No. 26-6088 ORIGINAL

Supreme Court, U.S.
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IN THE

SUPREME COURT OF THE UNITED STATES

O.C. RAWLS, PETITIONER

v.

UNITED STATES OF AMERICA

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Rule 4(b) of the Rules Governing Section 2255 Proceedings creates two procedural tracks. If the motion and existing record plainly show that the prisoner is not entitled to relief, the judge must dismiss. If the motion is not dismissed on that basis, the judge must order the United States Attorney to answer, move, otherwise respond, or take other court-directed action. Section 2255(b) likewise requires notice to the United States unless the files and records conclusively show no entitlement to relief.

The district court ordered no response here. It nevertheless entered a comprehensive merits judgment resolving eighteen ineffective-assistance theories and prosecutorial misconduct by supplying the absent respondent's positions, inferring counsel's unrecorded strategy, predicting the outcome of unfiled motions, raising procedural default, and deciding disputed prejudice and harmlessness questions.

The question presented is:

> **Whether reasonable jurists could debate - and a certificate of appealability therefore should issue on - whether Rule 4(b), 28 U.S.C. § 2255(b), and the party-presentation principle permit a district court to convert preliminary screening into one-sided merits litigation by performing the absent respondent's adversarial function and then adjudicating the positions the court itself supplied.**

LIST OF PARTIES

All parties to the proceeding in the United States Court of Appeals for the Eighth Circuit, No. 25-3332, whose judgment is sought to be reviewed, are:

1. O.C. Rawls - Petitioner-Appellant below; Petitioner here.

2. United States of America - Respondent-Appellee below; Respondent here.

There are no other parties. There are no corporate parties.

RELATED CASES

1. United States v. O.C. Rawls, No. 4:19-cr-00633-BSM (E.D. Ark.), judgment entered April 17, 2023.

2. United States v. O.C. Rawls, No. 23-2170 (8th Cir.), judgment entered August 12, 2024.

3. Rawls v. United States, No. 4:25-cv-00817-BSM (E.D. Ark.), order and judgment entered November 7, 2025.

4. O.C. Rawls v. United States, No. 25-3332 (8th Cir.), judgment entered April 22, 2026; panel rehearing denied June 17, 2026.

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OPINIONS BELOW

The judgment of the United States Court of Appeals for the Eighth Circuit denying a certificate of appealability and dismissing the appeal is unpublished and appears at Appendix A, App. 1. The order of the United States District Court for the Eastern District of Arkansas denying relief under 28 U.S.C. § 2255 is unpublished and appears at Appendix B, App. 2-13. The order denying panel rehearing is unpublished and appears at Appendix C, App. 14. Petitioner's motion for reconsideration, which presented the nonadversarial Rule 4 issue to the Eighth Circuit, appears at Appendix D, App. 15-22.

JURISDICTION

The Eighth Circuit entered judgment on April 22, 2026. App. 1. Petitioner timely sought panel rehearing, which was denied on June 17, 2026. App. 14. This petition is timely under Supreme Court Rule 13.3. This Court has jurisdiction under 28 U.S.C. § 1254(1). Hohn v. United States, 524 U.S. 236, 241-253 (1998).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution, Amendment V

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

28 U.S.C. § 2253(c)

> (1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from the final order in a proceeding under section 2255.
>
> (2) A certificate of appealability may issue only if the applicant has made a substantial showing of the denial of a constitutional right.
>
> (3) The certificate of appealability shall indicate which specific issue or issues satisfy the showing required by paragraph (2).

28 U.S.C. § 2255(b) (pertinent part)

> 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.

Rule 4(b), Rules Governing Section 2255 Proceedings

> The judge who receives the motion must promptly examine it. If it plainly appears from the motion, any attached exhibits, and the record of prior proceedings that the moving party is not entitled to relief, the judge must dismiss the motion and direct the clerk to notify the moving party. If the motion is not dismissed, the judge must order the United States attorney to file an answer, motion, or other response within a fixed time, or to take other action the judge may order.

Rule 5(a) and (d), Rules Governing Section 2255 Proceedings

> (a) The respondent is not required to answer the motion unless a judge so orders.
>
> (d) The moving party may submit a reply to the respondent's answer or other pleading within a time fixed by the judge.

