

NO: 18-8910

IN THE UNITED STATES OF AMERICA
SUPREME COURT OF THE UNITED STATES

UNITED STATES OF AMERICA,
RESPONDENT,

VS.

NORRIS LYNN FISHER,
PETITIONER.

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PETITION FOR REHEARING FOR
WRIT OF CERTIORARI

COMES NOW the above-named Petitioner, NORRIS LYNN FISHER, pro se, indigent, incarcerated, federal prisoner; presently incarcerated at the Federal Correctional Complex, FPC-Beaumont Camp in Jefferson County, Beaumont, Texas; and requests a rehearing from the denial of Petitioner's Petition For Writ Of Certiorari dated May 28, 2019 (05/28/2019) and signed by Scott S. Harris, Clerk.

(See, Petitioner's Certification Of Petitioner)

The Petitioner's cause and case involve NOT only racial discrimination; but invalid LOSS Amounts and invalid RESTITUTION Amounts set by Federal District Judge Terry R. Means of the Fifth Circuit District Court and AFFIRMED by the Fifth Circuit Court of Appeals. Without due-process of United States Constitutional Law and Federal Law passed by the United States Congress.

The Petitioner respectfully brings to this Court's attention that the actions and rulings of the Fifth Circuit Courts is Flagrant,

Glaring, and Gross Disobedience and Refusal to obey and uphold this Court's Holding's and Ruling's.

The Petitioner, NORRIS LYNN FISHER, is NOT trained in the LAW and will use the assistance of Justice GORSUCH and Justice SOTOMAYOR in his(Fisher's) petition for rehearing.

Hester v. United States, U.S. 139 S. CT. 509; 202 L.Ed.2d 627; 2019 U.S. LEXIS 9; No. 17-9082, January 7, 2019; (Quoting, JUSTICE GORSUCH and JUSTICE SOTOMAYOR

"Dissent by: GORSUCH

Justice GORSUCH, with whom Justice Sotomayor joins, dissenting from the denial of certiorari. If you're charged with a crime, the Sixth Amendment guarantees you the right to a jury trial. From this, it follows that the prosecutor must prove to a jury all of the facts legally necessary to support your term of incarceration. Apprendi v. New Jersey, 530 U.S. 466, 120 S. Ct. 2348, 147 L.Ed.2d 435 (2000). Neither is this rule limited to <2019 U.S. LEXIS 2> prison time. If a court orders you to pay a fine to the government, a jury must also find all the facts necessary to justify that punishment too. Southern Union Co. v. United States, 567 U.S. 343, 132 S. Ct. 2344, 183 L.Ed.2d 318 (2012).

But what if instead the court orders you to pay Restitution to victims? Must a jury find all the facts needed to justify restitution order as well? That's the question presented in this case. After defendants <139 S.Ct. 510> pleaded guilty to certain financial crimes, the district court held a hearing to determine their victims' losses.

In the end and based on its own findings, the court ordered the defendants to pay \$329,767 in restitution. The Ninth Circuit affirmed, agreeing with the government that the facts supporting a restitution order can be found by a judge rather than a jury.

Respectfully, I believe this case is worthy of our review. Restitution plays an increasing role in federal criminal sentencing today. Before the passage of the Victim and Witness Protection Act of 1982, 96 Stat. 1248, and the Mandatory Victims Restitution Act of 1996, 110 Stat. 1227, restitution orders were comparatively rare.

But from 2014 to 2016 alone, federal courts sentenced 33,158 defendants to pay \$33.9 Billion in restitution. GAO, G. Goodwin, Federal Criminal Restitution 16 (GAO-18-203, <2019 U.S. LEXIS 3> 2018). And between 1996 and 2016, the amount of unpaid federal criminal restitution rose from less than \$6 Billion to more than \$110 Billion. <202 L.Ed.2d 628> GAO, G. Goodwin, Federal Criminal Restitution 14 (GAO-18-115, 2017); Dept. of Justice, C. DiBattiste, U.S. Attorneys Annual Statistical Report 79-80 (1996) (Tables 12A and 12B). The effects of restitution orders, too can be profound.

Failure to pay restitution can result in suspension of the right to vote, continued court supervision, or even reincarceration. Lollar, What is Criminal Restitution? 100 Iowa L. Rev. 93, 123-129 (2014).

The ruling before us is not only important, it seems doubtful. The Ninth Circuit itself has conceded that allowing judges, rather than juries, to decide the facts necessary to support restitution orders isn't "'well-harmonized'" with this Court's Sixth Amendment

decisions. United States v. Green, 722 F.3d 1146, 1151 (2013). Judges in other circuits have made the same point in similar cases. See, United States v. Leahy, 438 F.3d 328, 343-344 (CA# 2006) (en banc) (McKee, J. concurring in part and dissenting in part); United States v. Carruth, 418 F.3d 900, 905-906 (CA8 2005) (Bye, J., dissenting).

