

20-8076  
No. \_\_\_\_\_

ORIGINAL

FILED  
MAY 11 2021  
OFFICE OF THE CLERK  
SUPREME COURT U.S.

\_\_\_\_\_  
IN THE

SUPREME COURT OF THE UNITED STATES  
\_\_\_\_\_

TYRONE PRICE — PETITIONER  
(Your Name)

vs.

UNITED STATES OF AMERICA RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

TYRONE PRICE  
(Your Name)

F.C.I. P.O. Box 4000  
(Address)

Manchester, KY 40962-4000  
(City, State, Zip Code)

N/A  
(Phone Number)

QUESTION(S) PRESENTED

1. Did the district court and appeals court abuse its discretion in relying on Defendant's stale juvenile convictions when it concluded that Defendant would be a danger to the community?
2. Did the district court abuse its discretion and the appeals court by failing to consider all of Defendant's personal characteristics, including his medical conditions when it ~~conclusion~~ concluded that his conditions were not sufficiently ~~severe~~ severe to warrant compassionate release?
3. Did the district court and court of appeals abuse its discretion when the courts failed to consider Defendant wearing an ankle monitor (father) could have been considered to protect the public from further crimes of the Defendant to promote respect for the law?

## 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

APPENDIX B

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX 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:

### RELATED CASES

Landrum v. Anderson, 813 F.3d 330 (6th Cir. 2016)

Miller v. United States, Case No. 16-20222-1 F. Supp. 3d 2020 WL 1814084, at \*1 (E.D. Mich. Apr. 9, 2020)

United States v. Amezcua-Vasquez, 567 F.3d 1050 (4th Cir. 2009)

United States v. Brissett, 375 Fed. Appx. 473 (6th Cir. 2010)

United States v. Chambliss, 948 F.3d 641 (5th Cir. 2020)

United States v. Common, Case No. 17-cr-30067, 2020 WL 3412233, at \*1 (C.D. Ill. Jun. 22, 2020)

United States v. Conatser, 514 F.3d 508 (6th Cir. 2008)

United States v. Demma, 948 F.3d 722 (6th Cir. 2020)

United States v. Flowers, 963 F.3d 492 (6th Cir. 2020), reh'g denied (July 31, 2020)

United States v. Grubbs, Case No. CR 16-228, 2020 WL 3839614, at \*1 (W.D. Wash. July 8, 2020)

United States v. Kelly, Case No. 16-cr-00038-SI-1 F. Supp. 3d, 2020 WL 2850280, at \*1 (M.D. Cal. Jun. 2, 2020)

United States v. Kincaid, 802 F. Appx 187 (6th Cir. 2020)

United States v. Rayyan, 885 F.3d 436 (6th Cir. 2018)

United States v. White, 442 F.3d 380 (6th Cir. 2007)

United States v. White, Case No. 13-20653, (E.D. Mich. May 20, 2020)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

18 USC § 3582(c)(1)(A)

18 USC § 3582(c)(1)(A)(i)

18 USC § 1454(a)(2)

18 USC § 424(c)

USC § 441.2

USC § 441.2(d)

USC § 1B1.13

18 USC § 3553(a)

# TABLE OF AUTHORITIES CITED

U.S. V. Grubbs, Case No. 16-cr-228, 2020 WL 3834614, at \*1 (W.D. Wash. July 22, 2020) (17) pg.  
U.S. V. Kelly, Case No. CR16-00038-ST-1 K. Supp. 3d 2020 WL 2830289 (17) pg.  
CASES at \*1 (W.D. Cal. June 2, 2020) PAGE NUMBER  
Landrum V. Anderson, 813 F.3d 320 (6th Cir. 2016) (9) pg.  
Miller V. United States, Case No. 16-10222-1 F. Supp. 3d, 2020 WL 1814084, at \*1 (E.D. Mich. Apr 4 2020) (17) pg.  
United States V. Amezcua-Vasquez, 567 F.3d 1050 (4th Cir. 2004) (8) (10) pg.  
United State V. Brissett, 375 Fed. Appx 473 (6th Cir. 2010) (7) (12) (15) pg.  
United State V. Chumbliss, 448 F.3d 641 (5th Cir. 2020) (4) pg.  
United States V. Common, Case No. 17-cr-70067, 2020 WL 3412233, at \*1 (C.D. Fla. Jun. 22, 2020) (17) pg.  
U.S. V. Demme, 448 F.3d 722 (6th Cir. 2020) (17), (18) pg.  
U.S. V. Flowers, 463 F.3d 442 (6th Cir. 2020) reh'g denied (July 31, 2020) (4) pg.  
United States V. Kincaid, 802 F. App'x 787 (6th Cir. 2020) (9) pg.  
United States V. Rayyan, 885 F.3d 436 (6th Cir. 2018) (18) pg.  
United State V. White, 442 F.3d 386 (6th Cir. 2007) (4) pg.  
United States V. White, Case No. 13-20653, (E.D. Mich. May 20, 2020) (16) pg.  
U.S. V. ~~Longstreet~~ Urs. V. Conraster, 514 F.3d 508 (6th Cir. 2008) (12) pg.