STATEMENT OF THE CASE

A. The criminal judgment and direct appeal

Petitioner O.C. Rawls was convicted by a jury in the Eastern District of Arkansas of federal cocaine offenses. The district court sentenced him to 420 months of imprisonment and ten years of supervised release. The Eighth Circuit affirmed on direct appeal. United States v. Rawls, No. 23-2170 (8th Cir. Aug. 12, 2024).

B. The pro se Section 2255 motion presented constitutional claims whose resolution depended on adversarial positions and matters outside the trial record.

Rawls filed a pro se motion under 28 U.S.C. § 2255, a supporting brief, and a supplement. Liberally construed, the filings alleged ineffective assistance of counsel across multiple stages of the prosecution and prosecutorial misconduct. The district court catalogued eighteen ineffective-assistance theories, in addition to the prosecutorial-misconduct claim. App. 2-13.

The claims included counsel's failure to litigate suppression and Title III issues; investigate government witnesses; challenge inconsistent testimony and authenticity; seek a judgment of acquittal; address juror misconduct; object to jury instructions and sentencing enhancements;

investigate discovery; meet and prepare with Rawls; and object to prosecutorial argument. Several claims necessarily implicated information not contained in the trial transcript: what counsel investigated, what counsel advised, why counsel omitted particular motions, and what the government would say in defense of its conduct.

C. The district court ordered no response, yet entered a comprehensive merits judgment.

The district court did not order the United States to answer, move, or otherwise respond. The United States therefore identified no defenses, made no factual proffer, submitted no affidavit from trial counsel, and took no position on whether any issue warranted further development. Because there was no response, Rawls had nothing to which he could reply under Rule 5(d).

Nonetheless, on November 7, 2025, the district court entered a twelve-page final judgment resolving every claim. App. 2-13. The order did not merely identify pleading defects visible on the face of the motion. It developed and adjudicated the absent respondent's case.

For the suppression and Title III claims, the court decided that omitted motions would not have succeeded and that the trial result would not have changed. App. 3-4. For the failure-to-investigate claims, it determined what had not been shown and what additional evidence would not have altered the verdict. App. 5. For the Rule 29 claim, it treated counsel's omission as a strategic decision and found no prejudice, although counsel supplied no explanation. App. 6.

The court also resolved matters involving attorney-client communications outside the trial record. Rawls alleged that counsel met with him only three days before trial after approximately twenty months without a meeting. The court held the allegation insufficient and found neither prejudice nor constructive denial of counsel. App. 10-11. No party supplied evidence concerning the timing, substance, or effect of counsel's preparation.

The prosecutorial-misconduct ruling was even more distinctly adversarial. Without a response from the United States, the court raised procedural default; concluded that the prosecutor's voir-dire analogy was proper; supplied a defense of the prosecutor's credibility argument; and found no prejudice. App. 11-12. The court thus selected the government's defenses, developed the answers, and adjudicated those same answers.

The court concluded that the files and records conclusively showed no entitlement to relief, denied an evidentiary hearing, and denied a certificate of appealability. App. 12-13.

D. The Eighth Circuit denied a COA and then denied rehearing without addressing the Rule 4 issue.

Rawls filed a timely notice of appeal. On April 22, 2026, the Eighth Circuit stated that it had reviewed the district-court file, denied a certificate of appealability, and dismissed the appeal. App. 1.

Rawls sought reconsideration. He specifically argued that the district court had moved beyond Rule 4 screening and had adjudicated constitutional claims through a compressed, nonadversarial process without a government response, factual development, or opportunity for reply. App. 15-22. On June 17, 2026, the Eighth Circuit denied rehearing without explanation. App. 14. This petition followed.

REASONS FOR GRANTING THE PETITION

This case presents an important and recurring question about the institutional boundary built into Rule 4. The Rules permit a judge to screen a Section 2255 motion. They do not expressly permit the judge to become the respondent. Yet that is what occurred here: the court identified the absent party's positions, developed the counterarguments, drew the decisive inferences, and then adjudicated the positions it had supplied. The resulting procedure was

functionally inquisitorial, departed from the accepted and usual course of federal adjudication, and was at least debatable under the modest certificate-of-appealability standard.

I. LOWER COURTS NEED A UNIFORM, ADMINISTRABLE BOUNDARY BETWEEN RULE 4 SCREENING AND ADVERSARIAL MERITS ADJUDICATION.

A. Rule 4 decisions reveal fractured approaches to the safeguards required before a pre-response disposition.

Every federal district court applies Rule 4 to every Section 2255 motion. Yet the appellate decisions do not articulate one uniform test for when screening ends and adversarial adjudication must begin. Instead, different courts protect the boundary through different doctrines: some require a government response when a constitutional claim is facially viable; some require notice and an opportunity to respond before a court relies on a sua sponte ground; some require record development where counsel's strategy and prejudice are not conclusively established; and some focus on the neutral-arbiter problem created when the court supplies the government's position.

