

No. _____

In the
Supreme Court of the United States

MICHAEL SHANE RAGLAND,

Applicant,

v.

UNITED STATES OF AMERICA,

Respondent.

**APPLICATION DIRECTED TO THE HONORABLE CLARENCE THOMAS
FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE A PETITION
FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT
OF APPEALS FOR THE ELEVENTH CIRCUIT**

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TO THE HONORABLE CLARENCE THOMAS, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE ELEVENTH CIRCUIT:

Pursuant to 28 U.S.C. § 2101(c) and Supreme Court Rules 13.5, 22, and 30.3, Applicant Michael Ragland respectfully requests a 60-day extension of time, up to and including August 3, 2026, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case. On June 24, 2025, the Eleventh Circuit issued its initial panel decision, which is unreported but available at 2025 WL 1742251. On March 5, 2026, the Eleventh Circuit issued its decision on panel rehearing, which vacated in part and reinstated in part its prior panel decision. The Eleventh Circuit's decision on panel rehearing is reported at 168 F.4th 1345 (11th Cir. 2026) ("Op."). See Attachment 1. Currently, a petition for a writ of certiorari would be due on June 3, 2026. This application is filed at least 10 days before the date a petition would be due. See Sup. Ct. R. 13.5. This Court has jurisdiction under 28 U.S.C. § 1254(1) to review the decision in this case.

This case presents an ideal vehicle to resolve an entrenched circuit split on an important and recurring question of federal habeas law: whether the district court's jurisdiction over a second or successive habeas application is limited to the specific "claim" certified by the court of appeals, as the Eleventh Circuit holds, or whether it embraces the entire "application," as the statute's text provides and as the Fourth and Seventh Circuits hold. 28 U.S.C. §§ 2244, 2255(h).

Before a federal prisoner can seek relief in a second or successive habeas petition in the district court, he must move in "the appropriate court of appeals," *id.*

§ 2255(h), for “an order authorizing the district court to consider [his] application,” *id.* § 2244(b)(3)(A). The court of appeals grants that authorization if the petitioner makes “a prima facie showing” that his “application” “contain[s]” either newly discovered evidence or a new rule of constitutional law made retroactive to cases on collateral review by this Court. *Id.* §§ 2244(b)(3)(C), 2255(h). Once the court of appeals certifies that these gatekeeping requirements are met, the statute permits the district court to consider the habeas petitioner’s entire “application.” *Id.* § 2244(b)(3).

Contrary to the statute’s plain meaning, the Eleventh Circuit held below that Section 2255(h) requires appellate certification for each *claim* an applicant seeks to bring, and thus a court of appeals’ certification order permanently fixes “the boundaries of the district court’s jurisdiction.” Op. 18. Consequently, the Eleventh Circuit held, a district court is jurisdictionally barred from considering amendments under Federal Rule of Civil Procedure 15(a) to second or successive Section 2255 applications. *Id.*

The Eleventh Circuit’s rule breaks sharply with the rule adopted expressly by the Fourth and Seventh Circuits, and endorsed as well by the First and Ninth Circuits. The Fourth and Seventh Circuits squarely hold that a court of appeals’ authorization to file a second or successive Section 2255 application runs to “the application” as a whole, rather than to individual claims, thereby allowing an applicant to later amend a Section 2255 application in subsequent district court proceedings. *United States v. MacDonald*, 641 F.3d 596, 615 (4th Cir. 2011); *Reyes v.*

United States, 998 F.3d 753, 760 (7th Cir. 2021). The First and Ninth Circuits have likewise held that a district court has jurisdiction to review individual claims that have not been specifically certified by the court of appeals. *See* Corrected Judgment, *Goodridge v. United States*, No. 16-1219 (1st Cir. July 29, 2016); *Nevius v. McDaniel*, 104 F.3d 1120, 1121 (9th Cir. 1996). In these circuits, a district court can consider an amendment to a pending, authorized second or successive Section 2255 application “when justice so requires,” under Rule 15(a)(2). Fed. R. Civ. P. 15(a)(2); *see, e.g., Reyes*, 998 F.3d at 761. Thus, as the Eleventh Circuit recognized, its decision in this case cemented a “circuit split.” Op. 3.

This Court’s review is needed to correct the Eleventh Circuit’s atextual approach and ensure the uniform application of federal law. Congress deliberately distinguished between a court of appeals’ authorization to file an “application” for relief and the movant’s presentation of “claims” in the district courts, making clear that the court of appeals does not need to certify each and every claim a movant intends to raise to justify habeas relief. And the question Mr. Ragland intends to present is recurring and important. This entrenched circuit split has produced, and will continue to produce, divergent outcomes for federal prisoners in different jurisdictions. The Eleventh Circuit’s unsparing rule, moreover, penalizes indigent litigants, like Mr. Ragland, who typically must move *pro se* in the court of appeals for permission to file a second or successive application. Those litigants may lack access to counsel until well *after* the court of appeals grants permission, but by that point,

it is too late: The Eleventh Circuit’s rule blocks appointed counsel from adding new grounds for relief.

An extension of time is warranted. Undersigned counsel was recently retained to represent Applicant before this Court. Counsel has other pressing deadlines between now and when the petition for certiorari is currently due. Additional time is requested so that new counsel may review the record, narrow the issues for this Court’s consideration, and prepare and file a petition for certiorari.

BACKGROUND

1. In the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), Congress “enlisted the courts of appeals to play a gatekeeping role in the consideration of second or successive [habeas] filings brought by federal and state prisoners.” *Bowe v. United States*, 607 U.S. 13, 17 (2026). Before a federal prisoner can seek relief under Section 2255 in a district court, he must move in “the appropriate court of appeals,” 28 U.S.C. § 2255(h), for “an order authorizing the district court to consider [his] application,” *id.* § 2244(b)(3)(A). Before granting authorization, the court of appeals must “certif[y] as provided in section 2244” that the application “contain[s]” either (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.” *Id.* § 2255(h). Section 2244(b)(3), in turn, sets forth the gatekeeping procedures that a court of appeals must follow: a three-judge panel must make the certification

decision, *id.* § 2244(b)(3)(B); ask whether the applicant has made a “prima facie showing” that the “application” meets one of Section 2255(h)’s two requirements, *id.* § 2244(b)(3)(C); and make this determination within 30 days of receiving the request, *id.* § 2244(b)(3)(D).

