

26-106

FILED

DEC 19 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

No.

In The
Supreme Court of the United States

GEORGE BALDWIN HUTCHINSON JR. (π)

[Petitioner,]

v.

81ST READINESS DIVISION FT JACKSON SC, (Wrongdoers); UNITED

STATES OF AMERICA, et al.

Respondents,

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether a pro se litigant's federal complaint is timely when it is deposited in the United States Mail before the statutory deadline but received thereafter, where court-imposed restrictions prohibited electronic filing and required filing by mail.
2. Whether a federal court of appeals violates the Due Process Clause by affirming judgment in favor of an appellee that filed no response brief, without addressing the court's own waiver and default rules
3. Whether a federal court may disregard controlling precedent recognizing the Mailbox Rule, including *Houston v. Lack* and *Lewis v. Richmond City Police Department*, where the litigant was required by court order to file exclusively by mail.

PARTIES TO THE PROCEEDING

Petitioner:

(Ret) Maj George Baldwin Hutchinson, Jr. — Claimant-Appellant (pro se).

Respondents:

- 81st Readiness Division, Fort Jackson, South Carolina.
- United States of America.
- Lieutenant Colonel (LTC) Oustz.
- Ms. Ashanti Dickerson, Department of the Army Civilian Employee.
- Master Sergeant (MSG) Anika Floore.
- Major (MAJ) Katrice Butler.
- Unidentified G-1 E-8 / Acting Sergeant Major (identified in the pleadings as an unknown federal official).

Petitioner identifies the individual respondents as they were alleged in the district court proceedings. Any unidentified federal officials are described in the operative complaint and related pleadings.)

No corporations are parties to this proceeding.

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TABLE OF AUTHORITIES

Constitutional Provisions

- U.S. Const. art. III
- U.S. Const. amend. V (Due Process Clause)

Statutory Provisions

- U.S. Const. amend. V (Due Process / Equal Protection) pp. 7,9, 14–15
- 28 U.S.C. § 1254(1) p. 6,7
- 28 U.S.C. § 1346(b) p. 7
- Fed. R. Civ. P. 6(d) p. 9
- Fed. R. App. P. 41 p. 7
- Fourth Cir. Local R. 34(b) pp. 8, 12

Cases

- Houston v. Lack, 487 U.S. 266 (1988) pp. 2,9,10, 12,13,
- Lewis v. Richmond City Police Dep't, 947 F.2d 733 (4th Cir. 1991) pp. 2,9,
10,11,12,13
 - United States v. Cohen, 888 F.3d 667 (4th Cir. 2018) pp. 10,11
 - Holland v. Florida, 560 U.S. 631 (2010) p. 10

PETITION FOR A WRIT OF CERTIORARI

Petitioner respectfully seeks a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit.

OPINIONS BELOW

The opinion of the United States District Court for the District of South Carolina Affirmed dismissing Petitioner's complaint was entered on March 25th, 2025, after the Recommendation and report entered in on the 22nd of July 2024 and is reprinted in the Appendix at A-1.

The opinion of the United States Court of Appeals for the Fourth Circuit affirming the judgment below was entered on July 29, 2025, and is reprinted in the Appendix at A-2.

The order of the Court of Appeals denying the petition for panel rehearing and rehearing en banc was entered on September 29, 2025, and is reprinted in the Appendix at A-3.

The mandate of the Fourth Circuit issued on October 14, 2025, and is reprinted in the Appendix at A-4.

JURISDICTION

The United States Court of Appeals for the Fourth Circuit entered judgment affirming the dismissal of Petitioner's claims on September 29, 2025 furthermore denied the Appellant default Judgement on **July 29, 2025**. The Court of Appeals denied Petitioner's timely-filed petition for panel rehearing and rehearing en banc on **September 29, 2025**. The mandate issued on **October 14, 2025**.

This Petition for Writ of Certiorari is timely filed pursuant to **Supreme Court Rule 13.1**, which allows a petition to be filed within **90 days** of the entry of an order denying rehearing.

Accordingly, the deadline to file this petition is **December 29, 2025**.

This Court has jurisdiction under **28 U.S.C. § 1254(1)**, which authorizes review by certiorari of final decisions of the United States courts of appeals.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution, Amendment V (Due Process Clause)

"No person shall... be deprived of life, liberty, or property, without due process of law."

This clause guarantees procedural fairness and equal treatment under the law. It is implicated where courts apply rules inconsistently or deny a litigant a meaningful opportunity to be heard.

28 U.S.C. § 1254(1)

"Cases in the courts of appeals may be reviewed by the Supreme Court by writ of certiorari... after the entry of judgment in any civil or criminal case..."

This provision governs the Supreme Court's jurisdiction over federal courts of appeals.

