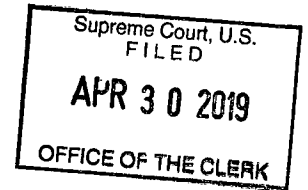


No. 18-9312

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES



TRAVIS J. WRIGHT — PETITIONER  
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

TRAVIS JERMAINE WRIGHT  
(Your Name)

P.O. Box 1500 - BUTNER, NC 2  
(Address)

BUTNER, N.C. 27509  
(City, State, Zip Code)

N/A  
(Phone Number)

QUESTION(S) PRESENTED

- ① DID THE DISTRICT COURT ERRED AT SENTENCING DEFENDANT UNDER TITLE 18 U.S.C. 3583(a)-(b), (c), (e)(3) WHICH STATES MANDATORY DEVOICATION AND STRIP SENTENCING JUDGE OF DISCRETION AND IS IT THAT OF CONDUCT OF PREPONDREANCE OF EVIDENCE, THAT IS OF VIOLATION OF DEFENDANT CONSTITUTIONAL RIGHT TO DUE PROCESS VIOLATING 5<sup>th</sup> AND 6<sup>th</sup> AMENDMENT?
- ② DID DISTRICT COURT ERRED AT FINDING DEFENDANT GUILTY OF CLASS A VIOLATION, WITHOUT ALLOWING DEFENDANT A RIGHT TO DUE PROCESS OF ACCUSATION OF NEW CRIMINAL CONDUCT/PROSECUTIONS?
- ③ DID DISTRICT COURT ERRED BY EXCEPTING AND INTERPRETING A PLEA OF NOLO CONTENDERE AS A PLEA OF GUILT AFTER DEFENDANT REPEATED A NOT GUILTY PLEA TO CLASS A VIOLATION?
- ④ DID DISTRICT COURTS ERRED BY SENTENCING DEFENDANT TO 30 MTHS IMPRISONMENT WITH 6 MTHS OF HOME CONFINEMENT ADDITION TO 3 YEARS OF SUPERVISED RELEASE AFTER IMPRISONMENT, OVERSENTING FROM ORIGINAL 60 MTHS OF SUPERVISED RELEASE? IS SUCH SENTENCING ILLEGAL DUE TO HOME DETENTION PRESUPPOSES IMPRISONMENT.
- ⑤ DID DISTRICT COURT ERRED AT SENTENCING DEFENDANT AS ONE WHOM PLEA OF "NOLO CONTENDERE" WHEN DEFENDANT MADE KNOWN TO (AFPD) ASSISTANT FEDERAL PUBLIC DEFENDER THAT HE WISH TO NOT PLEA UNTO ALLEGATIONS? DID PROSECUTORS AND COURT APPOINT ATTORNEYS WITHHELD DRUG ANALYSIS REPORT TO HENDER DEFENDANT OF A FAIR TRIAL. SEE APPENDIX E, F

## LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[✓] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

S.C. DISTRICT COURT OF UNITED STATES  
JUDGE: JOSEPH F. ANDERSON, JR.  
JULIUS NESS RICHARDSON - US ATTORNEY OFFICE (COLA)  
UNITED STATES OF AMERICA

## TABLE OF CONTENTS

OPINIONS BELOW .....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	
STATEMENT OF THE CASE .....	
REASONS FOR GRANTING THE WRIT .....	
CONCLUSION.....	

