No. ______

In the Supreme Court of the United States

MICHAEL SHANE RAGLAND,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Before a federal prisoner can seek relief in a second or successive habeas application in the district court, they must move in "the appropriate court of appeals," 28 U.S.C. § 2255(h), for "an order authorizing the district court to consider [their] application," *id.* § 2244(b)(3)(A). The court of appeals grants that authorization if the petitioner makes "a prima facie showing" that their "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 "application." *Id.* § 2244(b)(3)(C).

The question presented is:

Whether a district court's jurisdiction over a second or successive habeas application by a federal prisoner is limited to the specific "claim" certified by the court of appeals, as the Eleventh and Fifth Circuits hold, or whether it embraces the entire "application," as the statute's text provides and as five circuits—the First, Second, Fourth, Seventh, and Ninth—hold.

PARTIES TO THE PROCEEDINGS BELOW

Michael Shane Ragland (Defendant-Appellant below) is Petitioner.

United States of America (Plaintiff-Appellee below) is Respondent.

RELATED PROCEEDINGS

The following cases are related to this proceeding under Rule 14.1(b)(iii):

United States v. Ragland, No. 23-12278, United States Court of Appeals for the Eleventh Circuit, judgment entered March 5, 2026 (168 F.4th 1345).

United States v. Ragland, No. 09-cr-14016, United States District Court for the Southern District of Florida, amended judgment entered June 30, 2023.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Michael Shane Ragland respectfully petitions this Court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case.

OPINIONS BELOW

The decision on panel rehearing of the court of appeals, which vacated in part and reinstated in part the panel's initial decision (App. 1a-17a) is published at 168 F.4th 1345 (11th Cir. 2026) and the panel's initial decision (App. 18a-39a) is unreported but available at 2025 WL 1742251. The decision of the district court denying petitioner's motion to amend his second or successive 28 U.S.C. § 2255 motion pursuant to Federal Rule of Civil Procedure 15(c)(1)(B) (App. 56a-58a) is unreported. The district court's amended judgment (App. 40a-55a) is unreported.

JURISDICTION

The court of appeals entered its amended judgment on March 5, 2026 (App. 1a-17a). On May 18, 2026, Justice Thomas extended the time to file a petition for a writ of certiorari through July 6, 2026. On June 22, 2026, Justice Thomas further extended the time to file a petition for a writ of certiorari through August 3, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

Relevant statutory provisions are reproduced in the petition appendix. App. 67a-72a.

INTRODUCTION

This petition presents an important and recurring question of statutory interpretation on which the courts of appeals are openly divided: Whether a district court's jurisdiction over a second or successive habeas application is limited only to specific "claims" authorized by the court of appeals. The circuits are split 5-2 on this important question of federal habeas law. That split will continue to produce arbitrary disparities between federal prisoners absent this Court's intervention.

The Antiterrorism and Effective Death Penalty Act (AEDPA) enacts a carefully drawn scheme for federal prisoners seeking habeas relief and for courts evaluating such motions. When it comes to second or successive habeas petitions, prisoners must point to clear and convincing evidence of innocence or a new and retroactive rule of constitutional law to obtain relief. *See* 28 U.S.C. § 2255(h).

AEDPA specifies the procedure for assessing compliance with these requirements: The court of appeals is responsible for screening second or successive "application[s]" for "prima facie" compliance with Section 2255(h), while the district courts are responsible for evaluating the particular "claims" that a prisoner presents. 28 U.S.C. §§ 2244, 2255; *see Bowe v. United States*, 607 U.S. 13, 23-24 (2026) (noting that for purposes of a court of appeal's certification, "application" is the equivalent of a "motion" for habeas relief by a federal prisoner). The statute provides that once a court of appeals authorizes a "motion" that "contain[s]," for instance, "a new rule of constitutional law" made retroactive by this Court, 28 U.S.C. § 2255(h), the district court is then responsible for parsing each claim of that broader application, *id.* § 2244. This scheme reflects Congress's choice to empower the federal courts of appeals to act as gatekeepers to second or successive applications, while leaving the in-the-weeds analysis of particular claims—and potential amendments—to the district courts.

The above process is how second or successive petitions work in at least five of the federal courts of appeals: the First, Second, Fourth, Seventh, and Ninth Circuits. But it is not how they work in the Eleventh and the Fifth Circuits. In the decision below, the Eleventh Circuit cemented its atextual approach to AEDPA, requiring that the court of appeals authorize each particular "claim" a prisoner intends to bring under Section 2255. As a result, district courts in the Eleventh Circuit are jurisdictionally barred from considering any claim a prisoner presses that has not been specifically authorized by the court of appeals. The Fifth Circuit follows the same claim-level approach.

This case exemplifies the Eleventh Circuit's approach. Petitioner Michael Ragland, proceeding *pro se*, brought a second or successive Section 2255 petition challenging his conviction under 18 U.S.C. § 924(c) for brandishing a firearm during a crime of violence, predicated on attempted Hobbs Act robbery. The Eleventh Circuit authorized the application as to that claim. But when Ragland, after obtaining counsel, sought to amend his application to also seek relief for his Section 924(c) convictions premised on *completed* Hobbs Act robbery, the district court concluded that it lacked jurisdiction because the Eleventh Circuit did not specifically authorize Ragland to bring such a claim. The Eleventh Circuit affirmed and denied rehearing. In doing so, it acknowledged that there was a "circuit split" on this issue and that its sister circuits would have allowed Ragland to amend his second or successive Section 2255 application. App. 2a. However, the court expressly "disagree[d]" with those circuits, and found Ragland jurisdictionally barred from pursuing his claim. *Id.* at 16a.

The Eleventh Circuit's rule is plainly wrong. It cannot be squared with AEDPA's text, which expressly distinguishes between a prisoner's "application" and individual "claims"—a distinction this Court has repeatedly emphasized. *See, e.g.*, *Artuz v. Bennett*, 531 U.S. 4, 9-10 (2000). AEDPA's structure confirms that Congress delegated the responsibility for adjudicating the merits of individual "claims" to the district courts. And although the Eleventh Circuit justified its counter-textual rule based on policy concerns, its claim-based approach in fact upsets the careful balance Congress struck. AEDPA casts the courts of appeals as initial screeners, not ultimate deciders. The Eleventh Circuit's contrary approach creates unnecessary work for the courts of appeals while "artificially" erecting a senseless jurisdictional bar to meritorious claims. *St. Hubert v. United States*, 590 U.S. 984, 987, 989 (2020) (statement of Sotomayor, J.) (noting that the Eleventh Circuit's restrictive approach to second or successive applications leaves it "significantly out of step with other courts").

This case is an ideal vehicle to address this important issue. The federal courts of appeals receive thousands of second or successive applications per year, and the scope of their authorization orders is a recurring issue of federal law that demands a uniform answer. The Eleventh Circuit's rule creates troubling geographic disparities, enabling relief for prisoners in Chicago or Raleigh but not in Miami or Dallas. And the rule penalizes indigent prisoners, many of whom—like petitioner—proceed without a lawyer, especially when first filing their applications in the courts of appeals.

This Court regularly grants certiorari to address AEDPA's proper construction. This case is of a piece and offers the Court an opportunity to restore uniformity in the administration of AEDPA and to address a demonstrably incorrect aspect of the Eleventh and Fifth Circuits' habeas jurisprudence. The petition should be granted.

STATEMENT OF THE CASE

A. Statutory Background

Congress enacted AEDPA in 1996, with the "goal of streamlining habeas cases." *Banister v. Davis*, 590 U.S. 504, 514-17 (2020). Relevant here, "[i]ncarcerated individuals who seek to challenge their imprisonment through a federal habeas petition are generally afforded one opportunity to do so." *Rivers v. Guerrero*, 605 U.S. 443, 446 (2025); *see also* 28 U.S.C. §§ 2254, 2255. AEDPA, however, permits incarcerated individuals to bring a "second or successive federal habeas filing on the merits" in certain narrow, but important, circumstances. *Rivers*, 605 U.S. at 446.

AEDPA creates a "gatekeeping provision" that requires the federal courts of appeals to screen second or successive habeas applications. Specifically, for federal prisoners, "[a] second or successive motion must be certified . . . by a panel of the appropriate court of appeals." 28 U.S.C. § 2255(h). The courts of appeals are tasked with determining whether the prisoner's "motion" "contain[s]" either "newly discovered evidence" that would exonerate the prisoner, or "a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable." *Id.* AEDPA's gatekeeping provision is designed to, among other things, "conserve judicial resources" and "reduc[e] piecemeal litigation." *Banister*, 590 U.S. at 512 (alteration in original) (citation omitted).

Section 2255 "cross-references" the procedures set forth in Section 2244 for second or successive applications, *Bowe*, 607 U.S. at 24, by providing that the motion must be "certified as provided in section 2244," 28 U.S.C. § 2255(h). Section 2244, in turn, contains a series of provisions that carefully distinguish between a court of appeals's responsibility to screen "applications" and a district court's obligation to adjudicate individual "claims."

The courts of appeals are instructed to evaluate a prisoner's "motion . . . for an order authorizing the district court to consider a second or successive application." *Id.* § 2244(b)(3)(B). And "[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." *Id.* § 2244(b)(3)(C) (emphasis added). As the statute elsewhere contemplates, it falls on district courts to adjudicate individual claims presented within second or successive applications. *See id.* § 2244(b)(4) (in the state prisoner context, providing that the "district court"—not the court of appeals—"shall dismiss any *claim* presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section" (emphasis added)). In this way, the statute draws a distinction between "motions" (in § 2255's language) and "applications" (in § 2244's language), on the one hand, and "claims," on the other.

Once a court of appeals authorizes a habeas application, a district court has jurisdiction to resolve a habeas petitioner's individual claims. And if a petitioner seeks to add claims in the district court, they may do so under Federal Rule of Civil Procedure 15, which governs amendments. *See id.* § 2242 ("Application for a writ of habeas corpus . . . may be amended or supplemented as provided in the rules of procedure applicable to civil actions.").

B. Factual And Procedural Background

1. Petitioner Michael Ragland was convicted of eighteen counts related to a series of convenience-store robberies that occurred between December 2007 and February 2008, when he was nineteen years old. *See* App. 2a-3a. Relevant here, Ragland was convicted of one count of brandishing a firearm during the commission of a crime of violence, predicated on attempted Hobbs Act robbery, in violation of 18 U.S.C. § 924(c). Ragland was also convicted of seven additional counts of brandishing a firearm during and in relation to a crime of violence, based on completed Hobbs Act robbery, in violation of the same statute. For his role in these convenience-store robberies, Ragland was sentenced to 2,352 months—196 years—in federal prison. He unsuccessfully appealed his convictions. *See United States v. Ragland*, 434 F. App'x 863, 871 (11th Cir. 2011) (per curiam), *cert. denied*, 565 U.S. 1173 (2012). Ragland also

unsuccessfully sought to vacate his sentence through a Section 2255 petition in 2016. App. 19a.

2. In June 2022, this Court held in *United States v. Taylor* that attempted Hobbs Act robbery does not qualify as a crime of violence that can serve as a predicate for a conviction under 18 U.S.C. § 924(c). 596 U.S. 845, 851 (2022). Three months later, in September 2022, Ragland filed *pro se* a second or successive motion under Section 2255, arguing that he was actually innocent of the § 924(c) count premised on attempted Hobbs Act robbery in light of *Taylor*. The Eleventh Circuit screened that motion under AEDPA's gatekeeping provisions and granted his Section 2255 application "as to his . . . claim" based on *Taylor*. App. 66a.

In the district court, Ragland obtained counsel and filed a motion to amend his second or successive claims for relief, pursuant to Rule 15. Specifically, Ragland sought to also challenge his other seven Section 924(c) convictions predicated on *completed* Hobbs Act robbery, again relying on this Court's decision in *Taylor*. CA11 Appendix at Doc. 547, at 4. A different district court in the Southern District of Florida had concluded that a defendant's conviction for completed Hobbs Act robbery was not a valid predicate for Section 924(c)'s purposes because the jury instructions in that case had "allowed for the commission of Hobbs Act robbery by . . . 'the fear of *financial* loss'" and therefore were "categorically overbroad relative" to Section 924(c)'s requirement of a "'crime of violence.'" *See United States v. Louis*, No. 21-cr-20252, 2023 WL 2240544, at *1 (S.D. Fla. Feb. 27, 2023) (emphasis altered) (citations omitted). And Ragland argued that his challenge to his remaining Section 924(c) convictions predicated on completed

Hobbs Act robbery "related back" to his Section 2255 petition challenging his Section 924(c) conviction predicated on attempted Hobbs Act robbery.

3. The district court granted relief as to the Section 924(c) count predicated on attempted Hobbs Act robbery, vacated Ragland's sentence, and ordered a resentencing hearing. App. 21a. But the court denied Ragland's motion to amend his Section 2255 petition. *See id.* at 56a-58a. In the district court's view, the court "only ha[d] the subject matter jurisdiction to consider the specific claims provided to it by the Eleventh Circuit." *Id.* at 57a.

The Eleventh Circuit affirmed. Relying on prior circuit precedent, the court held "district courts do not have subject-matter jurisdiction over claims that were not raised and authorized in a defendant's application to file a successive motion to vacate." *Id.* at 36a (citing *United States v. Pearson*, 940 F.3d 1210, 1216 (11th Cir. 2019), *cert. denied*, 590 U.S. 911 (2020)).

