins' description of Byers' apparently abnormal behavior – his decision to report a violent crime, nervousness, and fear that he would be arrested – provided a factual basis for the jury to believe that Byers had been involved in Haynes' murder. This factual basis, in turn, supported the Government's theory that Byers coordinated Lackl's murder to prevent Lackl from testifying against him in his state trial for Haynes' murder. The prosecutor explicitly drew this logical connection for the jury in his closing, when he urged jurors to think about Jenkins' testimony when considering "why . . . Mr.

> Byers ha[d] to worry about Mr. Lackl[.]"[6] (ECF No. 391 at 43-46.) Similarly, during rebuttal argument, the prosecutor expressly used Jenkins' testimony to undermine the credibility of the defense's witnesses and theory of the case. (ECF No. 392 at 8-9, 20-21.)

App. D, at 12-14.

Although the district court denied the amended perjury claim, the court held that the claim was reasonably debatable and, thus, warranted a Certificate of Appealability:

> In this case, Byers has shown that reasonable jurists may debate whether his constitutional due process rights were violated based on his perjury argument. Byers asserts that an evidentiary hearing is required to fully address his perjury claims, see (ECF No. 566 at 3), and reasonable jurists may agree based on Jenkins' widely publicized misconduct as a police officer. ... Certain evidence adduced at trial – including Jenkins' admission that neither he nor his partner took notes, reported to the homicide unit, or made a police report about Byers' description of Haynes' murder despite speaking with Byers on the phone and meeting with him in person – may support further investigation of Byers' allegations regarding Jenkins. Byers also emphasizes that he filed "a sworn declaration (ECF No. 544) contending that Jenkins had testified falsely." (ECF No. 566 at 3); *see also* (ECF No. 544-1).

App. D, at 18 (including footnote 11 in the court's opinion).

On petitioner's appeal of the district court's 2022 and 2025 orders, petitioner's opening brief contended that the district court erred by denying petitioner an evidentiary hearing on his amended perjury claim and also contended that the district court had applied an incorrect "materiality" standard (in conflict with *Glossip v. Oklahoma*,

[6] [District court opinion's footnote 8:] "Additionally, before the case proceeded to trial, the Court denied Byers' request to sever the conduct charged in Count Eight because that conduct was relevant to his motive for Lackl's murder. (ECF No. 168 at 1-5.) This further supports that Jenkins' testimony as to Count Eight was relevant to Byers' motive to coordinate the murder of Lackl."

604 U.S. 226, 246 (2025)). *See* Opening Brief for Appellant (No. 25-6563), 2025 WL 2438032, *19-*26 (filed Aug. 18, 2025). Citing *Gonzalez v. Crosby*, 545 U.S. 524 (2005), respondent's brief contended that the Fourth Circuit should reject petitioner's appeal on the ground that the district court erred by granting petitioner Rule 60(b) relief and allowing him to raise his perjury claim. Response Brief of Appellee United States of America (No. 25-6563), 2025 WL 3202728, at *23-*26 (filed Nov. 8, 2025).

Petitioner's reply brief argued that *Gonzalez v. Crosby* was not controlling because a member of the prosecution team (Jenkins) had concealed evidence relevant to the perjury claim and such evidence did not become available to petitioner until after petitioner's original § 2255 was denied in 2015. In support of his argument, petitioner cited the Tenth Circuit's decision in *In re Pickard*, 681 F.3d 1201, 1205-07 (10th Cir. 2010) (concluding that the district court had authority to grant Rule 60(b) relief to a defendant after the court had denied the defendant's original § 2255 motion if the court found that the government had concealed favorable evidence relevant to the defendant's § 2255 prosecutorial misconduct claim because such concealment would relate to the "integrity" of the § 2255 proceeding). Reply Brief of Appellant (No. 25-6563), 2025 WL 3216357, at *2-*5 (Nov. 12, 2025).

The Fourth Circuit agreed with the government and vacated the district court's judgment for lack of jurisdiction:

> … [W]e have carefully reviewed the record on appeal and conclude that, notwithstanding the well-seasoned district judge's Rule 60(b) characterization, Byers's 2016 Motion was actually a second or successive 28 U.S.C. § 2255 motion. Pursuant to the 2016 Motion, Byers sought to collaterally attack his 2009 conviction …. And that collateral attack was