## INDEX TO APPENDICES

APPENDIX A:	UNITED STATE COURT OF APPEAL 4 <sup>TH</sup> CIR. JUDGEMENT OF DISTRICT COURT AFFIRMED (APPEAL) 4 <sup>TH</sup> CIR. (SEE APP. A)
APPENDIX B:	UNITED STATES DISTRICT COURT GUILTY-(PREFOUND) VIOLATION SUPERVISED RELEASE (SEE APP. B)
APPENDIX C	UNITED STATES COURT OF APPEAL FOR 4 <sup>TH</sup> CIR. - DENYING OF REVIEW (SEE APP. C)
APPENDIX D:	UNITED STATES COURT OF APPEAL 4 <sup>TH</sup> CIR. "BRIEF OF APPELLANT" (Pg. 10-12) (Pg. 41+42)
APPENDIX E	SUPERVISED RELEASE VIOLATION REPORT-USPO ADDENDUM: 04-03-18/OBJECTIONS BY THE DEFENDANT PG. 50 (SEE APP. E)
APPENDIX F	SOUTH CAROLINA LAW ENFORCEMENT DIVISION FORENSIC SERVICES LABORATORY REPORT (DATE MAY 11, 2018) (SEE APP. F) SENTENCE DATE JUNE 12, 2018.

## TABLE OF AUTHORITIES CITED

CASES	309, 2018 (10 <sup>TH</sup> CIR) PAGE NUMBER
UNITED STATES V. HAYMOND	139, CT 398, 202 LEd. 2d (NO. 17-1672) (DC. NO. 4:08-CR-00201-TCK-1) 2016 U.S. DIST. LEXIS 100915 (N.D. OKLA., AUG 2, 2016)
UNITED STATES V. THOMAS	(1998 CA2) 135 F.3d 873
UNITED STATES V. FERGUSON	(2004, CAS TEX) 369 F.3d 847
UNITED STATES V. D. OWENS	18a0488n.06 No. 18-3134 (6 <sup>TH</sup> CIR)
UNITED STATES V. MEACED	263 F.3d 34, 37-38 (2nd CIR. 2001)

### STATUTES AND RULES

- 18 U.S.C. § 3742 - JA-VI of II pg. 28-40 (V-II of I pg. 47)
- 18 U.S.C. § 3583 (b), 5D1.1 - PLAIN LANGUAGE - (pg. 1-12) APPELLANT BRIEF
- 18 U.S.C. § 3583 (h) SENTENCING, 3583(b)(1) REQUIRES MANDATORY REVOKE #13
- 18 U.S.C. § 3583 (e)(3) - APPELLANT BRIEF, STATEMENT OF SUBJECT MATTER AND APPELLATE JURISDICTION: A, B, #13
- II. STATEMENT OF ISSUES PRESENTED FOR REVIEW
- III. STATEMENT OF THE CASE
- IV. STATEMENT OF THE FACTS
- V. SUMMARY OF THE ARGUMENT
- VI. ARGUMENT

OTHER STATUTORY PROVISIONS: 18 U.S.C. 3583(e)(3), (h), (g)(1)

THE STATUTES HAVE MAXIMUM, MANDATORY WHICH CAN VARY FROM FIVE YEARS TO LIFE. VOLUME II of II pg. 47

SPECIAL CONDITIONS: PARAGRAPH 21 pg. 48

18 U.S.C. § 3563(b), 3583(d) THE COURT IS AUTHORIZED TO IMPOSE SPECIAL CONDITION OF PROBATION AND SUPERVISED RELEASE TO THE EXTENT THAT SUCH CONDITION: 1, 2, 3, 4! pg. 48 ALLOWING JUDGE TO PERFORM DUTY OF JURY AND DEPRIVING DEFENDANT OF CONSTITUTIONAL 5<sup>TH</sup> + 6<sup>TH</sup> AMENDMENT RIGHTS.

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

## JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was JAN. 04, 2019.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: FEB 12, 2019, and a copy of the order denying rehearing appears at Appendix N/A. COPY OF DENYING REHEARING WERE NEVER ISSUED BY TO DEFENDANT KNOWLEDGE.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

FIFTH AND SIXTH AMENDMENT - (SEE ATTACH PGS.)