28 U.S.C. § 1346(b) (Federal Tort Claims Act)

"The district courts... shall have exclusive jurisdiction of civil actions on claims against the United States... for injury or loss of property, or personal injury... caused by the negligent or wrongful act or omission of any employee of the Government..."

This statute establishes jurisdiction and scope for tort claims brought against the United States under the FTCA.

Federal Rule of Civil Procedure 6(d)

"When a party may or must act within a specified time after being served and service is made [by mail], 3 days are added after the period would otherwise expire under Rule 6(a)."

This rule governs how deadlines are extended when service is made by mail — applicable when courts require mail-only filing.

Federal Rule of Appellate Procedure 41

"The mandate must issue 7 days after the time to file a petition for rehearing expires, or 7 days after entry of an order denying a timely petition..."

This governs the formal issuance of the mandate after rehearing is denied.

Fourth Circuit Local Rule 34(b)

"If an appellee fails to file a brief, the appeal will be considered on the appellant's brief alone."

This local rule provides procedural consequences for a party's failure to respond — a rule that was not enforced in this case.

STATEMENT OF THE CASE

Petitioner (Ret) Major George Baldwin Hutchinson, Jr., is a ten-time deployed combat veteran who brought a civil action under the Federal Tort Claims Act (FTCA) and *Bivens v. Six Unknown Named Agents* to redress constitutional violations arising from an incident at the 81st Readiness Division at Fort Jackson, South Carolina.

On September 9, 2021, (Ret) Maj. Hutchinson visited the 81st Readiness Division to seek updated information on his sanctuary eligibility and benefits under the Temporary Early Retirement Authority (TERA). During this visit, he encountered a series of officials who demonstrated a lack of familiarity with the applicable regulations. After (Ret) Maj. Hutchinson respectfully questioned their interpretations; he was subjected to an escalating sequence of events resulting in his armed detainment by military police based on a fabricated claim that he had been told not to return to the premises. He was never charged with any crime. The base Provost Marshal and building security later acknowledged the incident was based on misinformation and offered to initiate an Inspector General investigation.

(Ret) Maj. Hutchinson filed a timely administrative claim under the FTCA, which the U.S. Army denied on May 26, 2023. He mailed his federal complaint on **November 24, 2023**, within the six-month statutory filing deadline. The envelope bore a verified pre-deadline postmark, and the deadline itself, adjusted for weekends and mail time under Fed. R. Civ. P. 6(a)(1)(C) and 6(d), fell no earlier than November 30, 2023.

Importantly, (Ret) Maj. Hutchinson had been explicitly **barred from using electronic filing** by multiple district court orders (ECF Nos. 27, 34, 44). The District Court for the District of South Carolina nevertheless dismissed his complaint on March 17, 2025, deeming it untimely based on the date it was received—December 1, 2023—without addressing the verified postmark or the court's own filing restrictions.

(Ret) Maj. Hutchinson appealed to the Fourth Circuit. He filed a timely Informal Opening Brief on April 24, 2025, raising, among other issues, the timeliness of his filing under the **Mailbox Rule** established in *Houston v. Lack*, 487 U.S. 266 (1988), and recognized by the Fourth Circuit in *Lewis v. Richmond City Police Department*, 947 F.2d 733 (4th Cir. 1991). He also raised due process concerns stemming from the court's contradictory conduct: mandating mail-only filing while penalizing him for mail delays.

The United States Government failed to file any response to the opening brief. It also failed to respond to (Ret) Maj. Hutchinson's **Motion for Judgment on the Briefs** (Doc. 9), which highlighted the government's procedural default. The Fourth Circuit issued a **summary affirmance** on July 29, 2025, without addressing the government's failure to respond or the mailbox rule issue.

(Ret) Maj. Hutchinson timely filed a Petition for Panel Rehearing and Rehearing En Banc (Doc. 14), again raising the Mailbox Rule, court-imposed mail-only constraints, and the Government's complete failure to engage with the appeal. On **September 29, 2025**, the Fourth Circuit denied rehearing without opinion, and without any judge calling for a poll. (Ret) Maj. Hutchinson then filed a Motion for Clarification seeking acknowledgment of whether the court had considered the binding precedent of *Lewis* and *Houston*, and the Government's waiver under *United States v. Cohen*, 888 F.3d 667 (4th Cir. 2018). The court has not responded to that request.

On **October 14, 2025**, the Fourth Circuit issued its formal **mandate**, denying (Ret) Maj. Hutchinson's Motion to Stay the Mandate, despite his stated intent to file this petition.

(Ret) Major Hutchinson now respectfully seeks review from this Court.