> undertaken by Byers in spite of the fact that the district court had already adversely adjudicated his first § 2255 motion on the merits in September 2015. *See Gonzalez v. Crosby*, 545 U.S. 524, 534 (2005) (recognizing "that a Rule 60(b) motion that seeks to revisit the federal court's denial on the merits of a claim for relief should be treated as a successive habeas petition").
>
> In these circumstances, however, because Byers did not first obtain authorization from our Court to file a second or successive § 2255 motion, the district court necessarily lacked jurisdiction to consider the 2016 Motion. *See United States v. Winestock*, 340 F.3d 200, 205 (4th Cir. 2003), *abrogated on other grounds*, *United States v. McRae*, 793 F.3d 392 (4th Cir. 2015).* We thus "vacate the [court's] order[s] denying [Byers's 2016 Motion] and remand to the district court with [directions] to dismiss the [M]otion." Id. at 208.
>
> Furthermore, consistent with our *Winestock* precedent, we hereby construe Byers's notice of appeal and appellate brief as an application to file a second or successive § 2255 motion. And upon consideration thereof, we readily conclude that Byers's claims fail to satisfy the relevant and applicable legal standard. *See* 28 U.S.C. § 2255(h). Pursuant to the foregoing, we are satisfied to vacate the district court's orders denying Byers's 2016 Motion, and we remand with directions for the court to dismiss the 2016 Motion for lack of jurisdiction. See Winestock, 340 F.3d at 209. We are otherwise content to deny authorization for Byers to file a second or successive § 2255 motion.

App. A, at 2-3.

REASONS FOR GRANTING THE PETITION

This Court Should Grant Certiorari to Resolve the Conflict Between the Fourth and Tenth Circuits Concerning the Application of Rule 60(b) to a § 2255 Claim Based on Relevant Evidence Concealed by the Government Until After the Denial of the Initial § 2255 Motion.

This Court should grant certiorari and resolve the conflict between the Fourth and Tenth Circuits concerning whether this Court's decision in *Gonzalez v. Crosby* forecloses Rule 60(b) relief in a § 2255 proceeding when the basis for that relief is newly discovered evidence concealed by a member of the prosecution team at the time that the district court denied the initial § 2255 motion. Petitioner's original § 2255 motion did not include a due-process perjury claim alleging false testimony at his trial by then-Detective Jenkins. At the time that the district court denied that original motion in 2015, Jenkins was still a member of the Baltimore City Police Department and had not yet been exposed as a corrupt officer who repeatedly had perjured himself in criminal cases. Such public exposure occurred only thereafter – when the U.S. Attorney's Office in Baltimore prosecuted Jenkins for his rampant corruption in 2017 and 2018. On that basis, the district court granted petitioner Rule 60(b) relief and allowed him to file an amended § 2255 motion raising the perjury claim. App. B, at 6-7; App. D, at 10-15. However, citing this Court's decision in *Gonzalez v. Crosby*, the Fourth Circuit concluded that the district court had erred by granting petitioner Rule 60(b) relief and held that petitioner's amended § 2255 motion was barred as a "second or successive" motion under § 2255(h). App. A, at 2.

Although this Court in *Gonzalez* held that ordinarily a Rule 60(b) motion cannot circumvent the limits on a "second or successive" § 2255 motion in which a defendant seeks to raise a new claim, *Gonzalez*, 545 U.S. at 530-31, this Court did not create a *per se* rule barring any and all new claims from being raised after a district court has granted relief under Rule 60(b). Instead, this Court held that "[i]n *most cases*, determining whether a Rule 60(b) motion advances one or more [impermissible] 'claims' will be relatively simple," yet this Court also recognized that the general rule against raising new claims in a § 2255 case based on Rule 60(b) relief is not invariably applicable. *Id.* at 532 (emphasis added). In particular, this Court in *Gonzalez* stated that Rule 60(b) relief may be appropriate "[w]hen a Rule 60(b) motion attacks, not the substance of the federal court's resolution of a claim on the merits, but some defect in the integrity of the federal habeas proceedings." *Id.* at 532.

If petitioner's § 2255 proceedings had occurred in the Tenth Circuit, he would have been permitted to raise the perjury claim under Rule 60(b) because the evidence concealed by Jenkins not only supported a perjury claim but also implicated the "integrity" of the initial § 2255 proceedings. *See In re Pickard*, 681 F.3d at 1206. In *Pickard*, the Tenth Circuit held that, if a federal defendant could prove concealment of evidence supporting a prosecutorial misconduct claim during the original § 2255 proceedings by the government, Rule 60(b) would entitle the defendant to raise a claim for relief based on the concealed evidence – even if the new claim would lead to § 2255 relief. *See id.* at 1206 (rejecting the argument that a "motion is an improper Rule 60(b) motion if success on the motion would ultimately lead to a claim for relief under § 2255"). The Tenth Circuit rhetorically asked:

> What else could be the purpose of a 60(b) motion? The movant is always seeking in the end to obtain § 2255 relief. The movant in a true Rule 60(b) motion is simply asserting that he did not get a fair shot in the original § 2255 proceeding because its integrity was marred by a flaw that must be repaired in further proceedings.