## STATUTES AND RULES

18 USC § 3582 (C) (1) (A) (4) pg.  
18 USC § 3582 (C) (1) (A) (1) (5) pg.  
18 USC § 424 (C) (4) pg.  
18 USC § 1454 (A) (3) (4) pg.  
28 USC § 1291 (3) pg.  
F.R.A.P. 32 (C) (1) (B) (14) pg.  
F.R.A.P. 4 (b) (1) (A) (2) pg.

## OTHER

Judges on Judging: The Persson/Marking Process in Federal Courts of Appeals, 51 Ohio St. L.J. 1385, 1386-1387 (1991) (1) pg.  
U.S.S.G. § 1B1.13 (4) pg.  
U.S.S.G. § 4A1.2, Application Note 7 (11) pg.  
U.S.S.G. § 4A1.2(d) (11) pg.

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 \_\_\_\_\_ 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 \_\_\_\_\_ 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 March 3, 2021.

☐ 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: March 23, 2021, 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. § 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).



## STATEMENT OF THE CASE

On January 28, 2016, Tyrone Price pled guilty to 18 USC § 1454(a)(3) Assault with a Dangerous Weapon in Aid of Racketeering and 18 USC § 924(c) Use and Carry of a Firearm During and in Relation to, a Crime of Violence. On August 10, 2016, he was sentenced to serve 120 months in prison.

Price is 31-years old black male who suffers from a host of physical and mental health issues. According to his presentence report, he is 6'4" tall and weighs approximately 280 lbs. In 2007, Price was shot in the right leg ~~leg~~ (femur) for which he underwent surgery and spent several weeks in the hospital. PSR 74-75, Price suffered a gunshot wound to his left leg ~~leg~~ knee. He takes pain medication for daily pain. In 2013, Price was involved in an automobile collision after which he began physical therapy three times a week prior to his arrest for the instant offense. PSR 76.

Price also suffers from seasonal allergies and hammer toes (a deformity that causes toes to bend or curl downward instead of pointing ~~forward~~ forward). PSR 77. Price's medical records also identify "psychosis; suicidal ideation; auditory hallucination; insomnia; cephalalgia; depression; fracture of the femur; intertrigo (inflammatory condition of skin folds); and allergic rhinitis (irritation and inflammation of the mucous membrane inside the nose). PSR 78. His list of active medications include: Naproxen, ~~sertraline~~ sertraline, Trazodone, Gabapentin, Loratadine, Diphenhydramine, and Fluticasone Propionate. Other records reviewed by the Probation Department reflected that Price suffers from "a history of depression and anxiety (hypertension) and suicidal ~~ideation~~ ideation PSR 80.

REASONS FOR GRANTING THE PETITION

Federal prisoners are dying from COVID-19 at an alarming rate. Price's health problems make him particularly vulnerable to this disease. His request for compassionate release required a thorough and careful balancing of the 3553(a) facts which did not occur. The district court and appeal court first abused its discretion by placing "too much weight that ~~the district~~ on some of the 3553(a) factors and too little on others. "United States v. Demma, 948 F.3d 722, 727 (6th Cir. 2020). In particular, the district court overstated and gave undue consideration to Price's state juvenile convictions from 2006 and 2007. See United State v. Brissett, 375 Fed. Appx. 473 (6th Cir. 2010) (citing with approval the Ninth Circuit's decision in United States v. Antezana-Vasquez, 567 F.3d 1050 (4th Cir. 2009), which held that state convictions can "theoretically render a... sentence substantively unreasonable.").

The district court further abused its discretion by discounting Price's history and characteristics "in relation to his higher-risk of complications from COVID-19. Specifically, the district court failed to adequately consider that Price, as an African American male with a body mass index above 30 who suffers from hypertension, is five-times higher risk for contracting COVID-19 and suffering from its deadly complications. The district court abused its discretion by overlooking these personal characteristics within the rubric of the 3553 sentencing factors.

In sum, the district court overstated Price's criminal history resulting in its finding that Defendant would be a "danger to the community" if released. It further erred by understating Price's personal characteristics to the extent that such characteristics and medical conditions place him at much higher risk than recognized by the district court. By failing to consider the import of Defendant's personal characteristics, the district court relied on a clearly erroneous view of the facts.

Remand is therefore appropriate for further consideration.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Tyrone Rice

Date: 5/10/2021