IN THE UNITED STATES SUPREME COURT

No. _____

UNITED STATES OF AMERICA,

Respondent-Appellee,

vs.

WILLIAM MARCELLUS CAMPBELL,

Petitioner-Appellant.

ON PETITION FOR WRIT OF *CERTIORARI* TO THE UNITED STATES COURT OF APPEALS FOR THE 8TH CIRCUIT

PETITION FOR *CERTIORARI*

ROCKNE O. COLE
209 E. Washington Street
Paul-Helen Building, Ste 304
Iowa City, Iowa 52240
(319) 519-2540 Office
(319) 359-4009Fax
ATTORNEY FOR PETITIONER

QUESTION PRESENTED FOR REVIEW

1. There is a split in the federal courts of appeals and several state courts regarding the following question: Whether a Defendant's 6th Amendment Confrontation Clause Rights are violated when a district court judge prohibits questions to a cooperating accomplice about the maximum sentence they would face prior to any reduction for substantial assistance cooperation?

2. There is a split in the Circuits and several state courts regarding the following question: whether appellate courts should review violations of Confrontation Clause de novo or for abuse of discretion?

RELATED PROCEEDINGS

United States District Court (N.D. Iowa):

United States v. Alston Campbell, Jr., 17-CR-2045 (N.D. Iowa) (January 3, 2019)

United States v. Alston Campbell, Sr., 17-CR-2045 (N.D. Iowa) (March 8, 2019)

United States v. William Campbell, 17-CR-2045 (N.D. Iowa) (April 11, 2019)

United States v. Willie Carter, 17-CR-2045 (N.D. Iowa) (March 8, 2019)

United States v. Alexander Martin, 17-CR-2045 (N.D. Iowa) (October 17, 2018)

United States v. Naiqondis Spates, 17-CR-2043 (N.D. Iowa) (May 23, 2018)

United States v. Samuel Landfair, 17-CR-2047 (N.D. Iowa) (May 31, 2018)

United States v. John Phillips, 17-CR-2045 (N.D. Iowa) (October 17, 2018)

United States Court of Appeals (8th Cir.):

United States v. Alston Campbell, Jr., 19-1127 (8th Cir.) (January 21, 2021)

United States v. Alston Campbell, Sr., 19-1491
(8th Cir.) (January 21, 2021)

United States v. William Campbell, 19-1867
(8th Cir.) (January 21, 2021)

United States v. Willie Carter, 19-1523
(8th Cir.) (January 21, 2021)

United States Supreme Court:

United States v. Alston Campbell, Jr., 20-1790

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Rules

CITATIONS TO OFFICIAL AND UNOFFICIAL OPINIONS BELOW

8th Circuit - United States v. William Campbell, No. 19-1867

Order Appointing Counsel under Criminal Justice Act (8th Cir. July 27, 2021

Order Denying En Banc and Rehearing, No. 19-1867 (8th Cir. Apr. 16, 2021)

Judgment, No. 19-1867 (8th Cir. Jan. 21, 2021)

Panel Opinion Affirming Judgment, No. 19-1867 (8th Cir. Jan. 21, 2021)

Notice of Appeal (N.D. Iowa Apr. 24, 2019)

Northern District of Iowa - United States v. William Campell, 6:17-CR-2045-CJW-MAR

Judgment in Criminal Case (N.D. Iowa Apr. 11, 2011)

Order Denying Motion for Judgment of Acquittal (N.D. Iowa Sept. 20, 2018)

Order Denying Motion to Suppress (N.D. Iowa March 5, 2018)

JURISDICTION

Defendant was charged by superseding indictment of the following offenses: Conspiracy to Distribute Cocaine and Cocaine Base in violation of 21 U.S.C. § 846 (Count 1), Distribution of Cocaine Base in violation of 21 U.S.C. § 841(a)(l) (Count 4), and Distribution of Cocaine in violation of 21 U.S.C. § 841(A)(l) (Count 12). Defendant was found guilty of all three counts. The District Court imposed its judgment on April 11, 2019, sentencing Defendant to a term of imprisonment of 360 months as to each count, all to be served concurrently. Appx. F.

On or about April 24, 2019, Defendant filed a timely Notice of Appeal. Appx. E.

On January 21, 2021, the 8th Circuit issued a panel decision affirming the judgment. Appx. C. On April 16, 2021, the 8th Circuit denied Mr. Campbell's Petition for Rehearing and En Banc Review. Appx. B. Federal question jurisdiction existed under 28 U.S.C. 1331. This Court has jurisdiction under 28 U.S.C. § 1254(1).