2. In 2009, Applicant Michael Ragland was convicted on various charges arising from a string of robberies of convenience stores that he committed when he was nineteen. These included multiple counts of attempted and completed Hobbs Act robbery and corresponding conspiracy and Section 924(c) offenses for use of a firearm during a “crime of violence,” 18 U.S.C. § 924(c). The district court originally sentenced Mr. Ragland to 196 years’ imprisonment—a de facto life sentence—over 90% of which was attributable to the eight Section 924(c) counts. *See* Op. 4. Despite being a first-time offender, Mr. Ragland received “stacked” mandatory 25-year sentences on every Section 924(c) count beyond his first. *Id.* at 4-5. Mr. Ragland unsuccessfully sought habeas relief through Section 2255 in 2016. *Id.* at 6.

3. Intervening changes in the law have called into question the legal basis for Mr. Ragland’s Section 924(c) convictions and punishment. In 2018, a bipartisan supermajority of Congress passed, and President Trump signed, the First Step Act (FSA), “a landmark piece of legislation that changed the federal criminal-sentencing system,” including as to “existing § 924(c) offenders.” *Hewitt v. United States*, 606 U.S. 419, 424 (2025) (emphasis omitted). The FSA reformed the “derided, draconian sentencing stacking scheme” in effect when Mr. Ragland was sentenced, including by

“eliminat[ing] 25-year stacked sentences for first-time § 924(c) offenders.” *Id.* at 436 & n.12.

The next year, this Court held that Section 924’s residual clause was unconstitutionally vague. *United States v. Davis*, 588 U.S. 445, 470 (2019). In 2022, this Court held that attempted Hobbs Act robbery is not a crime of violence under Section 924(c)’s elements clause. *United States v. Taylor*, 596 U.S. 845, 851-52 (2022).

4. Based on *Davis* and *Taylor*, Mr. Ragland, *pro se*, sought authorization from the Eleventh Circuit to file a second habeas petition. *In re Ragland*, No. 22-13236 (11th Cir. Sept. 26, 2022), ECF No. 1. The Eleventh Circuit granted authorization, finding that Mr. Ragland “made a *prima facie* showing that he [was] entitled to relief under *Davis* as to his § 924(c) conviction on Count 16,” which was predicated on his attempted Hobbs Act robbery conviction. Order 6, *In re Ragland*, No. 22-13236 (11th Cir. Oct. 12, 2022), ECF No. 2-2; *see also id.* (citing *Taylor* for conclusion that Mr. Ragland’s “claim” “satisfie[d] the statutory criteria of § 2255(h)(2)”).

The district court granted Mr. Ragland’s second Section 2255 motion, dismissed Mr. Ragland’s conviction under Count 16, and ordered that Mr. Ragland be resentenced. The court also appointed Mr. Ragland counsel for his resentencing. But before the resentencing occurred, Mr. Ragland sought leave under Rule 15 to amend his Section 2255 motion to challenge his remaining Section 924(c) counts predicated on completed Hobbs Act robbery. The district court did not consider that challenge, however, finding that it “only ha[d] the subject matter jurisdiction to

consider the specific claim[] provided to it by the Eleventh Circuit . . . as to Defendant’s conviction on Count 16.” *United States v. Ragland*, No. 2:09-cr-14016 (S.D. Fla. June 29, 2023), Dkt. 558; *see* Op. 7. And on June 29, 2023, the district court held that the FSA’s revised penalties did not apply. It resentenced Mr. Ragland to a prison term of nearly 173 years.

5. The Eleventh Circuit affirmed in full. The court held that the district court lacked subject-matter jurisdiction to consider “arguments” that Mr. Ragland “did not raise” in his *pro se* request for authorization to file his second Section 2255 motion “[e]ven if” those “arguments” related back “to the claim raised in” that initial request. *United States v. Ragland*, No. 23-12278, 2025 WL 1742251, at *8 (11th Cir. June 24, 2025). The court reached that result even though, under the Eleventh Circuit’s “restrictive” rules, Mr. Ragland had been required to set out his initial request on “an extremely constraining form,” on which “[f]ew prisoners manage to squeeze more than 100 words into the permitted space” for describing the grounds for relief. *United States v. St. Hubert*, 918 F.3d 1174, 1198 (11th Cir. 2019) (Wilson, J., dissenting from the denial of rehearing en banc); *see also St. Hubert v. United States*, 590 U.S. 984, 984, 987, 989 (2020) (statement of Sotomayor, J.) (observing that the “even greater hurdles” and “artificially imposed limitations” created by the Eleventh Circuit Rules leave it “significantly out of step with other courts in how it approaches applications seeking authorization to file second or successive habeas petitions”).

The court also held that the FSA did not apply, finding that the Act does not apply retroactively, even though Mr. Ragland was resentenced *after* the FSA’s

effective date because his original sentence had been vacated. Two days later, this Court squarely rejected the Eleventh Circuit’s erroneous view that the First Step Act does not apply retroactively when defendants are resentenced. *Hewitt*, 606 U.S. at 440. Mr. Ragland timely sought panel rehearing or rehearing en banc.

6. On March 5, 2026, the Eleventh Circuit granted panel rehearing and vacated its prior opinion in part to order resentencing under the FSA in light of *Hewitt*. As relevant here, however, the court cemented its holding that Section 2255 applicants cannot amend their motions for relief in the district court to add new claims for relief. As the court explained, its order granting Mr. Ragland permission to seek Section 2255 relief inexorably froze “the boundaries of the district court’s jurisdiction,” and Mr. Ragland was thus required to file a new Section 2255 motion for certification “with the court of appeals” if he wished to bring any claim that was not included in his initial motion. Op. 18. The Eleventh Circuit acknowledged that its decision conflicted with the decisions of its “sister courts” and implicated a “circuit split.” *Id.* at 3, 17. The Eleventh Circuit noted that the Fourth and Seventh Circuits had each “reached a different result on similar facts,” but it deemed their approach “flaw[ed]” insofar as it permits district courts to consider claims not individually certified by the court of appeals. *Id.* at 16-17.