Ragland sought rehearing. But the court denied rehearing on Ragland's second or successive claim. In a published opinion, the court held that its order granting Ragland permission to seek Section 2255 relief froze "the boundaries of the district court's jurisdiction," and Ragland was thus required to file a new Section 2255 motion for certification "with the court of appeals" if he wished to bring any additional claim. App. 17a. The Eleventh Circuit expressly acknowledged that its decision conflicted with the decisions of its "sister courts" and implicated a "circuit split." *Id.* at 2a, 16a. The Eleventh Circuit "disagree[d]" with the Fourth and Seventh Circuits' approach, because, in its view, allowing Rule 15 amendments could allow "a movant" to "easily bypass the legislatively mandated screening process" for second or successive applications. *Id.* at 16a.

REASONS FOR GRANTING THE WRIT

This case presents an ideal vehicle for resolving an entrenched 5-2 split among the circuits on an important and recurring issue of federal statutory law. The Eleventh Circuit's claim-specific approach to second or successive applications is wrong: It contravenes AEDPA's text and this Court's precedents, upending the careful balance Congress struck. This Court's intervention is urgently needed to restore the faithful and uniform administration of the federal habeas scheme.

I. THERE IS A CLEAR, ACKNOWLEDGED, AND INTRACTABLE CIRCUIT CONFLICT ON THE QUESTION PRESENTED

The courts of appeals are deeply divided. Five circuits—the First, Second, Fourth, Seventh, and Ninth—hold that an appellate court's certification order runs to the entire application, recognizing district court jurisdiction over claims not individually certified by the court of appeals. The Fourth and Seventh Circuits have squarely held that this application-level framework permits petitioners to amend their § 2255 motions under Rule 15 to add claims not raised in an original request for authorization. The First, Second, and Ninth Circuits have endorsed the same application-level framework.

In direct conflict, the Eleventh and Fifth Circuits hold that each individual claim requires separate appellate certification, and a court of appeals's authorization order permanently fixes "the boundaries of the district court's jurisdiction." App. 17a. Unlike identically situated prisoners in the rest of the country, prisoners in the Eleventh and Fifth Circuits thus cannot amend their § 2255 motions in district court to add related claims—even when those claims arise from the same legal or factual development and would therefore relate back to the original filing.

1. The First, Second, Fourth, Seventh, and Ninth Circuits have each concluded that district courts retain jurisdiction to add claims not expressly authorized by a court of appeals.

a. *The Seventh Circuit.* In *Reyes v. United States*, a federal prisoner obtained authorization from the Seventh Circuit to file a successive § 2255 motion, then sought to amend that motion in the district court to add a new claim challenging his § 924(c) conviction. 998 F.3d 753, 756-57 (7th Cir. 2021). The Government argued that the district court lacked jurisdiction over the new claim because it had never been certified by the court of appeals. *Id.* at 759-60. The Seventh Circuit rejected that argument, holding that AEDPA "require[s] only that successive *applications*, and not amendments or even necessarily individual claims, be screened by an appellate panel." *Id.* at 761.

Anchoring its holding in statutory text, the Seventh Circuit explained that AEDPA requires a court of appeals to "'authoriz[e] the district court to consider the application'"—not "individual claims" within it. *Id.* at 760-61 (quoting 28 U.S.C. § 2244(b)(3)(A)). Section 2255(h) instructs the court of appeals to check whether a successive motion "'contain[s]'" a claim that meets its content requirement—"perhaps just one claim" that is "worth looking into." *Id.* at 760 (quoting 28 U.S.C. § 2255(h)). The court also noted the "limited" role assigned to "the screening panel": it conducts a "'prima facie'" review, "must turn screening questions around quickly and ha[s] circumscribed jurisdiction over such requests." *Id.* at 760-61 (citation omitted). So, "[b]y statutory design," the appellate court's "initial review of such an application must be quick and is unlikely to be deep." *Id.* at 760. The district courts, by contrast, do "the deeper dive," conducting a claim-by-claim review. *Id.* at 761. Thus, the Seventh Circuit held, district courts may entertain motions to amend authorized successive § 2255 motions under Rule 15, and "can and should use their discretion under Rule 15 to prevent abusive or needlessly time-consuming tactics." *Id.*

Reyes built on then-Chief Judge Posner's widely cited discussion of appellate courts' limited gatekeeping role under AEDPA. Chief Judge Posner explained that the gatekeeping inquiry demands only "a sufficient showing of possible merit to warrant a fuller exploration by the district court." *Bennett v. United States*, 119 F.3d 468, 469 (7th Cir. 1997). The appellate court's review is necessarily preliminary and circumscribed: "All that we usually have before us in ruling on such an application, which we must do under a tight deadline, is the application itself and documents required to be attached to it." *Id.* (citation omitted); *see also* 2 Randy Hertz & James S. Liebman, *Federal Habeas Corpus Practice and Procedure* § 28.3 & n.122 (2025) (noting that courts of appeals coalesced around *Bennett*'s interpretation of AEDPA's gatekeeping provisions). Reflecting that limited gatekeeping role, *Reyes* held that "[o]nce one claim has cleared th[e] high hurdle" erected by Section 2255(h), the court of appeals "do[es] not dissect the application further." 998 F.3d at 761.

b. *The Fourth Circuit*. The Fourth Circuit's approach is in accord. In *United States v. Winestock*, the court noted that Section 2244(b)(3) "establish[es] [a] gatekeeping function for [the] court of appeals with respect to 'second or successive *application*[*s*],'" while other provisions within the same section require "'claim'"-level analysis by the district court. 340 F.3d 200, 205 (4th Cir.), *cert. denied*, 540 U.S. 995 (2003). Based on this textual distinction, the Fourth Circuit held that "[t]he court of appeals must examine the application to determine whether it contains *any* claim that satisfies" the gatekeeping standard, and "[i]f so, the court should authorize the prisoner to file the *entire* application in the district court." *Id.* (emphasis added).

Based on *Winestock*, the Fourth Circuit held that Section 2255 does not require a petitioner to obtain additional appellate certification to amend their second or successive petition in the district court. *United States v. MacDonald*, 641 F.3d 596 (4th Cir. 2011). In *MacDonald*, a federal prisoner obtained prefiling authorization from the Fourth Circuit for a successive Section 2255 motion raising a single due process claim. *Id.* at 598. After filing the successive motion in the district court, the petitioner moved to add a freestanding actual innocence claim. The district court denied the motion to amend, finding that it lacked jurisdiction over the actual innocence claim because the petitioner had not sought separate appellate authorization for that claim.

The Fourth Circuit reversed. The court reaffirmed that "when deciding whether to grant prefiling authorization, we inspect 'the application'—that is, the entire § 2255 motion—'to determine whether it contains any claim that satisfies' the § 2255(h) standard." *Id.* at 615 (citation omitted). If "any claim" meets one of § 2255(h)'s content requirements, the court explained, "we authorize the prisoner to file the *entire application* in the district court." *Id.* (emphasis added) (citation omitted). Because its certification order ran to the application, the court held, the district court possessed jurisdiction over the actual innocence claim, and Rule 15(a) governed the petitioner's motion to amend. Rule 15(a) was thus "the real potential barrier" to the petitioner's request to add the actual innocence claim, *not* Section 2255(h). *Id.* at 616.

c. *The Second Circuit.* The Second Circuit has also adopted the application-level authorization framework. When a successive application contains a claim satisfying the gatekeeping standard, the court of appeals "should authorize the prisoner to file the entire application in the district court." Am. Order 4, *Llamas v. United States*, Nos. 16-2093 & 16-2412, at 4 (2d Cir. Aug. 28, 2020), ECF 26-1 (quoting *Winestock,* 340 F.3d at 205). On top of the textual distinction between applications and claims, the Second Circuit explained that AEDPA's structure indicates that "detailed review of the criminal proceedings" and claim-level scrutiny is the province of the district court, not the court of appeals. *Id.* That type of scrutiny is "generally inappropriate in a gatekeeping proceeding where the Court only needs to determine whether a prima facie showing has been made and the Court is statutorily required to reach a decision quickly." *Id.*; *see also, e.g.*, Order 2, *Myton v. United States*, No. 16-1722 (2d Cir. Sept. 16, 2020), ECF 60-1 (leaving claim-based evaluation to the district court). Consistent with appellate certification operating at the application level, the Second Circuit has confirmed the "petitioner's ability to move to amend a habeas petition pending in the district court under Rule 15." *Fuller v. United States*, 815 F.3d 112, 113 n.2 (2d Cir. 2016) (citing *MacDonald*, 641 F.3d at 615-16).

d. *The Ninth Circuit.* The Ninth Circuit adopted this same framework at the very inception of AEDPA's gatekeeping regime. In *Nevius v. McDaniel*, the court held that where at least one claim meets Section 2255(h)'s strict requirements, "the proper procedure under the statute is for this court to authorize the filing of the entire successive application." 104 F.3d 1120, 1121 (9th Cir. 1996). Section 2244(b)(3) "refers only to our granting or denying 'an application.'" *Id.* That textual choice "is to be contrasted" with Congress's wording of other provisions in Section 2244(b), which center on "claim[s]." *Id.* The court also juxtaposed the gatekeeping procedure with that for granting a certificate of appealability under Section 2253, which explicitly requires the court of appeals to "indicate which specific *issue or issues*" warrant appellate review. *Id.* (emphasis added). The Ninth Circuit found it telling that this "issue"-specific provision had "no comparable" counterpart "governing [the] authorization of successive applications." *Id.* In addition, the court reasoned, AEDPA's 30-day clock for certification orders indicates that Congress intended the appellate assessment to function as a preliminary gateway, not a granular, claim-by-claim adjudication. *Id.* at 1121-22; *accord, e.g.*, *Woratzeck v. Stewart,* 118 F.3d 648, 650 (9th Cir. 1997) (per curiam); *Cooper v. Woodford*, 358 F.3d 1117, 1123 (9th Cir. 2004).

e. *The First Circuit*. The First Circuit has likewise endorsed the application-level framework. Citing the courts of appeals' then-unanimous view, the First Circuit held that "certification to file the entire successive petition in district court should be granted if any *one claim* satisfies the gatekeeping standard," with the district court required to "more closely scrutinize each claim and dismiss those that are barred under [§ 2255(h)]." Corrected Judgment 2, *Goodridge v. United States*, No. 16-1219 (1st Cir. July 29, 2016) (emphasis added); *accord Moore v. United States*, 871 F.3d 72, 78 (1st Cir. 2017). This division of labor, which "le[aves] much work for the district court," is "by necessity" of the appellate court's limited "gatekeeping" role. *Moore*, 871 F.3d at 84-85.

2. In sharp contrast to the foregoing cases, the Eleventh and Fifth Circuits have adopted an atextual approach, requiring that the court of appeals certify individual *claims*.

a. *The Eleventh Circuit*. The panel below held that Section 2255(h) requires appellate certification for each *claim*, and thus a court of appeals's certification order permanently fixes "the boundaries of the district court's jurisdiction." App. 17a. Under this rule, a district court is jurisdictionally barred from considering amendments to second or successive Section 2255 applications under Rule 15. *See id.* Consequently, a petitioner must return to the court of appeals for separate authorization if they wish to bring any claim not included in their initial request for certification—even if the new claim involves the same legal theory and would relate back to their original filing. *Id.*

The court below justified that rule because, in its view, a petitioner could "bypass the legislatively mandated screening process," unless they are required to obtain appellate authorization for each and every claim. *Id*. at 16a. The court stated that Rule 15's standard for amendments was not stringent enough to prevent a petitioner from "extend[ing] [their] action," which it viewed as contrary to AEDPA's purpose in requiring appellate screening. *Id.* at 17a. The court noted that the Fourth and Seventh Circuits had each "reached a different result on similar facts," but it "disagree[d]" with their approach insofar as it permits district courts to consider claims not individually certified by the court of appeals. *Id.* at 15a-16a. To avoid that "flaw[ed]" consequence, the court cemented the Eleventh Circuit's rule requiring appellate authorization of individual claims and thus broke from the application-level approach adopted by its "sister courts." *Id.* at 16a.

b. *The Fifth Circuit*. Like the Eleventh Circuit, the Fifth Circuit treats appellate authorization as fixing the boundaries of the district court's jurisdiction on a claim-by-claim basis. In *United States v. Hanner*, a federal prisoner, *pro se*, obtained authorization from the Fifth Circuit to file a successive Section 2255 motion challenging his Armed Career Criminal Act (ACCA) sentence. 32 F.4th 430, 431 (5th Cir. 2022). The court's order granting authorization mentioned only Hanner's aggravated burglary and second-degree battery convictions. *Id*. at 432. After the case was transferred to the district court, Hanner sought to challenge his conviction on the ground that his manslaughter conviction also did not qualify as an ACCA predicate. *Id*.