This Petition is timely filed since it is filed within 150 days of that denial of en banc review. Ordinarily the Petitioner has 90 days to file certiorari.
See US Supreme Court Rule 13 (1) ("A petition for a writ of certiorari seeking review of a judgment of a lower state court that is subject to discretionary review by the state court of last resort is timely when it is filed with the Clerk within 90 days after entry of the order denying discretionary review."). However, due to COVID, the deadline is now 150 days for those cases in which the final order fell before July 19, 2021. See US Supreme Court Supervisory Order (July 19, 2021).

A document is considered timely filed it were delivered on "if it is sent to the Clerk through the United States Postal Service by first-class mail (including express or priority mail), postage prepaid, and bears a postmark, other than a commercial postage meter label, showing that the document was mailed on or before the last day for filing, or if it is delivered on or before the last day for fling to a third-party commercial carrier for delivery to the Clerk within 3 calendar days." Supreme Court Rule 29.2. This document was mailed via United States Postal Service on September 13, 2021, and post marked for delivery on that date. Thus, it is timely filed.

RELEVANT CONSTITUTIONAL PROVISION

The Sixth Amendment provides in relevant part: "In all criminal prosecutions, the accused shall enjoy the right ... to be confronted with the witnesses against him."

STATEMENT OF THE CASE

Nature of the Case:

Relevant Procedural History:

On July 10, 2017, an indictment was filed against Defendant William Campbell and several co-defendants. (Docket #8). The charges alleged in the original indictment stemmed, in part, from electronic communications accessed by the Government through a Title III wiretap. On December 26, 2017, Defendant filed a motion to suppress the Title III wiretap evidence. (Docket #117).

On February 22, 2018, the Government filed a Suspending Indictment against Defendant, charging him of the following offenses: Conspiracy to Distribute Cocaine and Cocaine Base in violation of 21 U.S.C. § 846 (Count 1), Distribution of Cocaine Base in violation of 21 U.S.C. § 841(a)(l) (Count 4), and Distribution of Cocaine in violation of 21 U.S.C. § 841(A)(l) (Count 12). A jury trial was held and Mr. Campbell was found guilty on all counts.

The District Court imposed its judgment on April 11, 2019, sentencing Defendant to a term of imprisonment of 360 months as to each count, all to be

served concurrently. Judgment; Appx. F. On January 21, 2021, a three judge panel of the 8th Circuit affirmed conviction. Appx. C. On April 16, 2021, the 8th Circuit denied 8th Circuit denied rehearing and *en banc* review. App. B.

Relevant Facts

After a multi-year investigation featuring confidential informants, controlled buys, wiretaps, and surveillance, a grand jury indicted William Marcellus Campbell (William), Alston Campbell, Jr. (Junior), Willie Junior Carter (Carter), Alston Campbell, Sr. (Senior), "A.M.", "J.P.", and "D.S." on various drug trafficking charges. App. D, p. 2. In 2016, a task force began investigating illegal drug trafficking activities within Eastern Iowa. Appx. D, p. 2. The Assistant United States Attorney (AUSA) for the Northern District of Iowa submitted a wiretap application for the surveillance of target cell phones belonging to William. *Id.* The wiretap application was supported by an affidavit containing sworn testimony from an investigator with the City of Cedar Rapids Drug Enforcement Task Force, Officer Bryan Furman. Appx. D, p. 3.

Officer Furman stated that the wiretap would intercept communications between William, Junior, Senior, A.M., J.P., and "others yet unknown." Appx. D, at p. 2. Officer Furman identified William as a "retail level" crack cocaine distributor within a distribution operation led by Junior. Id.

In the wiretap application, Officer Furman testified that investigators had

previously engaged two members of the organization as cooperators, and those cooperators participated in controlled narcotics purchases. Appx. D, p. 3. However, these cooperators continued participating in uncontrolled criminal activity, and investigators quit engaging with them to protect the investigation's secrecy. Appx. D, p. 3. In addition to relying on cooperators, investigators had employed surveillance, cell site location tracing, pen registers, trash searches, and search warrants. Appx. D, p. 3.