The Fifth Circuit has held at the COA stage that where an ineffective-assistance claim is debatable and the record does not plainly show it to be baseless, summary dismissal without a government response is error. United States v. Comeaux, 2020 WL 3639156, at *1-2 (5th Cir. July 6, 2020) (per curiam). The Fourth Circuit likewise vacated a pre-response denial where the record contained no explanation from counsel and the district court prematurely resolved deficient performance and prejudice. United States v. Jackson, No. 12-6756, slip op. 4-6 (4th Cir. Feb. 7, 2014) (per curiam). Although unpublished, those decisions identify the precise recurring problem presented here.

Other circuits describe the safeguard as fair notice and a meaningful opportunity to address a dispositive ground. Shelton v. United States, 800 F.3d 292, 294-296 (6th Cir. 2015), vacated a Rule 4 dismissal entered without notice. United States v. Bendolph, 409 F.3d 155, 168-169 (3d Cir. 2005) (en banc), required notice and an opportunity to respond before sua sponte

disposition. The Eighth Circuit itself has vacated a pre-service Section 2255 dismissal and directed service on the government when the movant lacked a meaningful opportunity to address the dispositive issue. Martinez v. United States, 423 F. App'x 650, 651 (8th Cir. 2011) (per curiam).

Still other decisions emphasize the institutional role of the answer and the need for factual development. Broadwater v. United States, 292 F.3d 1302, 1303-1304 (11th Cir. 2002) (per curiam), vacated a summary Section 2255 denial and observed that an answer can direct the court to the record and make meaningful review possible. The Eighth Circuit has repeatedly held that ineffective-assistance claims may not be finally resolved where the existing record does not conclusively answer the factual or prejudice inquiry. Mayfield v. United States, 955 F.3d 707, 710-712 (8th Cir. 2020); Sinisterra v. United States, 600 F.3d 900, 906-910 (8th Cir. 2010).

B. The absence of a common rule produces materially incongruous procedures.

These decisions point toward the same constitutional value but police it through different formulations. A prisoner in one court receives a response because the claim is debatable. In another, the prisoner receives notice because the judge has raised a new ground. In another, the case is remanded because counsel's reasons or prejudice cannot be resolved from the record. Here, the district court supplied the response itself and the Eighth Circuit denied review without identifying any boundary at all.

That disuniformity matters. Rule 4's first sentence assigns judges a screening function; its second track assigns the respondent an adversarial function. Without an administrable line, the label "screening" can expand to cover a complete one-sided merits proceeding. This Court's guidance is needed to stabilize the procedure nationally: summary dismissal is proper only when the motion and existing record themselves plainly and conclusively foreclose relief. If final judgment requires the court to select defenses, resolve disputed extra-record facts, infer counsel's

unexplained strategy, or decide contestable prejudice questions, the case has crossed Rule 4's threshold.

II. THE DISTRICT COURT CROSSED RULE 4'S BOUNDARY AND LITIGATED THE ABSENT RESPONDENT'S CASE.

A. Rule 4 creates two tracks; it does not authorize a hybrid in which the court performs both roles.

The text is direct. If it "plainly appears" from the motion, exhibits, and prior record that the movant is not entitled to relief, the judge must dismiss. Rule 4(b). "If the motion is not dismissed," the judge must order the United States Attorney to answer, move, otherwise respond, or take other court-directed action. Ibid. Section 2255(b) uses the parallel term "conclusively" and requires service on the United States unless that standard is met. Rule 5 then requires the response to address the allegations and permits the movant to reply.

Those provisions preserve a basic division of labor. The judge screens. The United States chooses and presents its positions. The movant answers those positions. The judge then adjudicates. Nothing in Rule 4 creates a third track in which the court avoids ordering a response by constructing the response itself.

The answer is not ceremonial. The government may concede a point, abandon a defense, narrow the dispute, identify a different record basis, or submit counsel's affidavit. The movant may then expose errors, distinguish authority, identify missing facts, or explain why the government's account is incomplete. A court-generated answer eliminates both party choice and reply, and it deprives the adjudicator of the discipline produced by competing presentations.