REASONS FOR GRANTING THE APPLICATION

1. This case implicates an entrenched circuit split over an exceptionally important question regarding the district courts’ jurisdiction over second or successive habeas petitions by federal prisoners. The Fourth and Seventh Circuits squarely reject the Eleventh Circuit’s approach, holding that a certification order by

the court of appeals runs to “successive *applications*,” thereby allowing district courts to later permit amendments or the addition of individual claims under Rule 15. *United States v. MacDonald*, 641 F.3d 596, 614-16 & n.12 (4th Cir. 2011) (emphasis added); *Reyes v. United States*, 998 F.3d 753, 761 (7th Cir. 2021). The First and Ninth Circuits have similar rules at odds with the Eleventh Circuit’s approach, recognizing district courts’ jurisdiction over claims that were not individually certified by the court of appeals. *See* Corrected Judgment, *Goodridge v. United States*, No. 16-1219 (1st Cir. July 29, 2016); *Nevius v. McDaniel*, 104 F.3d 1120, 1121 (9th Cir. 1996).

The Eleventh Circuit’s contrary rule requires certification by the court of appeals of individual *claims*, such that the certification order permanently fixes “the boundaries of the district court’s jurisdiction.” Op. 18. Consequently, in the Eleventh Circuit, any amended claim “must be brought in a subsequent application with the court of appeals,” and may not be raised in the district court, even if such a claim relates back to the original application in the court of appeals. *Id.* The Eleventh Circuit, therefore, disagrees expressly with its “sister circuits,” and there is an acknowledged “circuit split” on the question Mr. Ragland intends to present in his petition for certiorari. *Id.* at 3, 17.

2. The Eleventh Circuit’s rule is textually indefensible and irreconcilable with AEDPA’s structure and purpose. Under Section 2255, a court of appeals must certify a “second or successive *motion*,” and not an applicant’s individual claims or amendments. 28 U.S.C. § 2255(h) (emphasis added). Section 2255(h) mirrors Section 2244(b)(3)—the provision setting forth the procedures for certification—each

subsection of which centers on the movant’s “application” for relief. *See Bowe v. United States*, 607 U.S. 13, 23-24 (2026) (noting that “application” is the state-prisoner equivalent of a “motion” for habeas relief by a federal prisoner); *Magwood v. Patterson*, 561 U.S. 320, 324 n.1 (2010) (“Although 28 U.S.C. § 2244(b) refers to a habeas ‘application,’ we use the word ‘petition’ interchangeably . . .”). By its terms, therefore, Section 2255 does not afford the courts of appeals a gatekeeping role with respect to individual *claims*. *See Artuz v. Bennett*, 531 U.S. 4, 9 (2000) (refusing to “elide[] the difference between an ‘application’ and a ‘claim’” in Section 2244); *Gonzalez v. Crosby*, 545 U.S. 524, 530 (2005) (same).

Statutory structure confirms that Congress deliberately distinguished between “claims” for relief in the *district court* and a movant’s “application” as screened by a *court of appeals*. Section 2244(b)(3), for instance, provides that “[t]he 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.” 28 U.S.C. § 2244(b)(3)(C). By contrast, Section 2244(b)(4) requires the district court—rather than the court of appeals—to dismiss “any *claim*” that does not satisfy that section. *Id.* § 2244(b)(4) (emphasis added). Likewise, Sections 2244(b)(1) and (b)(2) operate with respect to “[a] *claim* presented in a second or successive habeas corpus application.” *Id.* § 2244(b)(1), (b)(2) (emphasis added).

It is “a cardinal rule of statutory interpretation” that when Congress employs differing language in two sections, this Court “‘presume[s] differences in language

like this convey differences in meaning.” *Bowe*, 607 U.S. at 36-37 (quoting *Henson v. Santander Consumer USA Inc.*, 582 U.S. 79, 86 (2017)). This presumption applies with even greater force to the terms at issue—“application” and “claim”—“whose use drafters are likely to keep track of and standardize” in a section addressing habeas procedure, *Pulsifer v. United States*, 601 U.S. 124, 149 (2024). But the Eleventh Circuit’s rule ignores entirely Congress’s deliberate choice to empower the courts of appeals to screen “applications,” while tasking the district courts with the labor-intensive job of determining the merits of an applicant’s individual “claims.”

The textual problems with the Eleventh Circuit’s rule do not end there. To satisfy Section 2255(h), the “motion” must “*contain*” newly discovered evidence or a new rule of constitutional law. 28 U.S.C. § 2255(h) (emphasis added). If “any one claim” clears that high hurdle, so too will the motion that “contain[s]” the claim, regardless of whether other claims presented in the motion separately satisfy Section 2255(h)’s content requirements. *United States v. MacDonald*, 641 F.3d 596, 615 (4th Cir. 2011) (citation omitted); *accord, e.g., Reyes*, 998 F.3d at 760; *Massey v. United States*, 895 F.3d 248, 251 (2d Cir. 2018), *cert. denied*, 586 U.S. 1236 (2019). But the Eleventh Circuit’s rule imports an extra-textual requirement that *each and every* claim within the motion satisfy Section 2255(h)’s stringent content requirements.

The Eleventh Circuit’s rule also conflicts with AEDPA’s structure and purpose. Time and again, this Court has explained that AEDPA restricts courts of appeals to a “gatekeeping role” with respect to certification decisions. *Bowe*, 607 U.S. at 17; *see also, e.g., Stewart v. Martinez-Villareal*, 523 U.S. 637, 641 (1998) (describing

“gatekeeping” function (citation omitted)). Section 2244(b) not only limits the appellate “panel” to a “prima facie” screen but also “imposes a 30-day clock on a panel’s certification decision after a litigant seeks authorization.” *Bowe*, 607 U.S. at 29, 33. That “stringent time limit” indicates “that the courts of appeals do not have to engage” in the “difficult” and time-consuming claim-by-claim analysis that the Eleventh Circuit’s rule demands. *Tyler v. Cain*, 533 U.S. 656, 664 (2001).