REASONS FOR GRANTING THE WRIT

A. The Fourth Circuit Ignored Its Own Binding Precedent on Timely Filing by Pro Se Litigants

This Court in *Houston v. Lack*, 487 U.S. 266 (1988), held that a pro se litigant's notice of appeal is deemed filed at the moment it is placed in the hands of prison officials for mailing. The Fourth Circuit extended this principle in *Lewis v. Richmond City Police Department*, 947 F.2d 733 (4th Cir. 1991), to apply to pro se civil complaints moreover this Court and others, including **Holland**, have emphasized fairness and access..." which appears to be ignored in this manner.

Here, (Ret) Maj. Hutchinson's complaint was indisputably postmarked **November 24, 2023** — several days before the FTCA's filing deadline when adjusted for weekends and Rule 6(d)'s mailing grace period. He was expressly **barred from electronic filing**, and thus had no alternative but to use the U.S. Postal Service.

The District Court and Fourth Circuit both failed to apply *Lewis* or even address the postmark, effectively nullifying the Mailbox Rule for litigants denied e-filing access. This unexplained departure from binding precedent **raises a critical question** about whether lower courts may ignore equitable doctrines when inconvenient.

B. The Court Affirmed in Favor of a Defaulting Party in Violation of Its Own Waiver Doctrine

In *United States v. Cohen*, 888 F.3d 667 (4th Cir. 2018), the Fourth Circuit made clear:

"Where a party fails to address an issue in its brief, that issue is deemed waived."

Despite this clear precedent, the United States:

- Filed **no response brief** to (Ret) Maj. Hutchinson's appeal,
- Filed **no reply** to the Motion for Judgment on the Briefs,
- Sought **no extension or justification** for its silence.

(Ret) Maj. Hutchinson raised substantial questions of law and constitutional rights, yet the Court ruled **entirely in favor of the non-responding party** without discussion of waiver, default, or adversarial fairness.

The Fourth Circuit's **Local Rule 34(b)** further states that if an appellee fails to file a response brief, the court may deem the case submitted on the appellant's brief alone. Despite this, the court offered **no explanation**, and instead issued a summary affirmance for the silent appellee.

This unexplained departure from its own rules and case law violates **basic due process**, as well as the constitutional requirement for fair and consistent application of court procedure.

C. The Court Imposed Procedural Burdens and Then Punished the Appellant for Complying

(Ret) Maj. Hutchinson was subjected to a filing regime that **barred him from electronic filing or notification**. He repeatedly requested access due to his limited physical access to mailboxes and to account for widespread delays in the U.S. Postal Service, which have been documented in Congressional testimony. Nevertheless, the District Court imposed mail-only filing by order (ECF Nos. 27, 34, 44).

After forcing (Ret) Maj. Hutchinson to use the mail, the same court penalized him for **mail-related delay** beyond his control. This is precisely the kind of procedural trap that *Houston* and *Lewis* sought to prevent — especially where the court itself **engineered the constraint**.

D. This Case Raises Recurring, Unresolved Questions About Pro Se Access, Court-Imposed Constraints, and Government Advantage

The facts here reveal more than a routine procedural dismissal. They expose a breakdown in core judicial standards:

- **Procedural default** rules enforced against one party but waived for the Government,
- **No response filed** by the Government, yet it was granted full relief,
- **Court-imposed constraints** used as grounds for dismissal,
- **Binding precedent ignored** without explanation.

These practices send a damaging signal to pro se litigants and the broader legal system: that procedural rules are selectively applied, and government silence may still prevail. The Court's review is warranted to ensure **uniform application of due process**, protect **judicial integrity**, and reaffirm that pro se litigants are entitled to meaningful participation.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant the petition for a writ of certiorari, reverse the judgment of the United States Court of Appeals for the Fourth Circuit, and remand for further proceedings consistent with constitutional guarantees of due process, equal protection, and the fair and uniform application of judicial rules.

This case presents compelling grounds for review:

- A **timely mailed complaint** was dismissed solely because the U.S. Postal Service delivered it after the deadline — a delay created by the court's own filing restrictions;
- The Fourth Circuit **ignored its own precedent** (*Lewis v. Richmond*) and this Court's controlling authority (*Houston v. Lack*) on the Mailbox Rule;
- The government **did not file a single response** on appeal, yet prevailed — in direct contradiction to the court's own **waiver and default doctrine**;

- The panel decision and en banc denial offered **no reasoning**, despite conflicts with established law and basic procedural fairness;
- The cumulative effect of these errors deprived Petitioner — a pro se veteran — of a meaningful opportunity to be heard, undermining confidence in the integrity of the judicial process.

This case raises a fundamental and recurring question: **Can courts impose procedural constraints on pro se litigants, and then use those constraints to defeat their access to justice — all while excusing government defaults?**

The Constitution requires more. The rules of court require more. The principles of fairness demand more.

This Court's review is necessary to restore balance, reinforce precedent, and affirm that due process and equal protection do not depend on a litigant's mailing status or pro se status.

Petitioner respectfully requests that the writ be granted.

December 19th, 2025 Respectfully submitted,

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