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SUPREME COURT, U.S.

No. 26-5291

IN THE
SUPREME COURT OF THE UNITED STATES

BRADLEY LANE CROFT,
Petitioner,
v.
UNITED STATES,
Respondent.

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

PETITION FOR REHEARING

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PETITION FOR REHEARING

Petitioner respectfully seeks rehearing of the October 5, 2026 order denying certiorari. Two decisions issued afterward by the court whose order is under review supply intervening grounds of substantial effect: Jackson Federation of Teachers v. Fitch, No. 25-60496 (5th Cir. Oct. 22, 2026), and Banner v. Wright, No. 25-30381 (5th Cir. Oct. 16, 2026). They warrant reconsideration of the Fifth Circuit's June 15, 2026 refusal to recall, reform, or clarify its post-Dubin mandate.

Petitioner principally asks this Court to grant rehearing and certiorari and resolve the preserved first question: whether the Fifth Circuit lawfully refused corrective relief from a mandate resting, as the petition demonstrates from the record, on a material factual determination attributed to the trial court. Petitioner preserves the original request for vacatur, acquittal on Counts Nine through Twelve, and resentencing under Dubin. A remand with express limits is the alternative, not the sole relief requested.

REASONS FOR GRANTING REHEARING

I. The new decisions address the validity of a judgment's supporting foundation

Rule 44.2 permits rehearing on "intervening circumstances of a substantial or controlling effect." Jackson and Banner postdate the denial and concern the integrity of the factual and legal premises supporting judicial decisions. Neither addresses § 1028A or establishes a new mandate-recall rule.

Their significance is their concrete application, within the Fifth Circuit, of principles directly implicated by the petition's first question: whether a court may refuse corrective relief when its judgment rests on a material premise attributed to findings the record does not contain. Pet. 2.

In Jackson, the Fifth Circuit vacated a preliminary injunction and remanded for reassignment after identifying fabricated factual material, deficient legal analysis, and failure to follow this Court's governing framework. Slip op. 3–4, 6–13.

Most directly, Jackson criticized the district court for removing false factual material without explaining why the same result remained justified without it. Id. at 8, 14–15. The court did not accept the assurance that the inaccuracies left the decision's core reasoning unaffected. Id. at 7–8 & n.10. The need to examine the surviving foundation was part of the court's reason for directing reassignment. Id. at 14–15.

Jackson involved demonstrated fabrications, not the disputed attribution presented here. Its relevant application is narrower: a material defect in the stated foundation of a judicial decision calls for examination of the actual record and governing analysis, not reliance on the challenged characterization itself. Jackson gives that principle a new, concrete application after the denial in this case.

Banner provides complementary support. There, the district court relied on a juror's press statements to reject a new-trial motion. The Fifth Circuit held that evidence barred by Federal Rule of Evidence 606(b) could not properly support that exercise of discretion. Slip op. 11–12 & n.6. It separately concluded that trial misconduct required a new trial. Id. at 12–15.

Together, the decisions support the specific corrective inquiry requested here: when a material foundation is challenged, the reason for leaving the result intact must rest on valid support independent of the challenged premise. Petitioner relies on the certified record, the sentencing transcript, and Dkt. 535 to demonstrate the defect. Jackson and Banner supply intervening authority concerning the corrective response; they are not offered as proof of what occurred in this case.

II. The existing record makes the challenged foundation consequential

The original petition already presented the relevant record, including the sentencing transcript and the district court's later order, Dkt. 535. Pet. 14–18, 21–23, 35–37. Those materials are not newly discovered events. Jackson and Banner are the intervening developments; the existing record explains their substantial relevance.

After this Court's Dubin remand, the panel affirmed petitioner's aggravated-identity-theft convictions. It stated that causation or facilitation alone would not satisfy Dubin. United States v. Croft, 87 F.4th 644, 649–51 (5th Cir. 2023). Petitioner therefore does not contend that the panel ignored Dubin or supplied no reasoning. The question is whether the reasoning actually resolved the identity-specific inquiry on a permissible foundation.

The panel treated the instructors' identities as the basis, heart, core, and crux of the fraud, and concluded that the evidence supported "the trial court's findings." Id. at 650–51. But the petition identified no specific trial-court determination selecting identity itself, rather than qualifications or the composite approval representation, as the crux. The identified sentencing description instead stated that the identities were "utilized by the defendant to facilitate his conduct." Sentencing Tr., Dkt. 246, at 4:9–11; Pet. App. 96a.

The missing-findings issue was expressly before the panel at the post-GVR oral argument. A panel member stated that he could not locate the requested findings; the Government confirmed a general verdict; and the panel discussed remanding for findings. Pet. 19–20; Oral Arg. Audio at 17:11–18:27; Pet. App. 157a–175a. The later attribution therefore followed express discussion of the very absence petitioner challenges. This was not an issue first brought to the panel's attention after affirmance.

The discrepancy matters because Dubin distinguishes identity use at the crux of the predicate criminality from identity use that merely facilitates it. Dubin v. United States, 599 U.S. 110, 131–32 (2023). A pre-Dubin general guilty verdict does not, simply by existing, resolve every factual distinction that the intervening decision made material.

Conversely, the absence of a separate finding using the word "crux" does not alone invalidate the verdict. The issue is substantive, not verbal: what did the factfinder actually determine, and does the record sustain the identity-specific conclusion under the correct standard?

The panel relied on evidence that approval required instructors' names, qualifications, and information about their proposed classes. Croft, 87 F.4th at 646, 650. The witness also explained that names without certifications would not obtain approval because qualifications could not be validated. Pet. 17; Pet. App. 90a.