In “contrast” to the appellate role, Section 2244(b)(4) envisions a “deeper dive” by the district court, directing that, after authorization, the “district court shall dismiss” any claim that fails the statute’s requirements. *Reyes*, 998 F.3d at 761 (citation omitted). As the Seventh Circuit has explained, Congress intended the appellate screen to be narrow and pragmatic: “to limit multiple efforts to obtain collateral review” by requiring a threshold showing that the motion contains at least one claim worth fuller examination, not to “dissect” the motion or manage subsequent pleading. *Id.* (citation omitted). The Eleventh Circuit’s rule, however, inverts the statutory burden allocation between the district courts and courts of appeals. *See, e.g., Will v. Davis (In re Will)*, 970 F.3d 536, 547-48 (5th Cir. 2020) (per curiam) (appellate court’s task limited to assessing whether petitioner “has made a sufficient showing to proceed to a fuller review”); *Bennett v. United States*, 119 F.3d 468, 469 (7th Cir. 1997) (Posner, C.J.) (court of appeals “simply” asks whether petitioner has made “a sufficient showing of possible merit to warrant a fuller exploration by the district court”). And it produces deleterious practical consequences by forcing habeas petitioners to make repeated trips to appellate courts after receiving authorization,

thereby impeding district courts' efficient resolution of closely related claims. The "purposes" of appellate gatekeeping are "to conserve judicial resources" and "reduc[e] piecemeal litigation," *Banister v. Davis*, 590 U.S. 504, 512 (2020) (alteration in original) (citation omitted), but the Eleventh Circuit's rule does precisely the opposite.

3. The question Mr. Ragland intends to present is recurring and important. The entrenched circuit conflict has already produced troubling geographic disparities in the availability of habeas relief to similarly situated petitioners with identical claims. See *United States v. Cunningham*, Cr. No. 95-0088, 2026 WL 1030837, at *3 (D.D.C. Apr. 16, 2026) (summarizing disparate approaches taken by the courts of appeals). And based on this geographic happenstance, a petitioner "run[s] the risk" of "forever losing [his] opportunity" to present potentially meritorious claims, *Panetti v. Quarterman*, 551 U.S. 930, 945-46 (2007) (citation omitted), or to avail himself of habeas relief's "vital role in protecting constitutional rights," *Holland v. Florida*, 560 U.S. 631, 649 (2010). This Court's intervention is necessary to prevent forum-dependent "results" and further "procedural anomalies." *Panetti*, 551 U.S. at 946 (quoting *Castro v. United States*, 540 U.S. 375, 380 (2003)).

The "burden" of the Eleventh Circuit's rule, moreover, falls "most heavily on the shoulders of indigent habeas petitioners who can afford no counsel without the assistance of the court." *Mayle v. Felix*, 545 U.S. 644, 664 n.8 (2005) (quoting dissent). Frequently, the initial request for authorization to file a second or successive Section 2255 application is filed by a *pro se* petitioner on a "limited form"—as was the case here—and, even after authorization, the district court may not appoint counsel until

a habeas proceeding advances to an evidentiary hearing or resentencing. *St. Hubert v. United States*, 590 U.S. 984, 985 (2020) (statement of Sotomayor, J.); see Rules Governing Section 2255 Proceedings for the United States District Courts 6(a), 8(c). But the Eleventh Circuit’s rule blocks appointed counsel from clarifying or adding a ground for relief, even if it would relate back to the filing of the original motion (and therefore come within the limitations period). As a result, the Eleventh Circuit’s rule disadvantages indigent petitioners who must rely on appointed counsel, relative to petitioners who can hire a paid lawyer at the outset. In all these ways, the Eleventh Circuit’s approach “make[s] out a troubling tableau indeed.” *St. Hubert*, 590 U.S. at 985.

4. Applicant requests a 60-day extension of time so that undersigned counsel, who are new to this case, may review the record, narrow the issues for this Court’s consideration, and prepare and file a petition for certiorari. The requested extension is warranted because undersigned counsel for Mr. Ragland has been and will be heavily engaged with the press of other matters before and after the current deadline for the petition, including in *Ted Entertainment, Inc. v. Meta Platforms, Inc.*, No. 25-cv-10931 (N.D. Cal.) (motion to dismiss due May 13, 2026); *Medley Mgmt., Inc. v. Lowenstein Sandler, LLP*, No. 2025-05511 (N.Y. App. Div. 1st Dep’t) (merits brief due May 22, 2026); *Faculty, Alumni & Students Opposed to Racial Preferences (FASORP) v. Northwestern University*, No. 26-1349 (7th Cir.) (merits brief due July 1, 2026); *Clark v. Instant Checkmate*, No. 25-cv-02724-DDD-MDB (D. Colo.) (presenting oral argument on June 16, 2026); *Cirkunovs v. Zuffa LLC*, No. 25-7906

(9th Cir.) (merits brief due June 24, 2026); *Samuels v. AH Capital Management*, No. 25-05701 (9th Cir.) (merits brief due July 16, 2026).

The extension would not work any meaningful prejudice on any party.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that the time for filing a petition for a writ of certiorari in this case be extended by sixty days up to and including August 3, 2026.

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ATTACHMENT 1

FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-12278
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MICHAEL SHANE RAGLAND,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 2:09-cr-14016-KMM-1

Before JORDAN, LUCK, and TJOFLAT, Circuit Judges.

TJOFLAT, Circuit Judge:

In 2009, a jury convicted Michael Ragland of eighteen federal crimes associated with a string of armed robberies of Florida convenience stores. He was sentenced to 196 years in federal prison. In 2022, Ragland successfully moved the District Court to vacate one of his eighteen counts in light of new Supreme Court precedent. He was resentenced, but his new sentence looked a lot like his old one: 173 years.

