

CASE No. 20-978

In The Supreme Court of the United States

POPPI METAXAS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR REHEARING

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Pursuant to Rule 44.2 of this Court, Poppi Metaxas respectfully petitions for rehearing of the Court's denial of her petition for a writ of *certiorari*.

1. On March 26, 2020, the district court denied Metaxas' 28 U.S.C. § 2255 motion.

2. On September 17, 2020, the U.S. Court of Appeals declined to issue a certificate of appealability.

3. Metaxas' federal supervised release expired on December 27, 2020.

4. Because Metaxas was no longer on supervised release when the Court considered her petition for a writ of *certiorari*, she was required to identify collateral consequences for a live case or controversy to exist. *Spencer v. Kemna*, 523 U.S. 1, 11 (1998) ("it is the burden of the 'party who seeks the exercise of jurisdiction in his favor,' 'clearly to allege facts demonstrating that he is a proper party to invoke judicial resolution of the dispute.'").

5. Metaxas—for the purpose of these proceedings—did not and does not assert the existence of any collateral consequences.

6. This Court has long recognized that, "[w]hen a civil case becomes moot pending appellate adjudication, 'the established practice . . . in the federal system . . . is to reverse or vacate the judgment below and remand with a direction to dismiss.'" *Arizonans for Official English v.*

Arizona, 520 U.S. 43, 71, (1997). Vacatur is appropriate where “mootness occur[ed] through happenstance--circumstances not attributable to the parties.” *Id.*

7. Section 2255 proceedings are “civil” in nature. *United States v. Hadden*, 475 F.3d 652, 666 (4th Cir. 2007).

8. Based on the above there was no live case or controversy when the Court denied *certiorari*.

CONCLUSION

Because there was no live case or controversy when the Court denied *certiorari*, the Court should agree to rehear this matter, dismiss the petition for a writ of *certiorari*, and vacate the judgment of the court of appeals with instructions to dismiss Metaxas’ 28 U.S.C. § 2255 motion as moot.

Respectfully submitted,

/s/Brandon Sample

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