

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 2019

DOUGLAS AKIRA HIRANO
Petitioner

- VS -

UNITED STATES
Respondent

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

REPLY TO MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

PETER C. WOLFF, JR.
Federal Public Defender
District of Hawaii
300 Ala Moana Boulevard, Suite 7104
Honolulu, Hawaii 96850
Telephone: (808) 541-2521
Facsimile: (808) 541-3545
Counsel of Record for Petitioner
DOUGLAS AKIRA HIRANO

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 2019

◆
DOUGLAS AKIRA HIRANO
Petitioner

- VS -

◆
UNITED STATES
Respondent

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

◆
REPLY TO MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

The government asserts that petitioner's *Johnson* claim against his sentencing under the mandatory United States Sentencing Guidelines is moot because he has completed his sentence. While he has completed the imprisonment part of his sentence, he is currently serving his supervised release terms, the longest of which is ten years. See *United States v. Hirano*, D.Ct. Case 1:99-cr-00465-ACK, ECF Doc. 69 (filed 2/28/2003) (judgment). His sentence has, accordingly, not been fully served and, thus, this matter is not moot on the ground that he has fully served his sentence. Moreover, were he to prevail on his claim and thereby demonstrate that he has

served significantly more time in prison than he should have, the district court would have the discretion to remedy that wrong by imposing shorter terms of supervised release or none at all (on some or all counts) in an amended judgment. See *United States v. Johnson*, 529 U.S. 53, 59 (2000).

The government's argument that *United States v. Blackstone*, 903 F.3d 1020 (CA9 2018), provides a reason to deny review in this case is addressed in the petition.

DATED: Honolulu, Hawaii, December 16, 2019.

/s/ Peter C. Wolff, Jr.
PETER C. WOLFF, JR.
Federal Public Defender
District of Hawaii
300 Ala Moana Boulevard, Suite 7104
Honolulu, Hawaii 96850
Telephone: (808) 541-2521
Facsimile: (808) 541-3545
Counsel of Record for Petitioner
DOUGLAS AKIRA HIRANO

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 2019

◆
DOUGLAS AKIRA HIRANO
Petitioner

- VS -

◆
UNITED STATES
Respondent

◆
CERTIFICATE OF SERVICE

I, PETER C. WOLFF, JR. certify pursuant to Rules 29.3 and 29.4 of the Rules of the Supreme Court of the United States that I am member of the Bar of the Supreme Court of the United States and an attorney appointed under the Criminal Justice Act of 1964, see 18 USC §3006A, and that on **December 16, 2019**, the Motion to Proceed In Forma Pauperis and Petition for a Writ of Certiorari in the above-entitled case were electronically filed in the Supreme Court of the United States, copies sent through the United States Postal Service by first-class mail, postage prepaid, and with additional copies of said pleading for delivery to the following, and an electronic version was emailed to supremectbriefs@usdoj.gov:

KENJI M. PRICE
United States Attorney, District of Hawaii
MARION PERCELL
Assistant U.S. Attorney
PJKK Federal Building
Honolulu, Hawaii 96850
Counsel of Record for Respondent
United States

and

SOLICITOR GENERAL
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

DATED: Honolulu, Hawaii, December 16, 2019.

/s/ Peter C. Wolff, Jr.
PETER C. WOLFF, JR.
Federal Public Defender
District of Hawaii
300 Ala Moana Boulevard, Suite 7104
Honolulu, Hawaii 96850
Telephone: (808) 541-2521
Facsimile: (808) 541-3545
Counsel of Record for Petitioner
DOUGLAS AKIRA HIRANO