18 U.S.C.S. § 3583(e)(2) (SEE ATTACH PG.)

18 U.S.C.S. § 3583(h) (SEE ATTACH PG.)

18 U.S.C.S. § 3583(a) (SEE ATTACH PG.)

18 U.S.C.S. § 3742 (SEE ATTACH PG.)



## STATEMENT OF THE CASE

- ① 18 U.S.C. 3583(e)(3), (h)(a), IS UNCONSTITUTIONALLY APPLIED TO DEFENDANT BECAUSE IT GIVES JUDGE DISCRETION TO FIND BY PREPONDERANCE OF EVIDENCE ON NEW CONDUCT, INNOCENCE OR GUILT OF DEFENDANT, VIOLATIONS FOR WHICH THEY HAD NOT BEEN CONVICTED BY JURY BEYOND REASONABLE DOUBT, (6<sup>TH</sup> AMEND) WHICH MAY ARISE
- ② A DOUBLE JEOPARDY CLAUSE. THE DISTRICT COURT ABUSE ITS DISCRETION AT SENTENCING DEFENDANT TO 30 MTHS PLUS <sup>(HD)</sup> 6 MONTHS WITH THREE YEARS OF HOME DETENTION AND SUPERVISED RELEASE, WHEN DEFENDANT ORIGINAL TERM OF SUPERVISED WHERE 60 MTHS. EXCEEDING STATUTORY MAXIMUM TERM OF SUPERVISED RELEASE.
- ③ COURT APPOINT COUNSEL WERE INEFFECTIVE WHEN WITHDRAWING SUBSTANTIAL EVIDENCE OF DRUG ANALYSIS REPORT ALONG WITH PROSECUTOR-ATTORNEY MAKING STATEMENT THAT SUCH REPORT WERE NOT AVAILABLE HINDERING DEFENDANT OF 6<sup>TH</sup> AMENDMENT AND 5<sup>TH</sup> AMENDMENT, RIGHT TO FAIR AND IMPARTIAL TRIAL.

## REASONS FOR GRANTING THE PETITION

DEFENDANT REQUEST THE GRANTING OF PETITION ON MERITS THAT: ① DEFENDANT WERE FOUND GUILTY OF NEW CONDUCT BY A JUDGE AT THE DESCRIPTION OF TITLE 18: U.S.C.S. 3583(e)(3), (h)..... DEPRIVING DEFENDANT OF HIS 5<sup>th</sup> AND 6<sup>th</sup> AMENDMENT RIGHT. SUCH DEPRIVATION ALSO RISE DEFENDANTS CHANCES OF BEING PUNISH TWICE FOR CHARGES (CONDUCT) ON WHICH DEFENDANT IS BEING PUNISH FOR IN RISE OF DOUBLE JEOPARDY, AND REASONABLE DOUBT BY JURY.

② DEFENDANT ALSO WERE OVERSENTENCE BY COURT WHEN DEFENDANT STATUTORY MAXIMUM WERE 60 MTHS, COURTS SENTENCE DEFENDANT TO 30 MTHS PLUS 3 YEARS WITH 6 MTHS OF HOME DETENTION. EXCEEDING 60 MTHS STATUTORY MAXIMUM DUE TO

HOME DETENTION PRESUPPOSES IMPRISONMENT. (SDI.1)  
③ DEFENDANT COURT APPOINT ATTORNEY WERE EXTREMELY INEFFECTIVE BY MANY MISREPRESENTATION SUCH AS WITH HOLDING DRUG ANALYSIS REPORT FROM EVIDENCE AND MISREPRESENTATION OF GUIDANCE ON PLEA AND SENTENCE. WHICH HINDERED DEFENDANT OF DUE PROCESS OF 6<sup>th</sup> AMENDMENT OF FAIR AND IMPARTIAL TRIAL.

SEE ATTACH PG.

REASONS FOR GRATING THE PETITION CONT.

UNITED STATES V. HAYMOND - <sup>10<sup>th</sup></sup> CIR HAYMOND ARGUE

WHETHER 18 U.S.C.S § 3583(K) WAS UNCONSTITUTIONAL BECAUSE IT STRIPPED SENTENCING JUDGE OF DISCRETION TO IMPOSE PUNISHMENT WITHIN STATUTORILY PRESCRIBED RANGE, AND IT IMPOSED HEIGHTENED PUNISHMENT ON.... NOT ON THEIR ORIGINAL CRIMES OF CONVICTION, BUT ON NEW CONDUCT FOR WHICH THEY HAD NOT BEEN CONVICTED BY JURY BEYOND REASONABLE DOUBT.