Ragland appealed, arguing he should have been resentenced according to the more lenient provisions of the 2018 First Step Act (“FSA”). We affirmed the District Court, holding that the FSA was not intended to apply retroactively to Ragland, who was originally sentenced before the FSA’s enactment. Only two days after we issued our ruling, the Supreme Court decided *Hewitt v. United States*, squarely rejecting our interpretation of the FSA. 145 S. Ct. 2165, 2169 (2025).

Ragland now petitions for rehearing or rehearing en banc, seeking a ruling that he may be resentenced under the FSA. The United States agrees that *Hewitt* binds here, and it does not oppose rehearing for consistency with that opinion. Ragland also seeks rehearing as to whether the District Court has jurisdiction to consider new challenges to his other counts. The United States opposes rehearing on these grounds.

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After careful consideration, we grant Ragland's petition for rehearing and amend our opinion filed on June 24, 2025, but only in part. Specifically, we vacate and replace Part II.B of that opinion regarding the retroactivity of the FSA. We also affirm and clarify Part III of that opinion to highlight a potential circuit split. In all other respects, our opinion filed on June 24, 2025, shall remain in full force and effect. Ragland's sentence is vacated and remanded for the District Court to resentence him according to the FSA.

I. BACKGROUND

A. Crime and Sentence

Between December 2007 and February 2008, Michael Ragland and his quasi-confederated entourage robbed seven Florida grocery and convenience stores and attempted to rob two others. Proceeds from each hit ranged from a few hundred to a few thousand dollars and, almost invariably, a pack of Newport cigarettes. On April 30, 2009, a grand jury indicted Ragland on twenty-two counts. Despite initially confessing to police, Ragland pleaded not guilty to all charges. At trial, jurors convicted him on eighteen counts:¹

- Count One: Conspiracy to commit robbery in violation of 18 U.S.C. § 1951(a);
- Counts Two, Four, Nine, Eleven, Seventeen, Nineteen, and Twenty-One: Robbery in violation

¹ The jury found Ragland not guilty of Counts Six and Seven. The United States dismissed Counts Thirteen and Fourteen.

of 18 U.S.C. § 1951(a);

- Counts Eight and Fifteen: Attempted robbery in violation of 18 U.S.C. § 1951(a);
- Counts Three, Five, Ten, Twelve, Sixteen, Eighteen, Twenty, and Twenty-Two: Brandishing a firearm in connection with a crime of violence in violation of 18 U.S.C. § 924(c).

The District Court sentenced Ragland to 2,352 months (196 years) in federal prison. Ragland’s eight § 924(c) convictions comprised over ninety percent of his sentence.² Section 924(c) punishes one who uses, carries, or possesses a firearm “during and in relation to any crime of violence.” 18 U.S.C. § 924(c)(1)(A). It is an independent, substantive offense, but one that requires a predicate violent crime.

At the time of Ragland’s 2010 sentencing, § 924(c) was equipped with an inelastic “stacking” mechanism. *See* An Act to Throttle Criminal Use of Guns, Pub. L. No. 105-386, § 1, 112 Stat. 3469 (1998). For a defendant’s first § 924(c) conviction, a judge was required to sentence him to at least five, seven, or ten years depending on whether the firearm was carried, brandished, or discharged, respectively. *Id.* After that, the sentence would ratchet up quickly. Each subsequent § 942(c) violation demanded a minimum sentence of twenty-five years—even where the first charge was brought in the same indictment. *Id.* All sentences were “stacked,”

² Specifically, Ragland’s § 924(c) convictions accounted for 2,184 months of his 2,352-month total sentence.

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or served consecutively. *Id.*

In Ragland’s case, he was given seven years for Count Three and twenty-five years for each of Counts Five, Ten, Twelve, Sixteen, Eighteen, Twenty, and Twenty-Two. All but one of Ragland’s § 924(c) counts relied on the predicate crime of robbery in violation of 18 U.S.C. § 1951(a) (“Hobbs Act Robbery”). The outlier, Count Sixteen, relied on the predicate offense of *attempted* Hobbs Act Robbery.³

B. Ragland’s § 2255 Challenges

Ragland has launched several habeas petitions challenging the legality of his § 924(c) convictions. He has argued that neither Hobbs Act Robbery nor attempted Hobbs Act Robbery constitute a “crime of violence” under the statute, and hence, cannot serve as a predicate offense. So, what is a “crime of violence?” Section 924(c) offers a starting point:

- (3) For purposes of this subsection the term “crime of violence” means an offense that is a felony and—
 - (A) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or
 - (B) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of

³ Specifically, Count Sixteen relied on Count Fifteen, whereby Ragland attempted to rob a *Coastal Gas* convenience store but retreated because the scene was “too hot.”

committing the offense.

18 U.S.C. § 924(c)(3).

But the Code is not the whole story. In 2015, the Supreme Court probed the definition of “violent felony” under the Armed Career Criminal Act (the “ACCA”). *Johnson v. United States*, 576 U.S. 591, 135 S. Ct. 2551 (2015). The ACCA’s definition mirrored § 924(c)(3): each had an identical first prong and a second, “residuary” prong to catch crimes that pose a substantial risk of injury to another. *Id.* at 594. In *Johnson*, the Court held that the ACCA’s residuary prong violated the Constitution’s Due Process Clause because it was unconstitutionally vague. *Id.* at 594, 606.

In 2016, Ragland filed his first motion to vacate his sentence under 28 U.S.C. § 2255.⁴ He argued that *Johnson* voided § 924(c)’s residuary clause and, hence, invalidated each of his convictions thereunder. The District Court disagreed. It found that *Johnson* did not necessarily invalidate § 924(c)’s residuary clause, and even if it did, Hobbs Act Robbery would still constitute a crime of violence under clause (3)(A).

Then the landscape changed again. In 2019, the Supreme Court explicitly held that § 924(c)’s residuary clause was unconstitutionally vague. *United States v. Davis*, 588 U.S. 445, 470, 139 S. Ct. 2319, 2336 (2019). And a few years later, the Court held that

⁴ Section 2255 allows a prisoner to move a court to vacate, set aside, or correct a sentence that was, *inter alia*, “imposed in violation of the Constitution or laws of the United States.” 28 U.S.C. § 2255.