B. The order below depended on precisely the judgments that adversarial presentation is designed to test.

The district court decided whether unfiled suppression and wiretap motions would have succeeded; whether unidentified investigation would have produced useful evidence; whether counsel had a reasonable strategic basis for omitting a Rule 29 motion; whether limited attorney-

client consultation caused prejudice; whether procedural default barred prosecutorial-misconduct claims; and whether the prosecutor's arguments were proper and harmless. App. 3-12.

Those were not clerical or facial determinations. They were the merits. Several depended on information held by the absent parties: counsel's investigation and strategy, the government's reliance on particular defenses, the factual basis for omitted motions, and the effect of preparation failures. By deciding those matters without adversarial participation, the court did not merely screen the motion; it litigated the case from the bench.

The defect was not that the district court wrote a detailed opinion. A court may fully explain why the motion and record plainly foreclose relief. The defect was functional: the order required the court to supply the absent respondent's positions and draw contestable inferences before it could declare the claims conclusively meritless. Screening is not litigating. A court may screen the motion; it may not become the respondent.

III. THE PROCEDURE BELOW WAS FUNCTIONALLY INQUISITORIAL AND UNDERMINED THE NEUTRAL-ARBITER ROLE.

A. This Court's party-presentation decisions permit judicial initiative, not judicial substitution.

The American system follows the principle of party presentation. Courts rely on parties to frame the issues and assign judges the role of neutral arbiters. Greenlaw v. United States, 554 U.S. 237, 243 (2008); United States v. Sineneng-Smith, 590 U.S. 371, 375-376 (2020). Sineneng-Smith unanimously condemned a "drastic departure" from that principle when the court displaced the parties' presentation and constructed the case it preferred to decide. Id. at 375, 380.

Collateral review allows limited judicial initiative, but this Court has insisted on procedural safeguards. A habeas court that identifies a forfeited limitations issue must give the parties fair notice and an opportunity to present their positions. Day v. McDonough, 547 U.S. 198, 210

(2006). And a court may not override a deliberate waiver and resurrect a defense on its own, because the party-presentation principle is basic to the adversary system. Wood v. Milyard, 566 U.S. 463, 472-474 (2012).

The distinction is critical. A court may identify a possible issue and call for briefing. It may not identify the absent party's positions, develop them, and then adjudicate them without hearing from either side. Judicial initiative preserves adjudication; judicial substitution merges advocate and adjudicator.

B. Burgess identifies the precise institutional danger: a court that performs one party's function may cease to appear neutral.

Burgess v. United States, 874 F.3d 1292 (11th Cir. 2017), applied the neutral-arbiter principle in a Section 2255 case. There, the government answered on the merits, but the district court independently invoked a collateral-attack waiver the government had not asserted. The Eleventh Circuit vacated. It explained that when a court appears to do one party's bidding by raising a claim or defense, it may "cease to appear as a neutral arbiter," which can damage the justice system. Id. at 1301. The proper course was to ask whether the government intended to rely on the defense and then permit the movant to respond. Id. at 1302.

Rawls's case presents the logically prior and more consequential question. If a Section 2255 court may not assume the government's role by supplying one unasserted defense, may it dispense with the government altogether and supply the merits answer to numerous constitutional claims?

The proceeding below became functionally inquisitorial because the district court combined incompatible institutional roles. It identified the opposing positions, developed the counterarguments, drew the decisive inferences, and adjudicated those same positions. That description does not accuse the judge of subjective bias. The concern is structural: a procedure in

which the adjudicator performs the absent party's adversarial function strains both the reality and appearance of neutral decisionmaking.

C. Public confidence depends on preserving the visible distinction between advocate and adjudicator.

The judicial process commands confidence not only when judges are impartial, but when the procedure visibly preserves their impartial role. Burgess recognized that a court may cease to appear neutral when it raises a party's position on that party's behalf. 874 F.3d at 1301. That concern is magnified when the court does not merely raise one defense, but performs the whole adversarial task for an absent sovereign respondent.

Efficiency cannot justify that merger. Requiring the United States to state its own position observes what Burgess called the "nontrivial value" of adversarial formalities. Id. at 1302 (quoting Day, 547 U.S. at 217 n.2 (Scalia, J., dissenting)). An answer and reply may be concise. But they preserve the distinction between the party that advocates and the court that decides - a distinction essential to accuracy, legitimacy, and public confidence in collateral review.