The Fifth Circuit held that the district court lacked jurisdiction to consider the manslaughter-based claim. *Id.* at 434-35. Under AEDPA, the court stated, there are "two . . . 'gates'" a prisoner must pass "'to have [his motion] heard on the merits,'" with the first gate at the court of appeals and the second at the district court. *Id.* at 434 (citation omitted). In "considering" the petitioner's "claim that his manslaughter conviction did not count as an ACCA predicate after *Johnson*," the court stated, "the district court tacitly assumed that [he] had already passed through the first jurisdictional gate with respect to that issue." *Id.* That was error, according to the Fifth Circuit, even though the petitioner's manslaughter-based challenge arose from the same legal theory (*Johnson*) as the authorized claims. Because "Hanner neither sought nor obtained permission to file a successive § 2255 motion raising *the claim* that his manslaughter conviction no longer qualifies as an ACCA predicate," the district court lacked jurisdiction to consider that claim. *Id.* at 434-35 (emphasis altered) (citing *United States v. Winterroth*, 759 F. App'x 299, 303 (5th Cir. 2019)).

3. There can be no serious dispute that this conflict is both real and entrenched. The Eleventh Circuit itself expressly "highlight[ed]" that it was cementing a "circuit split" with its "sister courts," App. 2a, 16a, and "respectfully disagree[d]" with the Fourth and Seventh Circuits, *id.* at 16a—going out of its way to engage with and reject their contrary reasoning. Courts and commentators have widely recognized the circuit conflict and its practical implications for federal prisoners. *See, e.g.*, *United States v. Cunningham*, Cr. No. 95-0088, 2026 WL 1030837, at *3 (D.D.C. Apr. 16, 2026) (highlighting

disparate approaches taken by circuits); Congressional Research Service, *Congressional Court Watcher: Circuit Splits from March 2026*, at 1, 4 (Apr. 20, 2026), https://www.congress.gov/crs_external_products/LSB/PDF/LSB11420/LSB11420.1.pdf (noting "recognize[d]" circuit split). This Court's intervention is plainly needed to resolve the conflict.

II. THE DECISION BELOW IS WRONG

Certiorari is also warranted because the Eleventh Circuit's rule is wrong as a matter of AEDPA's text, structure, and purpose. It is at odds with Congress's deliberate juxtaposition of individual "claims" and "applications" that "contain" those claims—a textual choice this Court has time and again found dispositive in construing AEDPA's threshold requirements. *See Artuz v. Bennett*, 531 U.S. 4, 9-10 (2000); *Gonzalez v. Crosby*, 545 U.S. 524, 530 (2005); *Magwood v. Patterson*, 561 U.S. 320, 334-35 (2010). It inverts the division of labor that AEDPA assigns to the courts of appeals (threshold gatekeeping) and district courts (detailed review). And even though the Eleventh Circuit attempted to justify its counter-textual rule based on AEDPA's purposes, its approach actually undermines the goals the gatekeeping regime was designed to serve.

1. A straightforward reading of AEDPA's text forecloses the approach adopted by the court below. Under Section 2255, a court of appeals must certify a "second or successive *motion*"—not an applicant's individual claims or amendments. 28 U.S.C. § 2255(h) (emphasis added). Section 2255(h) cross-references 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, when it comes to certifying a second or successive motion, "application" is the equivalent of a "motion" for habeas relief by a federal prisoner); *Magwood*, 561 U.S. at 324 n.1 ("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.

The subject of every appellate gatekeeping requirement in Section 2244(b)(3) is the "application," never an individual claim. Section 2244(b)(3)(C), 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) (emphases added). By contrast, Section 2244(b)(4) directs the *district court*—rather than the court of appeals—to "dismiss any *claim* presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the *claim* satisfies the requirements of this section." *Id.* § 2244(b)(4) (emphasis added); *see also id.* § 2244(b)(1)-(2) (addressing "claim[s]"). Congress thus drew a deliberate and unmistakable line: courts of appeals screen "applications"; district courts scrutinize "claims."

Moreover, to satisfy Section 2255(h), the "motion" must "*contain*" newly discovered evidence or a new rule of constitutional law. *Id.* § 2255(h) (emphasis added). The statute thus directs the court of appeals to assess whether the motion, taken as a "whole," "ha[s] in it," "hold[s]," "include[s]," or "extend[s] over" at least one qualifying claim. *Oxford English Dictionary* (2d ed. 1989, online) (defining "contain"). If "any claim" clears Section 2255(h)'s high hurdle, so too will the motion that "'contain[s]'" the claim. *Reyes*, 998 F.3d at 760-61 (alteration in original).

This Court's precedents confirm the importance of AEDPA's express distinction between "applications" and "claims." In *Artuz*, the availability of tolling under Section 2244(d)(2) hinged on the claim/application distinction. The State urged the Court to disregard that distinction, arguing that a pending "*application*" for state postconviction relief is not subject to the tolling provision if it "contain[s] *claims* that are procedurally barred." 531 U.S. at 5 (emphasis added). But Justice Scalia's opinion for a unanimous Court refused to "elide[] the difference between an 'application' and a 'claim'" when construing Section 2244's threshold requirements. *Id.* at 9. Justice Scalia explained that a comparison of Section 2244's subsections demonstrates that Congress knew how to reference "claims" when it meant claims and "applications" when it meant applications, so courts must respect that distinction. *Id.* at 9-10. After all, no "[o]rdinary English" speaker would mistake the two—he "would refer to certain claims as having been properly presented or raised" in an "application containing those claims." *Id.* at 10 (emphasis omitted). "[I]gnoring this distinction would require judges to engage in verbal gymnastics[.]" *Id.* Justice Scalia thus concluded that the tolling provision applies so long as *the application* satisfies "the filing conditions" of the "'appropriate court.'" *Id.* at 9, 11 (citation omitted).

Five years later, in *Crosby*, this Court relied on the claim/application distinction to delineate when a Rule 60(b)(6) motion is deemed a successive habeas petition under Section 2254. 545 U.S. at 530. Writing again for the Court, Justice Scalia explained that "an 'application' for habeas relief is a filing that contains one or more 'claims,'" and that this "definition is consistent with the use of the term 'application' in the other habeas statutes in chapter 153 of title 28." *Id.* "[B]efore the district court may accept a [state prisoner's] successive *petition* for filing," Justice Scalia noted, the court of appeals must find that it presents at least one "*claim* not previously raised that is sufficient to meet § 2244(b)(2)'s new-rule or actual-innocence provisions." *Id.* at 529-30 (emphases added). Based on the claim/application distinction, Justice Scalia concluded that a Rule 60(b)(6) motion that only "challenges the [d]istrict [c]ourt's failure to reach the merits"—without asserting a "claim[] of error in the movant's state conviction"—is "not to be treated as a successive habeas petition." *Id.* at 530-32, 538.

Subsequently, this Court, in *Magwood*, held that "Congress' use of the word 'application' [is] significant" and again "refused to adopt an interpretation of § 2244(b) that would 'elide the difference between an application and a claim,'" 561 U.S. at 334 (quoting *Artuz*, 531 U.S. at 9). Even though "AEDPA uses the phrase 'second or successive' to modify 'application,'" the State argued that this phrase "modif[ies] 'claims'" such that any claim a petitioner *could have* raised in a prior habeas application, but did not, should be deemed "successive." *Id.* at 331, 334. Writing for the Court, Justice Thomas rejected this argument because of "'the difference between an application and a claim.'" *Id.* at 334 (citation omitted). Justice Thomas reiterated that "'[f]or purposes of § 2244(b)'"—the provision expressly incorporated by Section 2255(h)—"'an application for habeas relief is a filing that contains one or more claims.'" *Id.* (quoting *Crosby*, 545 U.S. at 530). Just because "many of the rules under § 2244(b) focus on claims," Justice Thomas explained, that "does not entitle us to rewrite the statute to make the phrase 'second or successive' modify claims as well." *Id.* at 334-35. In short, this Court time and again has enforced AEDPA's claim/application distinction.

The Eleventh Circuit's approach collapses the textual distinction this Court has repeatedly emphasized. In so doing, the decision below defies the "cardinal rule of statutory interpretation" that "'differences in language . . . convey differences in meaning.'" *Bowe*, 607 U.S. at 36-37 (citation omitted); *id.* (applying rule to Section 2244). Likewise, courts do not "usually read into statutes words that aren't there" (or conflate them) and "[i]t's a temptation [they] are doubly careful to avoid when Congress has (as here) included the term in question elsewhere in the very same statutory provision." *Romag Fasteners, Inc. v. Fossil, Inc.*, 590 U.S. 212, 215 (2020). Those presumptions "appl[y] with even greater force" to the terms "application" and "claim"—terms "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). The Eleventh Circuit adopted its interpretation only by blinding itself to Congress's express directions, overlooking this Court's precedents construing that very text, and casting aside well-settled principles of statutory construction.

2. The Eleventh Circuit's approach also cannot be squared with statutory context and AEDPA's broader purpose. Congress designed AEDPA to create a two-tier structure in which the courts of appeals conduct an initial "prima facie" screen of second or successive applications, while the district courts then perform the detailed, claim-by-claim review once an application clears that preliminary gateway. 28 U.S.C. § 2244(b)(3)(C). Congress underscored the limited nature of appellate gatekeeping by "impos[ing] 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). Rather, Congress intended for the court of appeals to "simply" ask whether petitioner has made "a sufficient showing of possible merit to warrant a fuller exploration by the district court." *Bennett*, 119 F.3d at 469 (Posner, C.J.).

Congress knows how to impose an issue-by-issue screening requirement when it wants to. For instance, the gatekeeping procedure Congress prescribed under Section 2255 sharply "contrast[s]" with the procedure for issuing a certificate of appealability under Section 2253. *Nevius*, 104 F.3d at 1121. There, Congress directed that "[t]he certificate of appealability" issued by the court of appeals "shall indicate which specific *issue or issues* satisfy the showing required by paragraph (2)." 28 U.S.C. § 2253(c)(3) (emphasis added). "[N]o comparable" issue- or claim-level requirement applies to the court of appeals's screening of second or successive habeas petitions. *Nevius*, 104 F.3d at 1121. The Eleventh Circuit's claim-level approach reads into Sections 2255 and 2244(b)(3) a specificity requirement that Congress deliberately chose not to include.

In requiring additional appellate authorization to amend, the Eleventh Circuit also ignored that Congress knew how to restrict amendments to successive applications when it wanted. The capital habeas statute expressly limits a movant's right to amend, providing that a petitioner challenging a death sentence may not amend except on specified grounds. 28 U.S.C. § 2266(b)(3)(B). The non-capital habeas statute, by contrast, provides that a habeas application "may be amended or supplemented as provided in the rules of procedure applicable to civil actions" (which includes Rule 15's standard for amendments). *Id.* § 2242. Congress thus knew how to impose amendment restrictions when it wanted to, but conspicuously declined to do so for non-capital successive petitions. This contrast reinforces that AEDPA "require[s] only that successive applications, and not amendments . . . be screened by an appellate panel" for non-capital petitioners. *Reyes*, 998 F.3d at 761 (emphasis omitted).

3. The Eleventh Circuit attempted to justify its counter-textual approach based on its view of sound policy, but the Eleventh Circuit's rule actually undermines AEDPA's purposes. The "flaw" with enforcing Section 2255 as written, the Eleventh Circuit stated, is that a petitioner could "bypass the legislatively mandated screening process," unless he is required to obtain appellate authorization for each and every claim. App. 16a. The court reasoned that

Rule 15's standard for amendments was not stringent enough to prevent a petitioner from "extend[ing] his action," which it viewed as contrary to AEDPA's purpose in requiring appellate screening. *Id.* at 17a. But "[n]o statute pursues a single policy at all costs, and [courts] are not free to rewrite this statute (or any other) as if it did." *Advoc. Christ Med. Ctr. v. Kennedy*, 605 U.S. 1, 19 (2025) (alteration in original) (citation omitted). The Eleventh Circuit might have thought that Congress *should* require certification of individual claims for appellate gatekeeping to "be[] worth the candle," but it was emphatically "not [the court's] function 'to rewrite'" statutory text. *Wisc. Cent. Ltd. v. United States*, 585 U.S. 274, 282 (2018) (citation omitted).

When faced with "policy arguments" that enforcing Section 2244's claim/application distinction would "trigger a flood" of habeas filings, this Court admonished that "it is not the province of this Court to rewrite the statute to accommodate" those policy concerns. *Artuz*, 531 U.S. at 10. Similarly, in *Magwood*, the State urged that reading "claim" and "application" alike was necessary for "preventing piecemeal litigation and gamesmanship." *Magwood*, 561 U.S. at 334. But this Court warned that "we cannot replace the actual text with speculation as to Congress' intent," and "refused to adopt an interpretation of § 2244(b) that would 'elid[e] the difference between an "application" and a "claim."'" *Id.* (alteration in original) (quoting *Artuz*, 531 U.S. at 9). The Eleventh Circuit was no less bound to apply the statutory text as Congress wrote it.

At any rate, the Eleventh Circuit's approach undermines—rather than advances—AEDPA's goals. This Court has explained that the "purposes" of

AEDPA's appellate gatekeeping regime are "to 'conserve judicial resources'" and "'reduc[e] piecemeal litigation.'" *Banister v. Davis*, 590 U.S. 504, 512 (2020) (alteration in original) (citation omitted). The Eleventh Circuit's rule does precisely the opposite. By requiring a separate trip to the court of appeals for every individual claim a movant wishes to raise—even claims that are closely related to the original application and rest on the same legal theory—the Eleventh Circuit's approach multiplies appellate proceedings, fragments district court litigation, and wastes the resources of courts and litigants alike. Forcing serial returns to the court of appeals for each individual claim recreates the very piecemeal litigation Congress sought to end. The Eleventh Circuit's rule thus "thwart[s] Congress' intent in AEDPA 'to eliminate delays in the federal habeas review process.'" *Gonzalez v. Thaler*, 565 U.S. 134, 144-45 (2012) (quoting *Holland v. Florida*, 560 U.S. 631, 648 (2010)).