Id. at 1206. The Tenth Circuit concluded that "a Rule 60(b) motion is actually a[n] [improper] second-or-successive petition [only] if the success of the motion depends on a determination that the court had incorrectly ruled on the merits in the [original § 2255] habeas proceeding." *Id.* Regarding the claim raised by the defendant in *Pickard*, the court held that:

> In our view, the matter should be heard by the district court because Defendants' claim challenges the integrity of the § 2255 proceedings and is therefore properly presented under Rule 60(b). To be sure, this claim is closely related to the [prosecutorial misconduct] claim raised in the original § 2255 proceeding. But the claim is a distinct one. To recapitulate: The claim raised in the § 2255 proceedings is that the prosecution violated its [constitutional] duties at trial. In contrast, the claim in the Rule 60(b) motion is that the prosecutor committed fraud in the § 2255 proceedings that prevented Defendants from obtaining discovery to establish their § 2255 claims. If we assume the truth of Defendants' allegations, as we must at this juncture, then Defendants have stated a proper Rule 60(b) motion.

Id. at 1205-06.

The district court in petitioner's case concluded that petitioner's request for Rule 60(b) relief was not an ordinary attempt to raise a new claim that was simply omitted from petitioner's original *pro se* § 2255 motion (which would be prohibited by *Gonzalez v. Crosby*). Instead, the court concluded, relief under Rule 60(b) was required because of "unique" and "extraordinary" circumstances that did not relate to petitioner's own conduct in litigating his original *pro se* § 2255 motion. App. B, at 6-7; App. C, at 7. The court pointed to the fact that, at the time that petitioner litigated his *pro se* § 2255 motion, he could not have known about Jenkins' record of "corruption" and "rampant" perjury in criminal cases that subsequently was uncovered *by the government* in its investigation and criminal prosecution of Jenkins in 2017 and 2018. App. B, at 7; App. C, at 7. That is, the district court believed that the misconduct of a member of the prosecution team in this case (Jenkins)[7] – which had not been

[7] Jenkins, a law enforcement officer called as a witness by the prosecution at petitioner's trial, was a member of the "prosecution team" in petitioner's federal criminal case. *See Boyd v. French*, 147 F.3d 319, 329 (4th Cir. 1998); *Schneider v. Estelle*, 552 F.2d 593, 595 (5th Cir. 1977).

disclosed at the time of petitioner's *pro se* filings – warranted an extraordinary exercise of the court's equitable discretion to reopen the original § 2255 proceedings under Rule 60(b) and permit petitioner to raise a perjury claim.

The district court's reasoning was consistent with the Tenth Circuit's decision in *Pickard*[8] and also this Court's decision in *Banks v. Dretke*, 540 U.S. 668, 698 (2004) (state's suppression of evidence of witness's informant status constituted "cause" for federal habeas petitioner's failure to present such evidence in support of his prosecutorial misconduct claim during the state post-conviction proceeding, for the purpose of determining whether he was entitled to present that evidence in support of the same claim in federal court). It would be fundamentally unfair to foreclose petitioner from reopening his original *pro se* original § 2255 proceedings when a member of the prosecution team, Jenkins, concealed evidence of his own rampant misconduct and pattern of perjury in criminal cases and such evidence was not made known to petitioner until after his original § 2255 was denied in 2015.

Therefore, the Fourth Circuit erred by concluding that the district court lacked jurisdiction to reopen petitioner's initial § 2255 proceedings under Rule 60(b) and permit petitioner to raise a perjury claim based on Jenkins' testimony at petitioner's

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[8] Although petitioner (unlike the defendant in *Pickard*) is not alleging that a *prosecutor* concealed evidence in the initial § 2255 proceedings, petitioner does assert that a member of the prosecution team – then-Detective Jenkins – concealed evidence of his own rampant corruption and extensive record of perjury in other cases until such evidence was revealed during his own criminal prosecution in 2017 and 2018. The result under Rule 60(b) should be the same regardless of whether the improper concealment was done by a prosecutor or, instead, by a law enforcement officer who was a member of the prosecution team. *Cf. Kyles v. Whitley*, 514 U.S. 419, 438-39 (1995) (suppression of favorable evidence by police attributable to prosecutors); *Boyd*, 147 F.3d at 329 (perjury by law enforcement officer attributable to prosecutors).

trial. Because petitioner's perjury claim was not raised in a "second or successive" § 2255 motion, the district court possessed jurisdiction to rule on the merits of that claim.

CONCLUSION

The Court should grant certiorari, vacate the Fourth Circuit's judgment, and remand with instructions to address the merits of petitioner's perjury claim rather than treat the claim as arising in a second or successive § 2255 proceeding.

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Respectfully submitted,

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