IV. THE QUESTION IS RECURRING, NATIONALLY IMPORTANT, AND ESPECIALLY CONSEQUENTIAL FOR PRO SE FEDERAL PRISONERS.

Rule 4 governs every federal prisoner's initial Section 2255 review. The question therefore recurs nationwide, often in cases filed by prisoners without counsel and involving allegations that depend on facts outside the trial record. The procedural line drawn here will determine whether those claims are tested against the government's actual position or against a position constructed by the adjudicator.

A uniform rule would serve all participants. It would tell district judges when expedited dismissal is proper; tell prosecutors when their participation is required; give movants a defined opportunity to reply; and give courts of appeals a reviewable standard. It would also protect

judicial resources by distinguishing claims truly foreclosed by the existing record from claims whose apparent weakness may reflect only the absence of adversarial development.

The present uncertainty invites incongruous results. Two identical motions may receive different processes depending on how broadly an individual court understands "plainly appears" or "conclusively show." One judge may order a short answer. Another may infer counsel's strategy and supply the government's defense. The governing Rules should not permit the scope of a prisoner's opportunity to be heard to turn on that procedural happenstance.

Review is warranted under Supreme Court Rule 10(c) because the proceedings below departed from the accepted and usual course of judicial adjudication and because the issue is sufficiently important to require this Court's supervisory guidance. The Court need not constitutionalize every aspect of Rule 4 to decide the case. It can enforce the Rule's own two-track structure and hold that a court may not preserve the label "screening" after the disposition requires it to perform the respondent's adversarial function.

V. THIS CASE IS A CLEAN VEHICLE, AND THE CERTIFICATE-OF-APPEALABILITY THRESHOLD WAS SATISFIED.

A. The procedural facts are undisputed and the issue was preserved.

The record presents the question cleanly. Rawls filed the motion and supplements. The district court ordered no response. The United States filed none. Rawls had no reply opportunity. No counsel affidavit or evidentiary development supplied the missing facts. The court nonetheless entered a comprehensive final merits judgment. App. 2-13.

Rawls presented the issue to the Eighth Circuit in his motion for reconsideration, arguing that the district court had moved beyond preliminary screening and adjudicated constitutional claims without a response, adversarial briefing, factual development, or hearing. App. 15-22. The Eighth Circuit denied rehearing. App. 14. There is no vehicle problem requiring the Court to reconstruct an ambiguous procedural history.

B. The Court can decide the antecedent procedural question without deciding the eighteen underlying claims.

The Court need not determine whether Rawls ultimately prevails on suppression, investigation, trial preparation, sentencing, or prosecutorial misconduct. Nor need it hold that every claim required an evidentiary hearing. The question is antecedent: may the court enter final judgment without a respondent when the disposition itself requires the court to select defenses, infer unexplained strategy, resolve extra-record facts, and make contestable prejudice determinations?

That narrow question is exceptionally suitable for review. A decision would provide an administrable national rule while leaving the lower courts to determine, after proper adversarial presentation, whether any particular claim warrants discovery, a hearing, or relief.

C. At minimum, reasonable jurists could debate the Rule 4 issue.

A certificate of appealability is a threshold determination, not a final adjudication. The applicant need only show that reasonable jurists could debate the district court's resolution or that the issue deserves encouragement to proceed further. Slack v. McDaniel, 529 U.S. 473, 484 (2000). Courts may not collapse that inquiry into a definitive merits ruling. Miller-El v. Cockrell, 537 U.S. 322, 336-338 (2003); Buck v. Davis, 580 U.S. 100, 115-117 (2017).

The authorities discussed above make debatability undeniable. Published appellate decisions require notice, party presentation, or factual development in adjacent Rule 4 circumstances. Comeaux and Jackson directly vacated pre-response merits dismissals of facially viable ineffective-assistance claims. Burgess held that a Section 2255 court cannot perform even one unasserted government defense without threatening its neutral role. At minimum, jurists of reason could debate whether the district court here could perform the respondent's entire merits function.

This Court may grant plenary review to define the Rule 4 boundary. Alternatively, it may grant the petition, vacate the judgment, and remand for the Eighth Circuit to apply the proper COA standard to the substantial procedural question presented.

CONCLUSION

The petition for a writ of certiorari should be granted. The judgment of the court of appeals should be vacated, and the case should be remanded for further proceedings under the proper certificate-of-appealability standard and the adversarial structure required by Rule 4(b) and 28 U.S.C. § 2255(b).

Respectfully submitted,

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Date: October 14, 2026