Nor does the government's defense of the judgment below dispel these concerns. This Court has held that the Sixth Amendment requires a jury to find any fact that triggers an increase in a defendant's "'statutory maximum'" sentence. Apprendi, 530 U.S. at 490, 120 S. Ct. 2348, 147 L.Ed.2d 435. Seizing <2019 U.S. LEXIS> on this language, the government argues that the Sixth Amendment doesn't apply to restitution orders because the amount of restitution is dictated only by the extent of the victim's loss and thus has no "'statutory maximum.'" But the government's argument misunderstands the teaching of our cases. We've used the term "'statutory maximum'" to refer to the harshest sentence the law allows a court to impose based on facts a jury has found or the defendant has admitted. Blakely v. Washington, 542 U.S. 296, 303 124 S. Ct. 2531, 159 L.Ed.2d 403 (2004).

In that sense, the statutory maximum for restitution is usually zero, because a court can't award any restitution without finding additional facts about the victim's loss. And just as a jury must find any facts necessary to authorize a steeper prison sentence or fine, it would seem to follow that a jury must find any facts necessary to support a (nonzero) order.

The government is not without a backup argument, but it appears to bear problems of its own. The government suggests that the Sixth

Amendment doesn't apply to restitution orders because restitution isn't a criminal penalty, only a civil remedy - that "'compensates victims for [their] economic losses.'" Brief in Opposition 8 (internal quotation marks ommitted). But the Sixth Amendment's Jury trial right <2019 U.S. LEXIS 5> expressly applies <139 S. Ct. 511> "'[i]n all criminal prosecutions,'" and the government concedes that "'restitution'" is imposed as part of a defendant's criminal conviction.'" Ibid. Federal statutes, too, describe restitution as a "'penalty'" imposed on the defendant as part of his criminal sentence, as do our cases. 18 U.S.C. §§ 3663(a)(1)(A), 3663A(a)(1), 3572(d)(1); see Paroline v. United States, 572 U.S. 434, 456, 134 S. Ct. 1710, 188 L.Ed.2d 714 (2014); Pasquantino v. United States, 544 U.S. 349, 365, 125 S. Ct. 1766, 161 L.Ed.2d 619 (2005). Besides, if restitution really fell beyond the reach of the Sixth Amendment's protections in criminal prosecutions, we would then have to consider the Seventh Amendment and its independent protection of the right to a jury trial in civil cases.

If the government's arguments appear less than convincing, maybe it's because they're difficult to reconcile with the Constitution's original meaning. The Sixth Amendment was understood as preserving the "'historical role of the jury at common law.'" Southern Union, 567 U.S., <202 L.Ed.2d 629> at 353, 132 S. Ct. 2344, 183 L.Ed.2d 318. And as long ago as the time of Henry - VIII, an English statute entitling victims to the restitution of stolen goods allowed courts to order the return only of those goods mentioned in the indictment and found stolen by a jury. 1. J. Chitty, Criminal Law 817-820 (2ed ed. 1816); 1. M. Hale, Pleas of the Crown 545 (1736).

In America, too, Courts held that in prosecutions for larceny, the jury usually had to find the value of the stolen property <2019 U.S. LEXIS 6> before restitution to the victim could be ordered. See, E.g., Schoonover v. State, 17 Ohio St. 294 (1867); Jones v. State, 13 Ala. 153 (1848); State v. Somerville, 21 Me. 20 (1842); Commonwealth v. Smith, 1 Mass. 245 (1804). See also Barta, Guarding the Rights of the Accused and Accuser: The Jury's Role in Awarding Criminal Restitution Under the Sixth Amendment, 51 Am. Crim. L. Rev. 463, 472-476 (2014). And it's hard to see why the right to a jury trial should mean less to the people today than it did to those at the time of the Sixth Amendment's adoption.

Respectfully, I would grant the petition for review.")

Because of the racial basis in Fisher's cause and case the Fifth Circuit Courts set Fisher's Loss and RESTITUTION at four-million six-hundred plus dollars (+\$4,600,000.00) without any actual facts to back up the ORDER and the judge Ordered Fisher to pay the said \$+4,600,000.00 - even though Fisher had OBJECTED months before pleading guilty and Fisher NEVER plead guilty to taking that amount of real property.

Fisher's indictment states openly \$180,000.00 NOT four-million six-hundred thousand plus dollars of real property(Real-Estate).

The Tarrant County, Fort Worth, Texas County Clerk Recording Office records prove-up with NO doubt Fisher's claims and statements.