Judge Ho recognized that qualifications, rather than names, offered a reasonable competing account of the crux. 87 F.4th at 654–55. The attribution problem therefore concerns a genuinely disputed distinction, not a demand that the trial court have anticipated Dubin's vocabulary.

The distinction also bears on the charged predicates. The petition described an antecedent TVC approval package and later VA enrollment-and-payment materials that did not use the four instructor identities. Pet. 12–13, 17–18, 30–34. The relevance of that separation is the required link to the particular predicate criminality. Approval-chain causation cannot, without more, substitute for Dubin's crux inquiry.

The later district-court order sharpened the problem. Addressing Dubin, Dkt. 535 relied on the Fifth Circuit's conclusion rather than identifying a specific trial-level crux determination. Pet. 22–23; Pet. App. 48a–50a.

The petition thus identifies a circular foundation: the appellate opinion invoked the trial court's findings, while the trial court subsequently invoked the appellate opinion. The general verdict does not itself identify how the factfinder resolved the distinction that Dubin subsequently made decisive. Jackson and Banner warrant renewed consideration of whether this asserted defect was adequately addressed when corrective relief was refused.

The comparison with Jackson concerns an affirmative representation, not merely an unexplained result. After discussing the missing specific findings and the possibility of remand, the panel stated that the evidence supported "the trial court's findings." Pet. 20–21. Petitioner challenges that attribution as false on the documented record. The panel's prior awareness makes the sequence more serious than an unnoticed omission: the asserted source of the decisive factual premise was itself the problem already raised before the panel.

III. This Court should resolve the preserved corrective question

Recall remains an extraordinary remedy. Calderon v. Thompson, 523 U.S. 538, 549–50 (1998), reserves it for grave, unforeseen contingencies and treats it as a last resort. Petitioner does not ask the Court to replace that standard with the standards governing preliminary injunctions or new-trial motions. He asks this Court to decide whether refusing correction of the record-based defect identified in the petition was lawful under that demanding standard.

But finality does not make the factual foundation of a mandate irrelevant to that determination. The Fifth Circuit has used recall to correct an unusual problem involving the findings underlying a judgment. Estate of Lisle v. Commissioner, Nos. 01-60639 et al., slip op. 1–2 (5th Cir. Nov. 22, 2005). Lisle is not an intervening circumstance and is not factually identical; it confirms only that narrowly tailored reconsideration of a mandate can address an exceptional findings-related defect without reopening every resolved issue.

This Court already granted a Dubin remand, and the Fifth Circuit affirmed again in 2023. Petitioner's record-based challenge is that the panel treated a facilitation and approval-chain foundation as establishing identity at the crux, attributing that determination to trial-court findings after the court already acknowledged no findings existed. The first remand therefore produced the very attribution now challenged. That history explains why petitioner seeks resolution of the preserved corrective question, rather than another open-ended remand.

The prior GVR and the record discrepancy are not new Rule 44.2 events. Jackson and Banner are the intervening authorities. Their significance must be assessed against that existing history: petitioner already received an opportunity for reconsideration under Dubin, but the asserted foundation for the renewed affirmance remained unresolved in the later refusal of corrective relief. The rehearing request seeks adjudication of that identified problem, not merely repetition of the prior process.

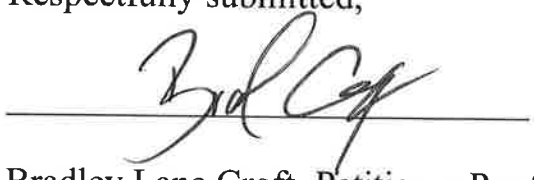
If this Court instead remands, petitioner requests express limits addressing the record-based defect: no attribution to the trial court of a finding absent from its record, no treatment of the general verdict as a specific crux finding, and no first-instance appellate resolution of the disputed factual distinction. Reconsideration should also distinguish the composite TVC representation from the later charged VA payment-wire predicates, rather than substitute approval-chain causation for Dubin's identity-specific inquiry. Those limits would not predetermine whether the exceptional recall standard is met.

CONCLUSION

The Court should grant rehearing, vacate its October 5, 2026 denial of certiorari, grant certiorari, and resolve the preserved first question concerning the challenged attribution and refusal of corrective relief. It should vacate the June 15 order. If the Court concludes that the record is insufficient under Dubin, petitioner seeks the original ultimate relief: vacatur of the convictions on Counts Nine through Twelve, judgments of acquittal on those counts, and resentencing without the mandatory § 1028A terms.

Alternatively, the Court should vacate the June 15 order and remand with express directions addressing the attribution, factfinding, and charged-predicate limits identified above. Jackson and Banner warrant renewed review; neither establishes an automatic entitlement to recall or acquittal. The requested alternative is a bounded reconsideration of the preserved corrective issue, not a remand leaving the challenged premises untouched.

Respectfully submitted,



Bradley Lane Croft, Petitioner Pro Se

Date: 10/24/2026

CERTIFICATION UNDER RULE 44.2

I certify that this petition for rehearing is restricted to intervening circumstances of a substantial or controlling effect or other substantial grounds not previously presented, as specified in Supreme Court Rule 44.2, and that it is presented in good faith and not for delay.

Bradley Lane Croft, Petitioner Pro Se

Date: 10/24/2026

No. 26-5291

PROOF OF SERVICE

I declare that on solicitor general, I served a true and correct copy of Bradley Lane Croft's Petition for Rehearing in No. 26-5291 on counsel for the United States, the only respondent required to be served:

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 10/24/2026



Bradley Lane Croft