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attempted Hobbs Act Robbery is not a crime of violence under § 924(c)'s elements prong because it does not require the government to prove the use, attempted use or threatened use of force. *United States v. Taylor*, 596 U.S. 824, 860, 142 S. Ct. 2015, 2025 (2022).

Armed with new caselaw, Ragland petitioned this Court for permission to file a successive § 2255 petition, as is required by law. 28 U.S.C. § 2255(h) (requiring “a second or successive motion” to be certified “by a panel of the appropriate court of appeals”). He specifically sought permission to challenge Count Sixteen in light of *Davis* and *Taylor*. Ragland singled out Count Sixteen because it was the only § 924(c) count predicated on *attempted* Hobbs Act Robbery. We held that Ragland “made a *prima facie* showing that he [was] entitled to relief under *Davis* as to his § 924(c) conviction on Count 16.” Order, No. 22-13236-J (11th Cir., Oct. 12, 2022). Accordingly, we granted Ragland leave to file a new claim. *Id.*

Ragland's second § 2255 claim was successful; the District Court dismissed his conviction under Count Sixteen and vacated his sentence. But just prior to resentencing, Ragland sought to amend his second § 2255 motion to include every other § 924(c) count. The District Court rejected his motion, holding that it lacked subject-matter jurisdiction to consider such claims. It reasoned that its jurisdiction emanated from the relief our Court granted, which only covered Count Sixteen. Ragland also moved to hold his resentencing in abeyance pending our opinion in a case asking whether completed Hobbs Act Robbery is a “crime of

violence” post-*Taylor*.⁵ The District Court rejected this motion as well.⁶

C. Resentencing and Appeal

Consistent with our decision in *United States v. Brown*, the District Court afforded Ragland a full resentencing hearing, where he was able to testify. *See* 879 F.3d 1231, 1239–40 (11th Cir. 2018). Ragland spoke about his positive prison record and rehabilitation efforts, and he made numerous objections to his presentence investigation report. Ragland also argued that he should be resentenced under the FSA, which eliminated the “stacked” twenty-five-year mandatory minimum sentence for subsequent § 924(c) charges.⁷ *See* First Step Act, Pub. L. No. 115-391, § 403(a), 132 Stat. 5194, 5221-22 (2018). The United States acknowledged that if the FSA did apply, Ragland’s guideline sentence would be between 776 and 823

⁵ That case, *United States v. Louis*, 146 F.4th 1328 (11th Cir. 2025), never reached the Hobbs Act Robbery question because the relevant appeal was voluntarily dismissed. However, in *United States v. Wiley*, our Court held that completed Hobbs Act Robbery is a “crime of violence,” thereby upholding our Court’s pre-*Taylor* precedent. 86 F.4th 1355, 1363 (11th Cir. 2023).

⁶ In rejecting Ragland’s motion to hold resentencing in abeyance, it informed Ragland that he would be free to “raise the same arguments as *Louis* during his sentencing hearing.” As we discuss *infra*, this was improper, as the District Court lacked jurisdiction to hear such arguments.

⁷ Twenty-five-year mandatory minimum sentences still exist, but only where subsequent charges are brought after a prior § 924(c) conviction has become final. 18 U.S.C. § 924(c)(1)(C). Because Ragland’s convictions were brought concurrently, this would not apply.

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months.⁸ The District Court denied Ragland's objection and resentenced him without regard to the FSA. The District Court entered a revised judgment of 2,072 months imprisonment.

Ragland appealed. He asserted a litany of errors: (1) he was not afforded a de novo resentencing; (2) the District Court should have applied the FSA; (3) the District Court failed to consider post-sentencing rehabilitation; (4) the District Court failed to consider the length of Ragland's mandatory minimum sentences in fashioning his total appropriate sentence; (5) his multiple robbery offenses should have counted as one continuing offense for § 924(c) purposes; (6) his criminal history was inappropriately categorized; (7) the District Court should have allowed Ragland to amend his motion so as to challenge his other § 924(c) convictions; and (8) his sentence was substantively unreasonable.

On June 24, 2025, we issued an opinion rejecting each of Ragland's challenges and affirming the District Court in full. *United States v. Ragland*, No. 23-12278, 2025 WL 1742251, at *2 (11th Cir. June 24, 2025). Ragland now petitions for panel rehearing or rehearing en banc.

II. DISCUSSION

Federal Rule of Appellate Procedure 40 provides that a petition for panel rehearing must "state with particularity each point of law or fact that the petitioner believes the court has overlooked

⁸ Of course, were Ragland able to challenge his other § 924(c) convictions, his Guideline sentence would be dramatically lower.

or misapprehended[.]” Fed. R. App. P. 40(b)(1)(A). “Panel rehearing is the ordinary means of reconsidering a panel decision; rehearing en banc is not favored.” Fed. R. App. P. 40(a). Ragland filed a timely petition for rehearing on two grounds.

First, he asserts that our ruling on the FSA’s inapplicability conflicts with *Hewitt v. United States*, 145 S. Ct. 2165 (2025). Second, he argues that the District Court did not lack subject matter jurisdiction to hear his other § 924(c) challenges and that our contrary holding conflicts with the Fourth and Seventh Circuit’s approach. We begin with the FSA.

A. Resentencing Under FSA

Ragland argues that both the District Court and our panel opinion misinterpreted the FSA. This Court reviews de novo questions of statutory interpretation. *Regueiro v. American Airlines, Inc.*, 147 F.4th 1281, 1286 (11th Cir. 2025).

Prior to 2018, when a defendant was convicted of multiple § 924(c) charges, each subsequent conviction carried a minimum twenty-five-year stacked sentence. 18 U.S.C. § 924(c)(1)(C)(i) (2010). The FSA changed that. Specifically, it eliminated the twenty-five-year minimum unless the defendant had a prior § 924(c) conviction that had “become final.” First Step Act, Pub. L. No. 115-391, § 403(a), 132 Stat. 5194, 5221-22 (2018). Crimes committed before the enactment of the FSA were encompassed by the change, but only to the extent that “a sentence for the offense has not been imposed as of the date of enactment.” *Id.* § 403(b).