The Tarrant County Property Tax Assessor's Office in downtown Fort Worth, Texas; also prove-up Fisher's claims and statements.

Per: Rule 44 of the Supreme Court; the intervening circumstances of a substantial or controlling effect that allow for a petition for rehearing are the following:

- 1) The LEXIS-NEXIS Computer system is the only legal case law system that is available for federal case law research.
- 2) This system is NOT up-to-date on Supreme Court Case Law and is on a very good day between ninety (90) and a hundred twenty (120) days behind the Supreme Court rulings and/or holdings.
- 3) The following case was NOT available to Fisher when he(Fisher filed his(Fisher's) Writ Of Certiorari. Hester v. United States, U.S. 139 S. CT. 509; 202 L.Ed.2d 627; 2019 U.S. LEXIS 9; No. 17-9082, January 7, 2019.
- 4) Justice GORSUCH & Justice SOTOMAYOR both CAN NOT be wrong in their(Gor. and Soto.'s) Dissent and Fisher states that this Dissent is controlling effect to allow Fisher's Writ Of Certiorari to go forward and NOT be denied.

Per: Rule 44 of the Supreme Court; Fisher states that the Dissent by Justice GORSUCH & Justice SOTOMAYOR is substantial grounds not previously presented by the pro se Petitioner.

The Petitioner, NORRIS LYNN FISHER, respectfully asks this United States Supreme Court to rehear and review his(Fisher's) cause and case; and GRANT the Writ Of Certiorari and VACATE, REVERSE AND REMAND his(Fisher's) cause and case back to the Fifth (5th) Circuit Court of Appeals.

"BEWARE OF DARKNESS

Beware of thought's Winding-Up inside
your head in the Dead of Night.

BEWARE OF DARKNESS

Beware of greedy people, they will
take you where you should NOT GO.

BEWARE OF DARKNESS"

Respectfully submitted this 2, day of June, 2019.

Norris Lynn Fisher
Pro se Petitioner
Federal Correctional Complex
FPC-Beaumont Camp
Norris Lynn Fisher
Fed. Reg. No. 41251-177
P.O. Box. 26010
Beaumont, Texas 77720-6010
(Building G-C) (Room 17)

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VS.

NORRIS LYNN FISHER,
PETITIONER.

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CERTIFICATION OF THE PETITIONER

COMES NOW the above-named Petitioner, NORRIS LYNN FISHER,
pro se, indigent, incarcerated, federal prisoner; being presently
incarcerated at the Federal Correctional Complex, FPC-Beaumont
Camp in Jefferson County, Beaumont, Texas; and states the
following:

The Petitioner's Motion For Rehearing is presented in
GOOD FAITH and it is NOT for delay.

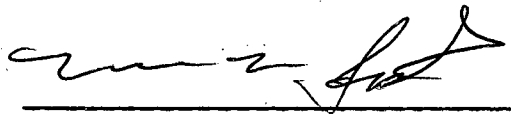
The Petitioner states the following under the penalty of
perjury:

Per: Rule 44 of the United States Supreme Court; the following
are the intervening circumstances of a substantial or controlling
effect that allow for a Petition For Rehearing to go forward:


- 1) The LEXIS-NEXIS Computer system is the ONLY legal Case Law
research system that the Petitioner has access to;
- 2) The LEXIS-NEXIS Computer system is OUT-OF-DATE;
- 3) The following Supreme Court Case was NOT available to the
Petitioner at the time of his(Fisher's) filing the Writ
Of Certiorari---Hester v. United States, U.S. 139 S. CT.
509; 202 L.Ed.2d 627; 2019 U.S. LEXIS 9; No. 17-9082,
January 7, 2019;

- 4) Justice GORSUCH and Justice SOTOMAYOR both CAN NOT BE WRONG in the Dissent;
- 5) The Dissent OPINION is controlling effect and Fisher should be allowed a rehearing;
- 6) Fisher is NOT trained in the law; but Justice GORSUCH and Justice SOTOMAYOR ARE trained in the LAW;
- 7) Their(J.Gorsuch and J.Sotomayor's) Dissent show that Fisher's rehearing should be GRANTED and a Writ Of Certiorari should be GRANTED also;
- 8) The DISSENT is substantial grounds NOT previously available to the Petitioner.

"I, NORRIS LYNN FISHER, federal inmate number: 41251-177, from the Federal Bureau of Prisons; being presently incarcerated at the Federal Correctional Complex, FPC-Beaumont Camp in Jefferson County, Beaumont, Texas; do declare under the penalty of perjury pursuant to 28 U.S.C.S. § 1746 that the above statements are true and correct."


Norris Lynn Fisher
Pro se Petitioner

Respectfully submitted this 2, day of June, 2019.


Norris Lynn Fisher
Pro se Petitioner
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