III. THIS CASE IS AN IDEAL VEHICLE TO RESOLVE THIS IMPORTANT ISSUE

This case presents a clean vehicle to decide the question presented: Petitioner raised and litigated the issue below, and the Eleventh Circuit resolved it in a published opinion expressly rejecting its sister circuits' contrary approach. The question presented is also recurring and important to both the efficient functioning of the federal judiciary and the fair administration of federal habeas relief to incarcerated individuals.

1. This Court has repeatedly emphasized the importance of clear and uniform jurisdictional rules. *See, e.g.*, *Lapides v. Bd. of Regents of the Univ. Sys. of*

Ga., 535 U.S. 613, 621 (2002) ("[J]urisdictional rules should be clear."); *Hertz Corp. v. Friend*, 559 U.S. 77, 94 (2010) (federal courts "benefit from straightforward rules under which they can readily assure themselves of their power to hear a case"). And this Court routinely grants certiorari to ensure a uniform application of AEDPA. *See, e.g.*, *Bowe*, 607 U.S. 13; *Rivers*, 605 U.S. 443; *Jones v. Hendrix*, 599 U.S. 465 (2023); *Brown v. Davenport*, 596 U.S. 118 (2022); *Banister*, 590 U.S. 504; *Wilson v. Sellers*, 584 U.S. 122 (2018); *Rhines v. Weber*, 544 U.S. 269 (2005); *Stewart v. Martinez-Villareal*, 523 U.S. 637 (1998). Doing so ensures that federal prisoners are treated similarly no matter where they are housed—avoiding arbitrary geographic disparities. Those same considerations counsel strongly in favor of certiorari in this case.

The Court's intervention is especially warranted because the question presented frequently recurs. The federal courts of appeals are inundated with second or successive applications. In 2024, for instance, there were 3,202 original proceedings in the federal courts of appeals, 59% of which involved "second or successive motions for writs of habeas corpus"—or roughly 1,890 motions in the calendar year. *See* U.S. Courts, *Federal Judicial Caseload Statistics 2024*, https://www.uscourts.gov/data-news/reports/statistical-reports/federal-judicial-caseload-statistics/federal-judicial-caseload-statistics-2024 (last visited July 30, 2026); *Orona v. United States*, 826 F.3d 1196, 1199 (9th Cir. 2016) (noting "the large volume of second or successive applications [the] court must process each month"). On average, therefore, the federal courts of appeals handle over five second or successive applications every day.

District courts also regularly entertain motions to amend authorized second or successive applications to add new claims. *See, e.g.*, *United States v. Keller*, No. 10-CR-00015, 2021 WL 5759302, at *2 (W.D. Va. Dec. 3, 2021) (granting motion to amend authorized successive § 2255 motion and noting that "another prefiling authorization is not required"); *United States v. Rogers*, No. CR WMN-09-467, 2017 WL 1497833, at *2 (D. Md. Apr. 24, 2017) (recognizing that an authorized § 2255 motion may be amended to add new claims, but denying amendment as untimely and because the added claims failed § 2255(h)); *Crews v. United States*, No. 10-CR-27, 2018 WL 664825, at *10 (S.D. Ga. Feb. 1, 2018) (recognizing, before the Eleventh Circuit's contrary rule, that some courts permitted amendment of authorized § 2255 motions to add claims beyond the authorizing claim, but denying amendment on other grounds), *report and recommendation adopted*, No. 10-CR-27, 2018 WL 2175880 (S.D. Ga. May 11, 2018). The sheer number of second or successive applications and motions to amend confirms the importance of the question presented. And so long as the split persists, district courts in circuits that have not addressed the question will be forced to choose between conflicting approaches, generating tremendous uncertainty for litigants and taxing judicial resources. *See, e.g.*, *Cunningham*, 2026 WL 1030837, at *3 (adopting the application-level approach after noting conflict in authority).

2. The Eleventh Circuit's misguided approach has enormous and deeply unfair practical consequences for habeas petitioners.

To start, the Eleventh Circuit's Kafkaesque process needlessly prolongs potentially unlawful incarceration. Many second or successive applications involve more than one potentially meritorious claim. But an indigent prisoner, proceeding *pro se* on a cramped form, will often present just one: the claim he can most readily articulate. *See, e.g.*, *In re Clayton*, 829 F.3d 1254, 1257 (11th Cir. 2016) (Martin, J., concurring in result) (noting that the Eleventh Circuit routinely—and "troubling[ly]"—makes certification "decisions 'without briefing or argument from a lawyer'" (citation omitted)). The Eleventh Circuit's rule forbids the district court from considering any other claim, even when it is obvious to all involved that there is a second ground for relief. By the time the district court denies the prisoner's Rule 15 motion to bring that meritorious additional claim, it may have become time-barred under AEDPA's one-year limitation period and cannot be raised in a new application. 28 U.S.C. § 2255(f). Even if the claim has not become time-barred, the prisoner must return to the starting line and go through the process all over again. The resulting delays can stretch for years, during which the petitioner remains incarcerated on a conviction that may well be unlawful. *Cf. Davis v. United States*, 417 U.S. 333, 346 (1974) ("There can be no room for doubt" that "conviction and punishment . . . for an act that the law does not make criminal" "'inherently results in a complete miscarriage of justice'").

This problem is particularly acute under the Eleventh Circuit's "restrictive" rules, which essentially present habeas applicants with a Hobson's choice. *United States v. St. Hubert*, 918 F.3d 1174, 1198 (11th Cir. 2019) (Wilson, J., dissenting from the denial of rehearing en banc). Ragland was 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. *Id.*; *see also, e.g.*, *In re Clayton*, 829 F.3d at 1264 (Martin, J., concurring in result). So, Ragland could have attempted to cram multiple potentially meritorious claims into the limited space on the Eleventh Circuit's application form, running the risk of the court finding his explanation sufficient as to *none* of his claims and categorically denying him permission to bring a second or successive application. Or Ragland could devote the limited space to providing a fulsome explanation as to a single claim and increase the likelihood of receiving appellate permission—thus losing the ability to bring any other claims in the district court under the Eleventh Circuit's rule. A petitioner is thus forced to choose between giving up some potentially meritorious claims or risk being shut out of court altogether. That is a choice that no applicant should be forced to make under Congress's design. *Cf. St. Hubert v. United States*, 590 U.S. 984, 987 (2020) (statement of Sotomayor, J.) ("[T]he Eleventh Circuit is significantly out of step with other courts in how it approaches applications seeking authorization to file second or successive habeas petitions.").

Finally, the Eleventh Circuit's rule especially penalizes indigent prisoners, like Ragland, "who can afford no counsel without the assistance of the court." *Mayle v. Felix*, 545 U.S. 644, 664 n.8 (2005). Frequently, the initial request for authorization to file a second or successive application is filed by a *pro se* petitioner and, even after authorization, the district court may not appoint counsel until a habeas proceeding advances to an evidentiary hearing or resentencing. *St. Hubert*, 590 U.S. at 985 (statement of Sotomayor, J.); *see Rules Governing Section 2255 Proceedings for the United States District Courts* 8(c) (2019), https://www.uscourts.gov/sites/default/files/rules_governing_section_2254_and_2255_cases_in_the_u.s._district_courts_-_dec_1_2019.pdf. 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). The Eleventh Circuit's rule thus disadvantages indigent petitioners who must rely on appointed counsel, relative to petitioners who can hire a paid lawyer at the outset. In short, "Congress gave" the courts of appeals "a gatekeeping function," but the Eleventh Circuit has "used it to lock the gate and throw away the key"—far "exceed[ing] its statutory mandate." *St. Hubert*, 918 F.3d at 1210 (Wilson, J., dissenting from the denial of rehearing en banc).

3. The Eleventh Circuit's approach also breeds unfairness by jurisdictionally barring the sort of factual development that is often necessary to flesh out the merits of an authorized claim. For instance, in *Maharaj v. Secretary, Florida Department of Corrections*, No. 20-14816, 2022 WL 807803, at *1 (11th Cir. Mar. 17, 2022) (per curiam), *cert. denied*, 143 S. Ct. 311 (2022), the Eleventh Circuit authorized the habeas petitioner to file a successive application under Section 2244 based on newly discovered evidence in support of a claim under *Brady v. Maryland*, 373 U.S. 83 (1963). But when the Eleventh Circuit later reviewed the district court's

denial of relief, it refused to consider portions of the evidentiary record allegedly showing the *Brady* violation because, it stated, it had "never granted [the petitioner] leave to raise a *sub-claim* based on th[at] [evidence]." *Maharaj*, 2022 WL 807803, at *2 (emphasis added). Dividing up the *Brady* claim, the Eleventh Circuit held that "the district court lacked jurisdiction to consider" factual predicates that were not expressly encompassed within the scope of its authorization order. *Id.* In other words, the Eleventh Circuit freezes the factual contours of a claim at the moment of appellate screening.

That makes no sense. Courts of appeals, racing against a statutory 30-day clock with only a *pro se* application in hand, lack the tools to anticipate a claim's full evidentiary scope. District courts, by contrast, are expressly empowered to authorize discovery upon a showing of "good cause," including, for example, to develop the factual predicate for a claim. *Rules Governing Section 2255 Proceedings for the United States District Courts*, *supra*, 6(a); *see also id.* 6(b)-(c) (contemplating the use of "interrogatories," "requests for admission," and "deposition[s]"); *MacDonald*, 641 F.3d at 615. Even if a petitioner unearths corroborating evidence after discovery, the district court is powerless to consider it under the Eleventh Circuit's rule. That is yet another way in which potentially meritorious claims are shut out by the senseless jurisdictional bar erected by the Eleventh Circuit.

4. Finally, the Eleventh Circuit's rule is just as bad for courts as it is for litigants. Every time a petitioner identifies a new claim—even a claim closely related to one already authorized—the petitioner must return to the court of appeals for permission.

And the court of appeals must then undertake the granular, labor-intensive analysis Congress allocated to the district courts. *See, e.g.*, *Reyes*, 998 F.3d at 761. That unnecessarily clogs appellate dockets. Further, AEDPA's 30-day statutory clock may lead courts of appeals to divert their scarce resources away from merits appeals toward "frantic[ally]" resolving these piecemeal authorization motions within 30 days. *In re Clayton*, 829 F.3d at 1265-66 (Martin, J., concurring in result); *see also, e.g.*, *id.* at 1264 (highlighting the "'massive effort'" required to resolve "hundreds of" authorization requests "within 30 days each" (citation omitted)); *St. Hubert*, 918 F.3d at 1206-07 (Wilson, J., dissenting from the denial of rehearing en banc) (noting that "after receiving hundreds of applications seeking relief based on . . . *Johnson* . . . [t]he judges of this court . . . [started] combing through sealed records from the prisoner's original sentencing hearing and . . . mak[ing] a decision about whether the prisoner w[ould] win if we let him file his § 2255 motion in district court" (alterations in original) (citation omitted)). The Eleventh Circuit's approach thus squanders judicial resources by forcing courts of appeals to separately address related claims.

In short, the Eleventh Circuit's departure from text and precedent not only creates an acknowledged circuit conflict, but has far-reaching practical consequences. This Court's intervention is needed.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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August 3, 2026

APPENDIX

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UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

UNITED STATES of America,
Plaintiff-Appellee,

v.

Michael Shane RAGLAND,
Defendant-Appellant.

No. 23-12278

Non-Argument Calendar

Filed: 03/05/2026

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. 606 U.S. 419, 145 S. Ct. 2165, 2169, 222 L.Ed.2d 613 (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.

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 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

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

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

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," 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

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[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."

> property of another may be used in the course of 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, 192 L.Ed.2d 569 (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, 135 S. Ct. 2551. 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, 135 S. Ct. 2551.

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, 204 L.Ed.2d 757 (2019). And a few years later, the Court held that attempted Hobbs Act

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[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.

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. 845, 860, 142 S. Ct. 2015, 2025, 213 L.Ed.2d 349 (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

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[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. 78 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.

between 776 and 823 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 or

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

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*, 606 U.S. 419, 145 S. Ct. 2165, 222 L.Ed.2d 613 (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*.

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

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[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.

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 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.

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[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.

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] dismisse[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 re-sentence 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 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 amendments as a matter of right for twenty-one days, and after-wards, 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

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[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).

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, 128 L.Ed.2d 391 (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.

[2025 WL 1742251]

[June 24, 2025]

[DO NOT PUBLISH]

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.

PER CURIAM:

Michael Shane Ragland appeals his amended sentence of 2,072 months in prison for one count of conspiracy to commit robbery, seven counts of robbery, seven counts of brandishing a firearm during and in relation to a crime of violence, and two counts of attempted robbery. His case returns to us from resentencing after Ragland successfully moved to vacate his earlier sentence under 28 U.S.C. § 2255. In addition to the above, Ragland had been convicted on one count of carrying a firearm during the commission of a crime of violence, attempted Hobbs Act Robbery, in violation of 18 U.S.C. § 924(c). The District Court vacated that conviction—along with Ragland's sentence—after a Supreme Court case held that attempted Hobbs Act Robbery does not qualify as a "crime of violence" under 18 U.S.C. § 924(c). *See United States v. Taylor*, 596 U.S. 845, 142 S. Ct. 2015 (2022).