PETITIONER WERE SENTENCED UNDER 18:U.S.C.S 3583(e)(3), IN WHICH IT ALSO STRIP SENTENCING JUDGE OF DISCRETION.... ALONG WITH HEIGHTEN PUNISHMENT FOR CONTROL SUBSTANCE VIOLATION OF NEW CONDUCT FOR WHICH HE HAD NOT BEEN CONVICTED OF.

PETITIONER SENT GRANTED!

UNITED STATES V. THOMAS (1998 CA2) 135 F.3d 872

UNITED STATES V. FERGUSON (2004, CA5 TEX) 369 F.3d 847  
GOVERNING REVOCATION AND PUNISHMENT FOR VIOLATING CONDITION OF SUPERVISED RELEASE IMPLIED THAT INCARCERATION AND HOME DETENTION WERE ALTERNATIVE PUNISHMENTS THAT COULD NOT BE COMBINED IN EXCESS OF MAXIMUM STATUTORY TERM OF INCARCERATION.

PETITIONER SENTENCE IS 30 MTHS IMPRISONMENT FOLLOWING 3 YEARS (HOME DETENTION - 6 MTHS) OF SUPERVISED RELEASE AFTER COMPLETION OF IMPRISONMENT.

REASON FOR GRANTING THE PETITION CONT.  
UNITED STATES v. OWENS - 18 A0488 D. Ct NO. 18-3134 (6th Cir.)

OWENS ARGUED DID DISTRICT COURT ABUSE  
ITS DISCRETION BY OVERSENTENCING WHEN IT  
EXCEEDED HIS STATUTORY MAXIMUM. 18 U.S.C. § 3583

DEFENDANT, WERE ORIGINALLY SENTENCE TO  
6 MONTHS SUPERVISED RELEASE. DEFENDANTS

SENTENCE FOR VIOLATION(S) OF SUPERVISED  
RELEASE IS 30 MONTHS IMPRISONMENT TO

INCLUDE THREE YEARS PLUS 6 MONTHS OF  
HOME CONFINEMENT WITHIN THE THREE YEARS

OF SUPERVISED RELEASE TO FOLLOW  
IMPRISONMENT. EXCEEDS STATUTORY

MAXIMUM DUE TO HOME DETENTION

PRESUPPOSES IMPRISONMENT. (2ND CIR. 2001)

UNITED STATES v. MERCED, 263 F.3d 34, 37-38

HELD THAT ALL PRISON TERMS AFTER THE FIRST  
REVOCATION OF SUPERVISED RELEASE MUST BE  
SUBTRACTED FROM THE MAXIMUM POSSIBLE TERM  
OF SUPERVISED RELEASE, EVEN IF THERE HAS  
BEEN MORE THAN ONE REVOCATION.

DEFENDANT UNDER MERCY OF THE COURTS MOVE  
FOR SENTENCE TO BE VACATED AND IMMEDIATE  
RELEASE DUE TO TIME SERVED AND, SUPERVISE  
RELEASE TO BE TERMINATED DUE TO TIME  
SERVED AND VIOLATION OF DEFENDANTS  
CONSTITUTION. RIGHTS OF 5<sup>th</sup> AND 6<sup>th</sup> AMEND.  
OF DUE PROCESS. THE COURTS HAS CLEARLY  
ABUSE ITS DISCRETION AT SENTENCING DEFENDANT  
ON NEW CONDUCT AND OVERSENTENCING EXCEEDING  
STATUTORY MAXIMUM 18:U.S.C.S 3583, VIOLATING  
DEFENDANT FIFTH AND SIXTH AMENDMENT RIGHT.  
DEPRIVING DEFENDANT OF JURY BEYOND REASONABLE DOUBT.

**CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Boris J. Wright

Date: 04-29-19