The question soon arose whether a sentence which was imposed pre-FSA but vacated post-FSA is a sentence that “has been . . . imposed as of the date of [the FSA’s] enactment.” *See id.* Our Circuit reached the issue in *United States v. Hernandez*, 107 F.4th 965 (11th Cir. 2024). We reasoned that the present-perfect tense used in the phrase “has been” could reasonably refer to either (1) a sentence that is “now completed” or (2) a sentence that “continues up to the present.” *Id.* at 969 (citing *The Chicago Manual of Style* § 5.132 (17th ed. 2017)) (internal quotation marks omitted). Looking at the context of the clause and the Act, we decided the first interpretation was correct.⁹ *Id.* We held that where a sentence was imposed before the FSA, it “has been imposed” notwithstanding post-FSA vacatur. *Id.* at 973.

Ragland’s original sentence took place in 2010, eight years prior to the FSA. When he appealed the District Court’s new sentence on the grounds that it failed to apply the FSA, *Hernandez* was binding on this Court, and we affirmed. *Ragland*, 2025 WL 1742251, at *11 (11th Cir.). Ragland argues that the Supreme Court’s opinion in *Hewitt*, which was decided two days after his appeal, overrules *Hernandez*.

⁹ Presciently, we acknowledged that the strongest counterargument comes from the legal function of vacatur, which is sometimes said to “wipe the slate clean” and makes a sentence “void from the start.” *Hernandez*, 107 F.4th at 971. Ultimately, this reasoning swayed the Supreme Court. *See Hewitt*, 145 S. Ct. at 2174.

Petitioners in *Hewitt* were convicted of multiple counts of bank robbery and conspiracy to commit bank robbery, along with corresponding § 924(c) offenses. 145 S. Ct. at 2170. They successfully challenged some of their convictions under § 2255 and, at resentencing, sought retroactive application of the FSA. *Id.* The District Court and Fifth Circuit held that the FSA was inapplicable. *Id.* The Supreme Court reversed, holding that “offenders who appear for sentencing after the First Step Act’s enactment date—including those whose previous § 924(c) sentences have been vacated and who thus need to be resentenced—are subject to the Act’s revised penalties.” *Id.* at 2179.

Both Ragland and the United States believe *Hewitt* abrogates *Hernandez* and binds our Court to remand for resentencing consistent with the FSA. We agree, but we wish to clarify a few points.

The District Court in *Hewitt* received a § 2255 motion from each petitioner to set aside one § 924(c) conviction predicated on conspiracy to commit bank robbery.¹⁰ *United States v. Duffey*, 92 F.4th 304, 308 (5th Cir. 2024). It granted relief in two steps. *Id.* First, it vacated each petitioner’s conspiracy-predicated § 924(c) conviction and applicable sentence. *Id.* Second, it vacated the petitioners’ sentences for *all other* convictions and ordered resentencing. *Id.* Therefore, the Supreme Court’s holding (i.e., that sentences vacated post-FSA are subject to the FSA) necessarily applied to all of

¹⁰ In addition to rejecting attempted crimes as “crimes of violence” under § 924(c), the Supreme Court’s opinion in *Davis* similarly rejected conspiracy-predicated crimes. 139 S. Ct. at 2336.

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petitioners' convictions. *See Hewitt*, 145 S. Ct. at 2174. The Court did not have to consider the FSA's applicability where a sentence was only partially vacated.

Of course, complete vacatur and resentencing is a common form of relief, even where a § 2255 motion only targets a subset of the movant's total convictions. Our Circuit has recognized that a "criminal sentence is a package of sanctions that the district court utilizes to effectuate its sentencing intent consistent with the Sentencing Guidelines." *United States v. Stinson*, 97 F.3d 466, 469 (11th Cir. 1996). And when the package becomes unbundled, the district court has the authority to "recalculate and reconsider" the defendant's entire sentence, so it may "comport with the district court's original intentions at sentencing." *United States v. Fowler*, 749 F.3d 1010, 1017 (11th Cir. 2014) (citing *United States v. Watkins*, 147 F.3d 1294, 1297 (11th Cir. 1998)) (internal quotation marks omitted).

However, we have never held that complete vacatur is always mandatory. We leave open whether that *Hewitt* necessarily entitles a successful § 2255 movant to full application of the FSA. In *Hewitt's* dissent, Justice Alito highlighted that district courts need not vacate an entire sentence and "may instead choose to vacate only those parts of the sentence related to an intervening change in law." 145 S. Ct. at 2189–90 (Alito, J., dissenting). He described the total vacatur afforded to petitioners in that case as a "stroke of good fortune that opened the door" to the FSA. *Id.*

Here, the District Court granted Ragland's § 2255 motion "to the extent that [it] dismis[s]e[d] the conviction and sentence

imposed under Count Sixteen.” It did not expressly vacate Ragland’s other sentences. But the Court ultimately did conduct a de novo resentencing on all counts. At Ragland’s hearing, the Government explained to the Court:

[P]ursuant to the Sentencing Package Doctrine, now that Count 16 has been vacated, this Court has the authority to consider the original sentences imposed for all of the other counts in determining what sentence to ultimately impose.

Candidly, your Honor, that doctrine generally helps the Government, because if the Court wanted to impose 2,352 months once again, you could do so by increasing the sentences for the remaining counts.

The District Court agreed and proceeded to reevaluate the total package. Ragland’s new sentence included 188 months for his robbery, attempted robbery, and conspiracy offenses, which was twenty months more than his original sentence. Because Ragland’s original sentence was unbundled, the District Court must now resentence him according to the FSA. His presentence investigation report should be updated accordingly. With perfect hindsight, the Sentence Package Doctrine did not, it would seem, help the Government.

B. Ragland’s Motion to Amend His § 2255 Claim

Next, Ragland argues that we erred by holding that the District Court lacked subject-matter jurisdiction to consider § 2255 challenges beyond Count Sixteen. Specifically, he argues that our prior opinion conflicts with the approach followed by the Fourth

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and Seventh Circuits. We review *de novo* questions of a district court's subject matter jurisdiction.