Ragland essentially raises three issues on appeal: (1) his resentencing was procedurally unreasonable; (2) the Court should have granted him leave to amend his second successive motion to vacate under Federal Rule of Civil Procedure 15(c)(1)(B) and allowed him to argue additional issues at resentencing; and (3) his 2,072-month sentence is substantively unreasonable. After careful review, we affirm.

I.

On April 30, 2009, a grand jury charged Ragland and various co-defendants with twenty-two counts related to armed robberies of convenience stores in Martin and St. Lucie Counties, Florida, between December 2007 and February 2008. Count One of the superseding indictment charged the group with conspiring to commit Hobbs Act robbery under 18 U.S.C. § 1951(a). Counts Two, Four, Six, Nine, Eleven, Seventeen, Nineteen, and Twenty-One charged the defendants with completed Hobbs Act robbery under 18 U.S.C. § 1951(a). Counts Three, Five, Seven, Ten, Twelve, Fourteen, Sixteen, Eighteen, Twenty, and Twenty-Two charged the defendants with brandishing or carrying firearms during a "crime of violence" under 18 U.S.C. §§ 924(c)(1)(A)(ii) and 924(c)(1)(C)(i). Finally, Counts Eight and Fifteen charged them with attempted Hobbs Act Robbery under 18 U.S.C. § 1951(a).

On November 19, 2009, a jury convicted Ragland on eighteen counts, and he was sentenced to a total of 2,352 months in prison. Ragland appealed his convictions, and this Court affirmed. *See United States v. Ragland*, 434 F. App'x 863 (11th Cir. 2011). On June 23, 2016, Ragland filed his first motion to vacate his sentence under 28 U.S.C. § 2255, which the District Court denied.[1] On October 12, 2022, this Court granted Ragland leave to file a second or successive motion under 28 U.S.C. § 2255. In that motion, Ragland collaterally attacked his sentence as to Count Sixteen on the basis that it violated a new rule of constitutional law, citing *United States v. Davis*, 588 U.S. 445, 139 S. Ct. 2319 (2019), and *United States v. Taylor*, 596 U.S. 845, 142 S. Ct. 2015 (2022). Ragland argued that he was legally innocent as to Count Sixteen because that § 924(c) charge was predicated on an *attempted* robbery, which did not qualify as a "crime of violence."

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[1] In his original § 2255 motion, Ragland cited the Supreme Court's decision in *Johnson v. United States*, 576 U.S. 591, 135 S. Ct. 2551 (2015), which invalidated the Armed Career Criminal Act's residual clause, 18 U.S.C. § 924(e)(2)(B)(ii). Ragland argued that the decision also effectively invalidated § 924(c)'s residual clause, although that clause was not the subject of *Johnson*. The District Court rejected Ragland's argument, relying mostly on out-of-circuit cases that had declined to extend *Johnson* beyond its immediate context.

On December 8, 2022, the District Court granted relief as to Count Sixteen, vacated Ragland's sentence, and ordered a resentencing hearing. On April 10, 2023, Ragland moved to hold his re-sentencing in abeyance pending the resolution of an appeal in another case, *United States v. Louis*, No. 21-cr-20252 (S.D. Fla. Feb. 27, 2023), in which the district court, citing *Taylor*, dismissed a defendant's § 924(c) charges that were predicated on *completed* Hobbs Act robbery.

On June 9, 2023, Ragland moved to amend his § 2255 petition pursuant to Federal Rule of Civil Procedure 15(c)(1)(B).[2] In the Rule 15 motion, Ragland argued that he was *also* "innocent of the § 924(c) convictions charged in Counts 3, 5, 10, 12, 18, 20, and 22, which are predicated on completed Hobbs Act robbery because Hobbs Act robbery . . . is also categorically overbroad in light of *Taylor*."

On June 13, the District Court denied Ragland's motion to hold his resentencing in abeyance. And on June 29, the District Court denied Ragland's request to amend his § 2255 petition, holding that it lacked subject-matter jurisdiction to consider issues beyond those permitted by this Court's October 2022 order. Therefore, the District Court would only consider the effects of the Count Sixteen vacatur as to Ragland's sentence.

The Court held Ragland's resentencing hearing on the same day. During the hearing, Ragland raised

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[2] Rule 15(c)(1)(B) provides that "[a]n amendment to a pleading relates back to the date of the original pleading when . . . the amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out—or attempted to be set out—in the original pleading." Fed. R. Civ. P. 15(c)(1)(B).

three main objections for the purposes of this appeal. First, he objected to the Court's denial of his Rule 15(c)(1)(B) motion, asserting that it presented "a nonwaivable jurisdictional argument" that could be raised because the Count Sixteen vacatur effectively "unbundle[d] the entire sentence that the Court imposed back in 2010." Second, Ragland argued that, because the Court had ordered resentencing, he was entitled to be sentenced under the provisions of the First Step Act, which came into effect after his 2010 sentencing. And third, Ragland argued that, under *Wooden v. United States*, 595 U.S. 360, 142 S. Ct. 1063 (2022), his conspiracy and substantive offenses should have been treated as a single, continuous offense under § 924(c).

After denying each objection, the Court heard from Ragland, his attorney, the Government, and a probation officer. The Government recommended a sentence of 2,052 months, reflecting a small downward variance from a U.S. Sentencing Guidelines range of 2,072 months to 2,119 months. Ultimately, after "consider[ing] the statements of all parties, [and] the Pre-Sentence Report which contains the advisory Guidelines and the statutory factors," the Court imposed a new sentence of 2,072 months in prison. Ragland timely appealed.

II.

Ragland asserts various infirmities in the District Court's resentencing process. We review the reasonableness of his sentence for an abuse of discretion. *Gall v. United States*, 552 U.S. 38, 51, 128 S. Ct. 586, 597 (2007). To determine whether a sentence is procedurally reasonable, we ask whether "the district court: (1) properly calculated the

Guidelines range; (2) treated the Guidelines as advisory; (3) considered the 18 U.S.C. § 3553(a) factors; (4) did not select a sentence based on clearly erroneous facts; and (5) adequately explained the chosen sentence." *United States v. Wayerski*, 624 F.3d 1342, 1353 (11th Cir. 2010).

A

We begin with Ragland's claim that the District Court failed to afford him a full, "de novo" resentencing. In an appeal from a § 2255 proceeding, we review legal issues de novo. *United States v. Brown*, 879 F.3d 1231, 1234 (11th Cir. 2018). We review a district court's choice of remedy under § 2255 for an abuse of discretion. *Id.* at 1235.

Ragland cites *United States v. Brown* for the proposition that the District Court did not conduct the full resentencing required by § 2255. In *Brown*, a federal prisoner attacked his fifteen-year sentence under the Armed Career Criminal Act, 18 U.S.C. § 924(e), on the basis that *Johnson v. United States*, 576 U.S. 591, 135 S. Ct. 2551 (2015), rendered him ineligible for § 924(e)'s enhanced penalties. *Brown*, 879 F.3d at 1233. Although the district court granted Brown's § 2255 motion, it "corrected" his sentence to ten years without holding a resentencing hearing. *Id.* at 1234. And it did so even though his new sentence had to be imposed under a different statutory provision—18 U.S.C. § 924(a)(2), rather than § 924(e)(1). *Id.* at 1240.

On appeal, this Court articulated a "two-step process" for district courts to follow when granting relief under § 2255: "First, the court must 'vacate and set the judgment aside.' Second, the court must choose from among four distinct remedies:

(1) discharge the prisoner; (2) resentence the prisoner; (3) grant the prisoner a new trial; or (4) correct the prisoner's sentence." *Id.* at 1235 (quoting 28 U.S.C. § 2255(b)). We then described the two questions courts must consider when deciding whether a defendant is entitled to resentencing under § 2255:

> First, did the errors requiring the grant of habeas relief undermine the sentence as a whole? Second, will the sentencing court exercise significant discretion in modifying the defendant's sentence, perhaps on questions the court was not called upon to consider at the original sentencing? When these factors are present, a District Court's sentence modification qualifies as a critical stage in the proceedings, requiring a hearing with the defendant present.

Id. at 1239–40.

Here, unlike in *Brown*, the District Court *did* hold a resentencing hearing, attended by Ragland, his lawyer, the Government, and a probation officer. Nevertheless, Ragland essentially argues that his resentencing was not *de novo enough* and that "the district court was required to start anew with meaningful consideration of the factors set forth in § 3553(a)."[3]

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[3] The Government seemingly treats this argument as a challenge to the District Court's choice of remedy under § 2255. It argues, therefore, that this Court lacks jurisdiction because Ragland did not obtain a certificate of appealability. *See United States v. Cody*, 998 F.3d 912, 913 (11th Cir. 2021) (holding "that a certificate of appealability is required to challenge the choice of remedy under" § 2255). But Ragland does not argue that the

But there is nothing in the record to suggest that the District Court failed in its obligation to consider these factors and the relevant Sentencing Guidelines. Although a district court must consider the § 3553(a) sentencing factors, it is not required to explicitly discuss or state on the record that it has considered each of them individually. *United States v. Sanchez*, 586 F.3d 918, 936 (11th Cir. 2009). Instead, an acknowledgment by the district court that it considered the factors is sufficient. *United States v. Turner*, 474 F.3d 1265, 1281 (11th Cir. 2007).

Here, the District Court considered Ragland's testimony and sentencing memorandum, which reflected his rehabilitation efforts since his original sentencing. Still, the Court concluded, after hearing from the Government and reviewing the presentence investigation report ("PSI"), that it had found "nothing . . . that would cause [it] to alter any of [its] prior determinations, particularly as it takes into consideration the 3553(a) factors, [and] the history and characteristics of the Defendant."

Although the District Court was required to reconstruct Ragland's sentencing package, it was not required to act as if the earlier sentencing never happened. "As the architect of a sentence structure that has been partially dismantled by a conviction

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District Court chose the wrong remedy—indeed, he insists that "[t]he district court's decision to hold a *de novo* resentencing was the appropriate remedy." Rather, he argues that the resentencing, though correctly ordered, was improperly conducted. That argument is best characterized as raising a "direct appeal matter," much like "an argument that the district court misapplied the sentencing guidelines at a prisoner's resentencing." *See id.* at 915 (holding that such matters "do not require a certificate of appealability").

being vacated, the district court can redesign and rebuild it to achieve the original purpose and conform to code." *United States v. Fowler*, 749 F.3d 1010, 1018 (11th Cir. 2014). That is what the District Court did here, concluding that the earlier sentence was appropriate except to the extent that it reflected Ragland's erroneous Count Sixteen conviction. We cannot say that the District Court erred in doing so.

B

Next, Ragland argues that the District Court erred by not resentencing him under the First Step Act. We review a district court's authority to reduce a sentence under the Act de novo. *United States v. Jackson*, 58 F.4th 1331, 1333 (11th Cir. 2023). We may affirm for any reason supported by the record. *United States v. Al-Arian*, 514 F.3d 1184, 1189 (11th Cir. 2008).

District courts lack inherent authority to modify a term of imprisonment but may do so to the extent that a statute expressly permits. 18 U.S.C. § 3582(c)(1)(B); *see United States v. Phillips*, 597 F.3d 1190, 1194–95 (11th Cir. 2010). Under 18 U.S.C. § 3582(c), a district court may modify a defendant's sentence if: (1) the Bureau of Prisons or the defendant files a motion and the defendant meets additional conditions; (2) a statute or Federal Rule of Criminal Procedure 35 expressly permits the modification; or (3) the defendant was sentenced based on a Guidelines range that the Sentencing Commission later lowered and other requirements are met. *See* 18 U.S.C. § 3582(c).

Prior to the First Step Act, 18 U.S.C. § 924(c) contained a "stacking" provision that required, in the case of a second or subsequent conviction under § 924(c), that a defendant be "sentenced to a term of imprisonment of not less than 25 years." 18 U.S.C. § 924(c)(1)(C)(i) (2010). Section 403(a) of the First Step Act amended this language so that the twenty-five-year mandatory minimum on a second § 924(c) violation only applies after the first § 924(c) conviction has become final. First Step Act, Pub. L. No. 115-391, § 403(a), 132 Stat. 5194, 5221–22 (2018). However, § 403 does not apply fully retroactively. *See id.* § 403(b). It reads: "This section, and the amendments made by this section, shall apply to any offense that was committed before the date of enactment of this Act, if a sentence for the offense has not been imposed as of such date of enactment." *Id.* We have recently held that a sentence pronounced pre-Act, but thereafter vacated, qualifies as "a sentence" that "has . . . been imposed" for § 403(b) purposes, and therefore the defendant is not entitled to the benefit of the Act's modified stacking rule. *United States v. Hernandez*, 107 F.4th 965, 968 (11th Cir. 2024).

In *Hernandez*, the defendant was originally sentenced in 1999 and resentenced in 2002, when his separate § 924(c) counts were "stacked" according to § 924(c)(1). *Id.* at 967. The district court then vacated one of Hernandez's § 924(c) convictions, pursuant to a 28 U.S.C. § 2255 motion, on the ground that the Supreme Court's intervening decisions in *Johnson v. United States* and *United States v. Davis* disqualified his attempted-robbery charge as a predicate "crime of violence" for § 924(c) purposes. *Id.* At resentencing in 2022, the district court rejected Hernandez's argument that he was entitled to the benefit of the First Step Act's modified stacking rule. *Id.* And this Court affirmed, explaining that § 403(a)'s modified stacking rule did not apply because the district court had pronounced a sentence for Hernandez before the First Step Act passed in 2018. *Id*. at 973.

Similarly here, the District Court did not err in resentencing Ragland without applying § 403(a) of the First Step Act's modified stacking rule, because his prior 2010 sentence qualified as "a sentence" that "has . . . been imposed" under § 403(b), and therefore he did not qualify to be resentenced under that provision of the First Step Act, even though his original sentence was later vacated.

C

Ragland then argues that the District Court failed to consider his post-incarceration rehabilitation under § 3553(a) and *Pepper v. United States*, 562 U.S. 476, 131 S. Ct. 1229 (2011).

District courts are required to correctly calculate a defendant's Sentencing Guidelines range, both initially and upon resentencing, and use that range as "the starting point and the initial benchmark for their sentencing decisions." *United States v. Fowler*, 749 F.3d 1010, 1021 (11th Cir. 2014) (quotation marks omitted). The district court at resentencing must then consider the § 3553(a) factors in determining whether to impose a sentence within the Guidelines range. *Id*. Because a defendant's post-sentencing rehabilitation efforts implicate several § 3553(a) factors, the court at resentencing may consider evidence of that rehabilitation to support a downward variance from the advisory Guidelines range. *Pepper*, 562 U.S. at 490–93, 131 S. Ct. at 1241–43.

Here, Ragland argues that the District Court erred because it mistakenly believed that it lacked the discretion to consider his rehabilitation efforts during the resentencing hearing. He says that "the district court misapprehended the relevance of [his] rehabilitation," as evidenced by the Court's statement that it "didn't affect the guidelines." But that is not quite accurate. Immediately after being presented with evidence of Ragland's rehabilitation, the District Court said: "I can tell you that, in my opinion, they don't affect the Guideline calculations and they certainly don't affect where I would otherwise sentence within the Guidelines."

The full quote makes clear that the District Court was exercising its *discretion* when it discounted the value of Ragland's rehabilitation. The record does not suggest that the Court felt it lacked the authority to consider that evidence. Rather, the record suggests that the Court reached its decision having "considered the statements of all parties," including the rehabilitation evidence presented at the resentencing hearing and in Ragland's sentencing memorandum. Therefore, we cannot say that the District Court erred in its exercise of discretion under § 3553(a).

D

Similarly, Ragland asserts that the District Court mistakenly believed that it was precluded from considering § 924(c)'s mandatory minimums when fashioning his overall sentence. In other words, he argues that the District Court did not apply intervening law from *Dean v. United States*, 581 U.S. 62, 137 S. Ct. 1170 (2017), at his resentencing.

In *Dean*, the defendant was convicted on two counts of violating § 924(c), which were predicated on two robbery convictions. *Dean*, 581 U.S. at 65, 137 S. Ct. at 1174. At the time, this meant that Dean faced mandatory five-year and twenty-five-year sentences to run consecutively with any sentence he received for his other convictions. *Id.* at 65, 137 S. Ct. at 1174–75. At sentencing, he argued that the district court "should consider his lengthy mandatory minimum sentences when calculating the sentences for his other counts, and impose concurrent one-day sentences for those counts." *Id.* at 65–66, 137 S. Ct. at 1176.

The district court acknowledged Dean's minor role in the offenses and his minimal criminal history, and it agreed that a sentence of thirty years and one day was "more than sufficient for a sentence in this case." *Id.* at 66, 137 S. Ct. at 1175. However, the court believed that § 924(c) required it to disregard the thirty-year minimum when fashioning the rest of Dean's sentence. *Id.* In other words, the court thought it had to craft a sentence on the robbery counts independently, rather than "as part of a combined package," in which case "those counts plainly warranted sentences longer than one day." *Id.*

On appeal, the Eighth Circuit affirmed, and the Supreme Court granted certiorari. *Id.* The Court noted that "[s]entencing courts have long enjoyed discretion in the sort of information they may consider when setting an appropriate sentence." *Id.* After surveying the relevant sentencing statutes, the Court reasoned that "[n]othing in § 924(c) restricts the authority conferred on sentencing courts by § 3553(a) and the related provisions to consider a sentence imposed under § 924(c) when calculating a just sentence for the predicate count." *Id.* at 67–69, 137 S. Ct. at 1175–77. The Court therefore reversed and remanded for further proceedings. *Id.* at 70, 137 S. Ct. at 1178.

Here, Ragland suggests that the District Court made the same mistake as the district court in *Dean*.

But again, the record does not support Ragland's claims. At resentencing, Ragland raised the *Dean* issue at the same time as he advocated for the applicability of the First Step Act. In that discussion, the District Court indicated that, regardless of whether the Act applied, it was "the Court's intention to impose an advisory Guideline sentence similar to—or identical to the sentence that was previously imposed, with the exception of the 924—the Count 16 conviction." At no point did the Court suggest that it was prevented from considering the length of Ragland's mandatory § 924 sentences during resentencing. Therefore, we cannot say that the Court misunderstood its discretion under *Dean*.

E

Finally, as to the District Court's alleged procedural errors,[4] Ragland argues that the Court incorrectly calculated his criminal history category by treating a Pennsylvania robbery conviction as a "prior offense" under U.S.S.G. § 4A1.2, rather than as "relevant conduct" under U.S.S.G. § 1B1.3. Ragland notes that the charged conspiracy started in December 2007 and the Pennsylvania robbery occurred in February 2008, when he was finally arrested and later transferred into federal custody. At trial, the Government insinuated that Ragland's Hobbs Act conspiracy continued at least until his arrest. For instance, in the Government's closing

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[4] Ragland also characterizes the District Court's alleged failure to apply *Wooden v. United States*, 595 U.S. 360, 142 S. Ct. 1063 (2022), as a procedural error. But because we conclude that the District Court lacked jurisdiction to consider that issue, we discuss it *infra*, in Part III, along with the claims raised in Ragland's Rule 15(c) motion.

argument, it stated that "the conspiracy . . . finally came to an end in Pennsylvania" and described the Pennsylvania robbery as sharing the same characteristics as the earlier robberies in Florida.

Under U.S.S.G. § 4A1.1, a defendant's criminal history score is calculated based on the number and severity of any prior sentences the defendant has received. Section 4A1.2(a) defines a "prior sentence" as "any sentence previously imposed upon adjudication of guilt . . . for conduct not part of the instant offense." The Guidelines commentary suggests that conduct is not considered part of the instant offense if it would be considered "relevant conduct" under § 1B1.3. U.S.S.G. § 4A1.2, comment. (n.1).[5]

Section 1B1.3 explains what conduct is "relevant" in determining a defendant's Guidelines range. *Id.* § 1B1.3. Specifically, the guideline instructs that "solely with respect to offenses of a character for which § 3D1.2(d) would require grouping of multiple counts, all acts and omissions . . . that were part of the same course of conduct or common scheme or plan as the offense of conviction" are attributable to the defendant. *Id.* § 1B1.3(a)(2).

As to the rules regarding grouping, § 3D1.2 provides that, in general, counts involving substantially the same harm shall be grouped together into a single group for sentencing purposes.

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[5] This Court considers Guidelines commentary only to the extent that a guideline's substantive text is ambiguous. *United States v. Dupree*, 57 F.4th 1269, 1273–77 (11th Cir. 2023) (en banc). We need not consider whether the applicable guidelines are ambiguous here, because the answer would not affect our holding, as explained *infra*.

Id. § 3D1.2. Counts embody substantially the same harm when, among other things, "the offense behavior is ongoing or continuous in nature and the offense guideline is written to cover such behavior." *Id.* § 3D1.2(d). The guideline applicable to robbery, § 2B3.1, is specifically excluded from the operation of subsection (d). *Id.* § 3D1.2(d). Grouping exclusions under § 3D1.2(d) do not necessarily preclude grouping under another subsection. *Id.*

"A conviction on a count charging a conspiracy to commit more than one offense shall be treated as if the defendant had been convicted on a separate count of conspiracy for each offense that the defendant conspired to commit." *Id.* § 1B1.2(d). The guideline commentary states that the application of § 1B1.2(d) requires particular care because there are cases in which the verdict does not establish which offenses were the object of the conspiracy, and in such cases, the court, sitting as the trier of fact, must make the determination of which offenses the defendant conspired to commit. *Id.* § 1B1.2, comment. (n.4).

Ultimately, it is "not necessary to decide guidelines issues or remand cases for new sentence proceedings where the guidelines error, if any, did not affect the sentence." *United States v. Keene*, 470 F.3d 1347, 1349 (11th Cir. 2006) (quotation marks omitted).

> [W]hen a district court states that the sentence it has imposed would not have changed even with a different guideline calculation—we assume there was an error, reduce the guideline range according to the way the defendant argued, and analyze

> whether the sentence would be substantively reasonable under that guideline range.

United States v. Grushko, 50 F.4th 1, 18 (11th Cir. 2022).

Here, Ragland's proposed Guidelines range for the Hobbs Act robbery convictions would be 168 to 210 months' imprisonment, reflecting a criminal history category of II.[6] At resentencing, the probation office calculated a Guidelines sentence of 188 months, which the District Court adopted. In doing so, the Court made clear, "to the extent that there is some issue with respect to the calculation of the Guidelines, that the Court would impose an identical sentence post [*United States v.*] *Booker* as a reasonable sentence based on th[e] 3553(a) factors."

So, even assuming, without deciding, that the District Court erred in treating the Pennsylvania robbery as a prior offense, any error was harmless because the Court's *Keene* statement demonstrates that it would have imposed the same sentence even absent the alleged errors. After having identified the Court's *Keene* statement and calculated the defendant's proposed Guidelines range, we need only ask whether the sentences imposed were

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[6] The PSI added three points to Ragland's criminal history score based on the Pennsylvania robbery. This brought his total score to six, resulting in a criminal history category of III. Ragland's total offense level was thirty-four. Therefore, the Guidelines advised a sentence of 188 to 235 months' imprisonment. *See* U.S.S.G. ch. 5, pt. A.

If we subtract the three points from Ragland's criminal history, keeping all else equal, he would receive a criminal history category of II and a Guidelines range of 168 to 210 months' imprisonment. *See id.*

substantively reasonable under § 3553(a). As discussed *infra*, we conclude that the District Court imposed a substantively reasonable sentence.

III.

Ragland also asserts that the District Court should have allowed him to amend his § 2255 motion under Federal Rule of Civil Procedure 15(c) and raise various additional sentencing issues over which the Court believed it lacked jurisdiction.

We review questions of a district court's subject-matter jurisdiction de novo. *Williams v. Chatman*, 510 F.3d 1290, 1293 (11th Cir. 2007). We review the district court's denial of a motion for leave to amend a § 2255 motion for abuse of discretion. *Farris v. United States*, 333 F.3d 1211, 1214 (11th Cir. 2003). In a § 2255 proceeding, we review the district court's legal conclusions de novo and its factual findings for clear error. *Id.* at 1216. And we review the application of Rule of Civil Procedure 15(c) de novo. *Mungin v. Sec'y, Fla. Dep't of Corrs.*, 89 F.4th 1308, 1321 (11th Cir. 2024).

A district court may apply the Federal Rules of Civil Procedure to § 2255 proceedings. *Farris*, 333 F.3d at 1215. Federal Rule of Civil Procedure 15(c) provides that an amendment to a pleading "relates back" to the date of the original pleading when "the amendment asserts a claim or defense that arose out of the conduct, transaction, or occurrence set out—or attempted to be set out—in the original pleading." Fed. R. Civ. P. 15(c)(1)(B).

A prisoner who has filed a prior § 2255 motion and had that motion adjudicated on the merits must obtain this Court's authorization before the district court may consider a "second or successive" § 2255 motion. *Samak v. Warden, FCC Coleman-Medium*, 766 F.3d 1271, 1274 (11th Cir. 2014); 28 U.S.C. §§ 2255(h), 2244(b)(3)(A). Without such authorization, the district court lacks jurisdiction to consider the motion. *Farris*, 333 F.3d at 1216. Additionally, district courts do not have subject-matter jurisdiction over claims that were not raised and authorized in a defendant's application to file a successive motion to vacate. *See United States v. Pearson*, 940 F.3d 1210, 1216 (11th Cir. 2019); 28 U.S.C. § 2244(b)(3)(A). Naturally, this means that the court does not have the power to accept or reject these claims on the merits. *See United States v. Salmona*, 810 F.3d 806, 810 (11th Cir. 2016) ("Without subject matter jurisdiction, a court has no power to decide anything except that it lacks jurisdiction.").