“Only a single § 2255 motion is authorized and successive attempts at relief are limited.” *Boyd v. United States*, 754 F.3d 1298, 1301 (11th Cir. 2014). Section § 2255 plainly requires successive motions to be certified by the appropriate appeals court. 28 U.S.C. § 2255(h). As gatekeeper, under subsection (h)(2), we can only certify constitutional challenges that invoke “a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.” *Id.* This heightened standard was introduced by Congress in 1996 to “curb the abuse of the statutory writ of habeas corpus[.]” H.R. Rep. No. 104-518, at 111 (1996). Without certification, district courts have no subject matter jurisdiction to hear a successive § 2255 claim. *Farris v. United States*, 333 F.3d 1211, 1216 (11th Cir. 2003).

Because Ragland filed an unsuccessful challenge in 2016, he needed—and so sought—our Court's permission to file a successive petition. We granted Ragland leave to file a second motion, but we were specific in our language:

[I]f Ragland was sentenced under § 924(c)(3)(B)'s residual clause, pursuant to *Davis*, his predicate offense of attempted Hobbs Act robbery would not qualify as a crime of violence. Notably, in *Taylor*, the Supreme Court also held that attempted Hobbs Act robbery does not qualify as a crime of violence under § 924(c)(3)(B)'s elements clause. Under these circumstances, Ragland has made a *prima facie* showing that

his claim satisfies the statutory criteria of § 2255(h)(2) on the ground that he was potentially sentenced under the now-invalid residual clause of § 924(c)(3)(B), thereby rendering his § 924(c) conviction on Count 16 unconstitutional under *Davis*.

Order, No. 22-13236-J (11th Cir., Oct. 12, 2022) (internal citations omitted). Simply put, we granted jurisdiction to the District Court to hear a challenge to Count Sixteen—and only Count Sixteen.

Critical to our assessment was the Supreme Court’s decision in *Taylor*, holding that attempted Hobbs Act Robbery could not qualify as a § 924(c) predicate offense. *Id.* There has been no such ruling as to *completed* Hobbs Act Robbery. Moreover, our Circuit has repeatedly held that completed Hobbs Act Robbery is a “crime of violence.” *See, e.g., United States v. Solomon*, 136 F.4th 1310, 1321 (11th Cir. 2025); *United States v. Wiley*, 78 F.4th 1355, 1365 (11th Cir. 2023); *In re Fleur*, 824 F.3d 1337, 1341 (11th Cir. 2016). In any event, we received only an application for leave to challenge Count Sixteen, and that is what we granted.

Ragland argues that the Seventh Circuit in *Reyes v. United States* reached a different result on similar facts. 998 F.3d 753 (7th Cir. 2021). There, Reyes was granted leave by the Court of Appeals to file a successive § 2255 motion. *Id.* at 756. A month later, Reyes went back to the appellate panel, seeking to add discrete challenges to his sentence that were not mentioned in his initial application. *Id.* The Seventh Circuit instructed Reyes to instead file a motion to amend his claim in the district court under Federal Rule of Civil Procedure 15, which the district court allowed. *Id.*

Later, on appeal, the United States argued that the district court did not have jurisdiction to consider Reyes' new claims because they were not authorized by the court of appeals. *Id.* at 760. The court disagreed. *Id.* It held that § 2255 only requires that “successive applications, and not amendments or even necessarily individual claims, be screened by an appellate panel. . . . Once one claim has cleared that high hurdle, we do not dissect the application further.” *Id.* at 761. Instead, it encouraged district courts to “use their discretion under Rule 15 to prevent abusive or needlessly time-consuming tactics.” *Id.* The Fourth Circuit has also adopted this approach. *See United States v. MacDonald*, 641 F.3d 596, 616 (4th Cir. 2011) (explaining that Rule 15 governs the addition of new claims to a § 2255 motion, and additional appellate review is unnecessary).

To the extent our sister courts permit movants to add new claims that have not been screened, and which exceed the bounds of the leave granted by the court of appeals, we respectfully disagree.¹¹ We believe this case demonstrates the flaw in that approach. To satisfy § 2255, Ragland would have had to demonstrate a *prima facie* case that a new rule of constitutional law made completed Hobbs Act Robbery an invalid predicate offense. *See* 28 U.S.C. § 2244(a), (b)(3)(C); 28 U.S.C. § 2255(a). In contrast, Rule 15 allows

¹¹ This is not the first time we have rejected this approach. In *United States v. Pearson*, we similarly held that challenges to counts not authorized by the court of appeals exceeds the district court's jurisdiction. 940 F.3d 1210, 1216 (11th Cir. 2019).

amendments as a matter of right for twenty-one days, and afterwards, implores the district court to “freely give leave [to amend] when justice so requires.” Fed. R. Civ. P. 15(a). Under that standard, a movant could easily bypass the legislatively mandated screening process.

To be sure, a district court may apply the Federal Rules of Civil Procedure, including Rule 15 to a § 2255 proceeding in ordinary course. *Farris*, 333 F.3d at 1215. But “[f]ederal courts are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute.” *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377, 114 S. Ct. 1673, 1675 (1994). A movant may not use Rule 15 to extend his action beyond the boundaries of the district court’s jurisdiction. To the extent a movant wishes to expand the scope of his § 2255 motion, he may file a subsequent application with the court of appeals. The statute of limitations for such application will always renew when new rights are recognized by the Supreme Court. *See* 28 U.S.C. § 2255(f)(3).

CONCLUSION

For the foregoing reasons, we grant Ragland’s rehearing, vacate our earlier opinion as to the issue of the FSA’s applicability, vacate Ragland’s sentence, and remand to the District Court for resentencing consistent with this opinion. In all other respects, our opinion in *United States v. Ragland*, No. 23-12278, 2025 WL 1742251 (11th Cir. June 24, 2025) shall remain in full force and effect.

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-12278
ERRATA

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MICHAEL SHANE RAGLAND,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 2:09-cr-14016-KMM-1

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Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 2:09-cr-14016-KMM-1

(March 6, 2026)

This opinion has been changed as follows:

- On page 18, “CONCLUSION” replaces “IV CONCLUSION”