Here, we authorized Ragland to raise "one claim" in his successive § 2255 motion: that he was actually innocent of Count Sixteen, which charged him with a violation of § 924(c) predicated on attempted Hobbs Act robbery. In our order, we concluded that "Ragland ha[d] made a *prima facie* showing that he [wa]s entitled to relief under *Davis* as to his § 924(c) conviction on Count 16." Whatever the merits of Ragland's arguments as to the other counts, he did not raise those arguments in his application, and we did not authorize them. Even if those arguments could be said to "relate back" to the claim raised in Ragland's successive motion, it would not change the fact that the District Court lacked jurisdiction to consider them. *See* Fed. R. Civ. P. 15(c); 28 U.S.C. §§ 2244(b)(3), 2255(h). And although Ragland later attempted to frame those claims as objections to his

PSI at resentencing, that again does not change the fact that those claims were not authorized.

Therefore, the District Court properly dismissed Ragland's motion to amend his second or successive § 2255 motion for lack of subject-matter jurisdiction because he was required to ask this Court for permission to raise claims for Counts Three, Five, Ten, Twelve, Eighteen, Twenty, and Twenty-Two in his successive § 2255 motion. Similarly, the District Court properly declined to address the merits of Ragland's claims under *United States v. Taylor* and *Wooden v. United States* because he did not ask this Court for permission to raise claims under *Taylor* or *Wooden* in his successive § 2255 application, and thus, the District Court lacked subject-matter jurisdiction over those claims.

IV.

Finally, we review the substantive reasonableness of a sentence under a deferential abuse-of-discretion standard considering the totality of the circumstances. *Gall*, 552 U.S. at 51, 128 S. Ct. at 597. In reviewing the reasonableness of a sentence, we will not substitute our own judgment for that of the district court and will "affirm a sentence so long as the court's decision was in the ballpark of permissible outcomes." *United States v. Butler*, 39 F.4th 1349, 1355 (11th Cir. 2022) (quotation marks omitted). The party challenging the sentence bears the burden of proving that it is unreasonable. *United States v. Boone*, 97 F.4th 1331, 1338–39 (11th Cir. 2024).

A court imposes a substantively unreasonable sentence "when it (1) fails to afford consideration to relevant factors that were due significant weight, (2) gives significant weight to an improper or irrelevant factor, or (3) commits a clear error of judgment in considering the proper factors." *Butler*, 39 F.4th at 1355 (quotation marks omitted). Although the district court is required to consider all relevant § 3553(a) factors, "the weight given to each factor is committed to the sound discretion of the district court," and the court may attach great weight to one factor over the others. *Id.*

We have held that "[p]lacing substantial weight on a defendant's criminal record is entirely consistent with § 3553(a) because five of the factors it requires a court to consider are related to criminal history." *United States v. Rosales-Bruno*, 789 F.3d 1249, 1263 (11th Cir. 2015). Moreover, the court's failure to discuss mitigating evidence does not indicate that the court "erroneously 'ignored' or failed to consider this evidence." *United States v. Amedeo*, 487 F.3d 823, 833 (11th Cir. 2007).

We ordinarily expect sentences within a defendant's Guidelines range to be reasonable. *United States v. Sarras*, 575 F.3d 1191, 1220 (11th Cir. 2009). Another sign of reasonableness is that the sentence is well below the statutory maximum. *United States v. Riley*, 995 F.3d 1272, 1278 (11th Cir. 2021).

Here, Ragland argues that his 2,072-month sentence was substantively unreasonable largely on the basis that the District Court failed to properly apply the § 3553(a) factors. But nothing in the record suggests that the District Court shirked its duties at re-sentencing. To the contrary, the Court specifically cited "the [§] 3553(a) factors" and "the history and characteristics of the Defendant," including Ragland's prior violent acts, when it imposed the new sentence.

Given the District Court's broad discretion, we cannot say that the sentence was unreasonable. The 2,072-month total sentence was within the Guidelines range and below the statutory maximum sentence,[7] both indicators of reasonableness. Even if Ragland prevailed on his challenge to his criminal history score, his sentence would still have been within the proposed Guidelines range.[8] The District Court reached this sentence after considering the parties' arguments, Ragland's history and characteristics, the updated presentence investigation report, the sentencing memorandum, and the § 3553(a) factors.

Accordingly, we affirm.

AFFIRMED.

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[7] The District Court imposed mandatory minimum sentences as to Counts Three, Five, Ten, Twelve, Eighteen, Twenty, and Twenty-Two. *See* 18 U.S.C. § 924(c)(1). And it imposed concurrent 188-month sentences as to the Hobbs Act convictions, for which the statutory maximum sentence would have been twenty years. *See* 18 U.S.C. § 1951(a).

[8] *See supra* note 6. Ragland's proposed Guidelines range would be 168 to 210 months, based on a criminal history category of II and a total offense level of 34. The District Court sentenced him to 188 months as to Counts One, Two, Four, Eight, Nine, Eleven, Fifteen, Seventeen, Nineteen, and Twenty-One, to be served concurrently. Therefore, the imposed 188-month sentence remained within Ragland's proposed Guidelines range.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT PIERCE DIVISION

UNITED STATES OF AMERICA v. **MICHAEL SHANE RAGLAND**	§ § § § § § § § § § §	**SECOND AMENDED JUDGMENT IN A CRIMINAL CASE** Case Number: **2:09-CR-14016-KMM(1)** USM Number: **73412-004** Counsel for Defendant: **Peter Thomas Patanzo** Counsel for United States: **Rinku Talwar Tribuiani**

Date of Last Amended Judgment: 5/20/2010

Reason for Amendment: Direct Motion to District Court Pursuant to 28 U.S.C. § 2255

THE DEFENDANT:

☐	pleaded guilty to count(s)	
☐	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	
☐	pleaded nolo contendere to count(s) which was accepted by the court	
☒	was found guilty on Counts 1 through 5, 8 through 12, 15, and 17 through 22 of the Superseding Indictment.	

The defendant is adjudicated guilt of these offenses:

Title & Section / Nature of Offense	**Offense Ended**	**Count**
18 U.S.C. § 1951(a) / Conspiracy to commit robbery	02/24/2008	1s
18 U.S.C. § 1951(a) / Robbery	02/24/2008	2s
18 U.S.C. § 924(c)(1)(A)(ii) / Brandishing a firearm during and in relation to a crime of violence	12/11/2007	3s
18 U.S.C. § 1951(a) / Robbery	02/24/2008	4s
18 U.S.C. § 924(c)(1)(A)(ii) and (c)(1)(C)(I) / Brandishing a firearm during and in relation to a crime of violence	02/22/2008	5s

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☒ The defendant has been found not guilty on Counts Six and Seven.

☒ Counts 13 and 14 are dismissed on motion of the United States.
Count 16 is dismissed upon the Court's Order at Docket Entry 527.

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States Attorney of material changes in economic circumstances.

s/ K.M. Moore
Signature of Judge

K. MICHAEL MOORE
UNITED STATES DISTRICT JUDGE
Name and Title of Judge

06/30/23
Date

ADDITIONAL COUNTS OF CONVICTION

Title & Section / Nature of Offense	Offense Ended	Count
18 U.S.C. § 1951(a) / Attempted Robbery	02/18/2008	8s
18 U.S.C. § 1951(a) / Robbery	02/24/2008	9s
18 U.S.C. § 924(c)(1)(A)(ii) and (c)(1)(C)(I) / Brandishing a firearm during and in relation to a crime of violence	02/22/2008	10s
18 U.S.C. § 1951(a) / Robbery	02/24/2008	11s

18 U.S.C. § 924(c)(1)(A)(ii) and (c)(1)(C)(I) / Brandishing a firearm during and in relation to a crime of violence	02/22/2008	12s
18 U.S.C. § 1951(a) / Attempted Robbery	02/18/2008	15s
18 U.S.C. § 1951(a) / Robbery	02/24/2008	17s
18 U.S.C. § 924(c)(1)(A)(ii) and (c)(1)(C)(I) / Brandishing a firearm during and in relation to a crime of violence	02/22/2008	18s
18 U.S.C. § 1951(a) / Robbery	02/24/2008	19s
18 U.S.C. § 924(c)(1)(A)(ii) and (c)(1)(C)(I) / Brandishing a firearm during and in relation to a crime of violence	02/22/2008	20s
18 U.S.C. § 1951(a) / Robbery	02/24/2008	21s
18 U.S.C. § 924(c)(1)(A)(ii) and (c)(1)(C)(I) / Brandishing a firearm during and in relation to a crime of violence	02/22/2008	22s

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

2,072 months. This term consist of 188 months as to each of Counts 1, 2, 4, 8, 9, 11, 15, 17, 19 and 21, to be served concurrently with each other and concurrent to the undischarged term of imprisonment in Bucks County, Pennsylvania, Case No. CP-09-CR-2832-2008. A term of 84 months as to Count Three shall run consecutive to the terms of imprisonment imposed in Counts 1, 2, 4, 8, 9, 11, 15, 17, 19, 21 and Bucks County, Pennsylvania, Case No CP-09-CR-2832-2008. A term of 300 months as to Count Five shall run consecutive to the term of imprisonment imposed in Count Three. A term of 300 months as to Count Ten shall run consecutive to the term of imprisonment imposed in Count Five. A term of 300 months as to Count 12 shall run consecutive to the term of imprisonment imposed in Count Ten. A term of 300 months as to Count 18 shall run consecutive to the term of imprisonment imposed in Count 12. A term of 300 months as to Count 20 shall run consecutive to the term of imprisonment imposed in Count 18, and a term of 300 months as to Count 22 shall run consecutive to the term of imprisonment imposed in Count 20.

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at ☐ a.m. ☐ p.m. on

☐ as notified by the United States Marshall.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _______________ to

at ____________, with a certified copy of this judgment.

UNITED STATES MARSHAL

By

DEPUTY UNITED STATES MARSHAL

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **Three (3) years. This term consists of three years as to Counts 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 15, 17, 18, 19, 20, 21, and 22, all such terms to run concurrently.**

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.

2. You must not unlawfully possess a controlled substance.

3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

   ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. (*check if applicable*)

4. ☒ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. (*check if applicable*)

5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. (*check if applicable*)

6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. (*check if applicable*)

7. ☐ You must participate in an approved program for domestic violence. (*check if applicable*)

You must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from

imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.

2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.

3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.

4. You must answer truthfully the questions asked by your probation officer.

5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.

6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.

7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find

full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.

8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.

9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.

10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).

11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.

12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that

instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.

13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at www.flsp.uscourts.gov.

Defendant's Signature ____________ Date ________

SPECIAL CONDITIONS OF SUPERVISION

Permissible Search: The defendant shall submit to a search of his person or property conducted in a reasonable manner and at a reasonable time by the U.S. Probation Officer.

Unpaid Restitution, Fines, or Special Assessments: If the defendant has any unpaid amount of restitution, fines, or special assessments, the defendant shall notify the probation officer of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay.

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments page.

	Assessment	Restitution	Fine
TOTALS	$1,700.00	$2,694.00	$.00

AVAA Assessment*	JVTA Assessment**

☐ The determination of restitution is deferred until An *Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.)

☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

Victims to be provided by U.S. Probation or U.S. Attorney.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

☐ Restitution amount ordered pursuant to plea agreement $

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the schedule of payments page may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the	☐ fine	☐ restitution
☐ the interest requirement for the	☐ fine	☐ restitution is modified as follows:

Restitution with Imprisonment - It is further ordered that the defendant shall pay restitution in the amount of **$2,694.00**. During the period of incarceration, payment shall be made as follows: (1) if the defendant earns wages in a Federal Prison Industries (UNICOR) job, then the defendant must pay 50% of wages earned toward the financial obligations imposed by this Judgment in a Criminal Case; (2) if the defendant does not work in a UNICOR job, then the defendant must pay a minimum of $25.00 per quarter toward the financial obligations imposed in this order. Upon release of incarceration, the defendant shall pay restitution at the rate of 10% of monthly gross earnings, until such time as the court may alter that payment schedule in the interests of justice. The U.S. Bureau of Prisons, U.S. Probation Office and U.S. Attorney's Office shall monitor the payment of restitution and report to the court any material change in the defendant's ability to pay. These payments do not preclude the government from using other assets or income of the defendant to satisfy the restitution obligations.

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, 18 U.S.C. §2259.

** Justice for Victims of Trafficking Act of 2015, 18 U.S.C. §3014.

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A ☒ Lump sum payment of $1,700.00 due immediately.

It is ordered that the Defendant shall pay to the United States a special assessment of $1,700.00 for Counts 1s, 2s, 3s, 4s, 5s, 8s, 9s, 10s, 11s, 12s,

15s, 17s, 18s, 19s, 20s, 21s and 22s, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court. Payment is to be addressed to:

U.S. CLERK'S OFFICE
ATTN: FINANCIAL SECTION
400 NORTH MIAMI AVENUE, ROOM 8N09
MIAMI, FLORIDA 33128-7716

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☒ Restitution in the amount of $2,694.00 is ordered joint and several with codefendants Aaron Alvin Taylor #76111-004, Eliza Wesley Ramsdell #76110-004, Matthew Joseph Anderson #76113-004, and Dewayn Bernard Michell, Jr. #76116-004.

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

FORFEITURE of the defendant's right, title and interest in certain property is hereby ordered consistent with the plea agreement. The United States

> **shall submit a proposed Order of Forfeiture within three days of this proceeding.**

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

U.S. District Court
Southern District of Florida (Ft Pierce)
CRIMINAL DOCKET FOR
CASE #: 2:09-cr-14016-KMM-1

Case title:

United States of America

v.

Michael Shane Ragland et al

Magistrate judge case number: 2:09-mj-00028-FJL	Date Filed: 03/26/2009 Date Terminated: 03/01/2010

Assigned to: Judge K. Michael Moore

Referred to: Magistrate Judge Ellen F. D'Angelo

Appeals court case numbers: 10-11166-A USCA, 23-12278-E USCA

* * *

06/29/2023	558	PAPERLESS ORDER. THIS CAUSE comes before the Court upon Defendant's Motion to Amend Second or Successive 28 U.S.C. § 2255 Motion to Vacate Pursuant to Fed. R. Civ. P. 15(c)(1)(B). 547 . Therein, Defendant Michael Shane Ragland requests to amend his § 2255 Petition to advance a legal theory for relief in light of the Eleventh Circuit's holding that Defendant was entitled to

resentencing as to Count 16 of the Indictment. 527 . See id. A defendant may not seek additional relief via claims never raised in a successive § 2255 petition. When a defendant has filed a successive § 2255 petition, as is the case here, the district court only has the subject matter jurisdiction to consider the specific claims provided to it by the Eleventh Circuit. In re James, 2016 WL 4608125, at *3 (11th Cir. 2016) (explaining that a district court examines whether a movant has met the jurisdictional requirements to bring a claim, and each claim raised must meet the jurisdictional requirements set forth in 28 U.S.C. § 2255(h). Here, the Eleventh Circuit limited this Court's jurisdiction to resentencing as to Defendant's conviction on Count 16 of the indictment. See (ECF No. 527). Thus, Defendant may not use the relation-back doctrine to raise new claims that he failed to raise in his second § 2255 motion. UPON CONSIDERATION of the Stipulation, the pertinent portions of the record, and being otherwise fully advised in the premises, it is ORDERED AND ADJUDGED that Defendant's Motion is

DENIED. Signed by Judge K. Michael Moore on 6/29/2023. (rhr) (Entered: 06/29/2023).

* * *

[Filed October 12, 2022]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 22-13236-J

In re: MICHAEL RAGLAND,

Petitioner.

Southern District of Florida

Before: JILL PRYOR, NEWSOM, and LAGOA, Circuit Judges.

BY THE PANEL:

Pursuant to 28 U.S.C. §§ 2255(h) and 2244(b)(3)(A), Michael Ragland has filed an application seeking an order authorizing the district court to consider a second or successive motion to vacate, set aside, or correct his federal sentence, 28 U.S.C. § 2255. Such authorization may be granted only if this Court certifies that the second or successive motion contains a claim involving:

> (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.

28 U.S.C. § 2255(h). "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." *Id.* § 2244(b)(3)(C); *see also Jordan v. Sec'y, Dep't of Corrs.*, 485 F.3d 1351, 1357–58 (11th Cir. 2007) (explaining that a determination that an applicant has made a *prima facie* showing that the statutory criteria have been met is simply a threshold determination); *In re Holladay*, 331 F.3d 1169, 1173 (11th Cir. 2003) (clarifying that a "*prima facie* showing" requires a sufficient showing of possible merit to warrant a fuller exploration by the district court, in the context of an application seeking leave to file a successive § 2254 petition).

As a brief factual background, in 2009, a grand jury charged Ragland with a total of 22 robbery and firearm offenses, including, in relevant part, one count of carrying a firearm during and in relation to a crime of violence, in violation of § 924(c)(1)(A)(i) and § 924(c)(1)(C)(i) (Count 16). The indictment listed the predicate crime of violence for Count 16 as attempted Hobbs Act robbery (Count 15). Specifically, Count 15 charged that Ragland:

> did knowingly attempt to obstruct, delay and affect commerce and the movement of articles, commodities, and other property in commerce, by robbery, . . . in that the defendants did unlawfully attempt to take and obtain articles, commodities, and other property belonging to . . . a business engaged in interstate commerce,

> . . . by means of actual and threatened force, violence and fear of injury, immediate and future.

At trial, during the jury instructions, the court provided an explanation of the elements for carrying or brandishing a firearm during and in relation to a crime of violence and attempted Hobbs Act robbery. Except for four counts, the jury found Ragland guilty of each offense charged, including Counts 15 and 16. The district court sentenced him to a total of 2,352 months' imprisonment, which included a consecutive 300-month sentence for Count 16. We affirmed Ragland's convictions and sentences.

In 2016, Ragland filed his original § 2255 motion, in which he sought to attack various § 924(c) convictions predicated on Hobbs Act robbery as unconstitutionally vague under § 924(c)(3)(B)'s residual clause, pursuant to *Johnson v. United States*, 135 S. Ct. 2551 (2015). The district court denied Ragland's § 2255 motion with prejudice, finding that *Johnson* did not render the residual clause unconstitutionally vague.

In his present application, Ragland presents one claim that he wishes to raise in a second or successive § 2255 motion, which relies on a new rule of constitutional law. Specifically, he argues that he is actually innocent of Count 16, pursuant to *United States v. Davis*, 139 S. Ct. 2319 (2019). He asserts that (1) he was sentenced under § 924(c)(3)(B)'s residual clause, and (2) Count 15 can no longer serve as a valid predicate for his conviction on Count 16, because, under *Davis*, the Supreme Court announced that the definition of crime of violence under § 924(c)(3)(B)'s residual clause is unconstitutionally vague. He also argues that his *Davis* claim is not procedurally defaulted because, although *Davis* was decided in 2019, we declined to extend *Davis* to attempt offenses and it was only recently that the Supreme Court in *United States v. Taylor*, 142 S. Ct. 2015 (2022) unequivocally made clear that attempt offenses cannot qualify as a crime of violence under § 924(c)(3)(A)'s elements clause. He indicates that neither of his claims rely on any newly discovered evidence.

In *Taylor*, the Supreme Court recently resolved a circuit split and held that attempted Hobbs Act robbery does not qualify as a predicate crime of violence under § 924(c)(3)(A)'s "elements clause," which "covers offenses that have as an element the use, attempted use, or threatened use of physical force against the person or property of another." *Taylor*, 142 S. Ct. at 2019-21. At the outset, the Court noted that, under the applicable categorical approach, the facts of a particular defendant's case are immaterial because the "only relevant question is whether the federal felony at issue always requires the government to prove—beyond a reasonable doubt, as an element of its case—the use, attempted use, or threatened use of force." *Id.* at 2020.

The Court then explained that, to prove attempted Hobbs Act robbery, the government must show that the defendant intended to unlawfully take or obtain personal property by means of actual or threatened force and completed a "substantial step" toward that end. *Id.* However, the Court noted that, while the government would have to show that the defendant took an "unequivocal" and "significant" step towards committing robbery, the government need not show that the defendant actually used, attempted to use, or even threatened to use force, as required by § 924(c). *Id.* at 2020-21. The Court stressed that "an intention to take property by force or threat, along with a substantial step toward achieving that object, . . . is just that, no more." *Id.* at 2020. For example, the Court elaborated, a defendant who was apprehended before reaching his robbery victim could be convicted of attempted Hobbs Act robbery, even though he has not yet engaged in threatening conduct, so long as the government had other evidence of his intent and a substantial step. *Id.* at 2020-21. Therefore, the Court concluded that attempted Hobbs Act robbery was not a crime of violence under the text of § 924(c)(3)(A). *Id.* at 2021.

The Court further emphasized that the "elements clause does not ask whether the defendant committed a crime of violence *or* attempted to commit one," but rather "asks whether the defendant *did* commit a crime of violence." *Id.* at 2022 (emphasis in original). The Court concluded that, had Congress intended the elements clause to encompass attempted crimes of violence, it could have explicitly included attempt in its definition. *Id.* Ultimately, the Court affirmed the Fourth Circuit's decision to reverse and remand Taylor's enhanced sentence. *Id.* at 2019-20, 2025-26.

Previously, on June 24, 2019,[1] the Supreme Court in *Davis*, struck down § 924(c)(3)(B)'s residual clause,

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[1] In *Dodd v. United States*, 545 U.S. 353, 357 (2005), the Supreme Court held that the statute of limitations in § 2255(f)(3) begins to run on the date that the Court initially recognizes a new right, not the date on which that right subsequently is held to be retroactive to cases on collateral review. Thus, the presumptive deadline for filing a *Davis* claim in a successive § 2255 motion in the district court would be June 24, 2020. Notably, in 2016, this Court clarified that the potential

which defined a crime of violence as any crime 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 committing the offense," as unconstitutionally vague under the due process and separation of powers principles. *Davis*, 139 S. Ct. at 2324-25, 2336. In so doing, the Court extended its holdings in *Johnson* and *Sessions v. Dimaya*, 138 S. Ct. 1204 (2018), to § 924(c), emphasizing that there was no "material difference" between the language or scope of § 924(c)(3)(B) and the residual clauses in the Armed Career Criminal Act and 18 U.S.C. § 16(b) struck down in *Johnson* and *Dimaya*. *Id.* at 2324-26, 2336. The Court also resolved a circuit split on the issue, rejecting the position that § 924(c)(3)(B)'s residual clause could remain constitutional if read to encompass a case-specific, conduct-based approach, rather than a categorical approach. *Id.* at 2325 & n.2, 2332-33.

Subsequently, in *In re Hammoud*, we resolved some preliminary issues with respect to successive applications involving proposed *Davis* claims. 931 F.3d 1032, 1036-37 (11th Cir. 2019). First, we held that *Davis*, for purposes of § 2255(h)(2), announced a new substantive constitutional rule that was made retroactively applicable to criminal cases that became final before *Davis* was announced. *Id.* at 1032, 1039.

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untimeliness of an authorized successive collateral attack is not relevant to this Court's threshold determination of whether the applicant has satisfied the statutory criteria in § 2255(h) to obtain permission to file the successive collateral attack, as the statute of limitations applicable in habeas cases is not a jurisdictional bar. *In re Jackson*, 826 F.3d 1343, 1347-51 (11th Cir. 2016). Accordingly, we need not consider Ragland's statute-of-limitations argument based on *Taylor*.

Second, we clarified that *In re Baptiste*, 828 F.3d 1337, 1339-40 (11th Cir. 2016) (holding that, under 28 U.S.C. § 2244(b)(1), a federal prisoner's claim raised in a prior successive application shall be dismissed), does not bar new *Davis* claims, as *Davis* was a new constitutional rule "in its own right, separate and apart from (albeit primarily based on) *Johnson* and *Dimaya*." *Id.* at 1039-40.

Here, Ragland has made a *prima facie* showing that he is entitled to relief under *Davis* as to his § 924(c) conviction on Count 16. *See* 28 U.S.C. § 2255(h)((2). As discussed above, *Davis*, which had not yet been decided at the time that Ragland filed his original § 2255 motion in 2016, announced a new constitutional rule and has been held to have retroactive application. *See id.*, *Davis*, 139 S. Ct. at 2324-25, 2336; *In re Hammoud*, 932 F.3d at 1032, 2039. Further, if 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. *Davis*, 139 S. Ct. at 2324-25, 2336. Notably, in *Taylor*, the Supreme Court has also held that attempted Hobbs Act robbery does not qualify as a crime of violence under § 924(c)(3)(B)'s elements clause. *Taylor*, 142 S. Ct. at 2019-21. 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*. *See* 28 U.S.C. § 2255(h)(2); *Davis*, 139 S. Ct. at 2324-25, 2336; *Jordan*, 485 F.3d at 1357-58; *In re Holladay*, 331 F.3d at 1173.

Accordingly, because Ragland has made a *prima facie* showing of the existence of at least one of the grounds set forth in 28 U.S.C. § 2255, his application for leave to file a second or successive motion is hereby GRANTED as to his *Davis* claim.

28 U.S.C. § 2244

§ 2244. Finality of determination

(a) No circuit or district judge shall be required to entertain an application for a writ of habeas corpus to inquire into the detention of a person pursuant to a judgment of a court of the United States if it appears that the legality of such detention has been determined by a judge or court of the United States on a prior application for a writ of habeas corpus, except as provided in section 2255.

(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—

(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

(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.

(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.

(c) In a habeas corpus proceeding brought in behalf of a person in custody pursuant to the judgment of a State court, a prior judgment of the Supreme Court of the United States on an appeal or review by a writ of certiorari at the instance of the prisoner of the decision of such State court, shall be conclusive as to all issues of fact or law with respect to an asserted denial of a Federal right which constitutes ground for discharge in a habeas corpus proceeding, actually adjudicated by the Supreme Court therein, unless the applicant for the writ of habeas corpus shall plead and the court shall find the existence of a material and controlling fact which did not appear in the record of the proceeding in the Supreme Court and the court shall further find that the applicant for the writ of habeas corpus could not have caused such fact to appear in such record by the exercise of reasonable diligence.

(d)(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

28 U.S.C. § 2255

§ 2255. Federal custody; remedies on motion attacking sentence

(a) A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

(b) Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the United States attorney, grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto. If the court finds that the judgment was rendered without jurisdiction, or that the sentence imposed was not authorized by law or otherwise open to collateral attack, or that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate.

(c) A court may entertain and determine such motion without requiring the production of the prisoner at the hearing.

(d) An appeal may be taken to the court of appeals from the order entered on the motion as from a final judgment on application for a writ of habeas corpus.

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

(f) A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

(1) the date on which the judgment of conviction becomes final;

(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

(g) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

(h) A second or successive 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.