On April 23, 2018, the jury trial began for the Campbells. (DCD 259). Following a lengthy discussion by the parties and the court, the district court ordered that, while the cooperators with plea agreements could be cross-examined regarding their hopes for a reduction, they were not to be asked about specific sentences, including the maximum life sentence or specific mandatory minimums faced by each witness.(Campbell Trial TR 4-14). The court stated that it was not going to admit the plea agreements because "you can ask a cooperating witness all the questions you want about their plea agreement, their agreement with the government, but it's quite another thing to put this document Cooperators A.M. and J.P. were named co-defendants in the indictment and pled guilty to Count 1 as charged and J.P. pled to a possession with intent offense and distribution offense with the same penalties as charged against the Campbells. (DCD 149, 159, 212, 227). S.L. and N.S. were charged in separate cases with similar drug trafficking offenses. (17-CR-0204 7-

LRR, 17-CR-02043-LRR). in that has all kinds of other legalese and provisions in it." (Campbell Trial TR 9). The court allowed counsel to ask questions regarding the existence of mandatory minimums and significant sentences the cooperators were facing and that defendants were facing sentences that were "substantial." (Campbell Trial TR 9). The parties discussed the issue again on the third day of evidence. (Campbell Trial TR 386-405).

During the first day of Trial Defendant William Campbell joined in his brother Alston Campbell Jr.'s request that the plea agreements of the cooperating witnesses be admitted into evidence, which was denied by the Court. Further, all of the Defendants in one way or another, asked to be able to specify the potential benefits to be received by the cooperating witnesses according to the analysis of the plea agreement. Specifically, counsel asked to be able to talk about the length of the mandatory minimums and the guideline analysis including career offender status with specificity. To wit: being allowed to ask the respective witnesses how much time they will expect to get were they not cooperating. Defendants were instructednot to discuss the numbers of years witnesses potentially faced. Trial Transcript, at 83.

On the second day of Trial, outside the presence of the Jury, the undersigned counsel made a more complete motion citing cases in support of the Defendant's constitutional right to thoroughly examine the nature of the specific potential benefit

to be received by the cooperating witness. Trial Transcript at 386 et seq.

The Government on the first day of Trial had raised the specter of the Jury determining from the number of months faced by the cooperating witnesses, what the sentence was for the Defendants in the case at bar might be. The undersigned counsel, on behalf of Defendant William Campbell, labeled this an existential concern for jury nullification and indicated that such a concern was trumped by the constitutional right by Defendant William Campbell to fully confront the witnesses against him. Counsel also indicated that we could expect the Jury to follow the Instruction which indicated that Sentencing was up to the Court and not the Jury. However, the District Court ultimately overruled counsel's concerns:

> It's fair game to get into the fact that they are facing mandatory minimums, below which the Court couldn't go even if it wanted to, without a government motion. It's great to go into the 5K process and -- all of those things are fair game. But we're not going to get into specific numbers under 401, 403 of the Rules of Evidence. And we're not going to get into drug quantities because that, of course, doesn't have bearing either, because -- well, that just doesn't have any relevance at all at this stage of the process for any of them, since the Court hasn't made any findings on quantities for any of them.

Trial Transcript, at 400.

Thus, due to the Court's ruling, in assessing credibility, the jury did not know how "substantial" a sentence the cooperating witnesses were facing prior to receiving any substantial assistance reduction motion by Government.

REASONS FOR GRANTING THE WRIT

I. THERE REMAINS A CIRCUIT SPLIT ABOUT HOW MUCH

DETAIL A LAWYER GET INTO ABOUT THE SENTENCE A COOPERATING WITNESS IS FACING AND THE POTENTIAL BENEFIT THAT THE WITNESS CAN RECEIVE BY COOPERATING.

A. Overview

In terms of assessing a cooperator's motive to lie, what's the difference between avoiding a life sentence, avoiding a 20 year sentence, or a five year sentence? According to the 8th Circuit Panel and the Northern District of Iowa Judge, it doesn't matter as long as the defense attorney can ask whether that witness faces a "substantial" sentence. The 8th Circuit's position is that the rule of evidence, that such testimony is substantially more prejudicial than probative, trumps a defendant's 6th Amendment's right to confrontation of accusers, even when those accusers are criminal accomplices with a strong motivation to avoid a life sentence. Circuits and state courts throughout the Country have struggled with this precise question and this split warrants a grant of certiorari under Supreme Court Rule 10 (a).

Petitioner would also note that his brother Alston Campbell also has a pending certiorari petition before this Court with nearly identical issues to Mr. Campbell. *See Alston Campbell v. United States*, Supreme Court Docket No. 20-1790. Petitioner, Marcellus Campbell, has extensively utilized that Petition in preparing this Petition and also incorporates all authorities made therein.

B. The 5th, 9th Circuit, and Many State Appellate Courts allow full disclosure of all of the benefits of cooperation, including knowledge of the maximum sentence.

The Fifth and Ninth Circuits both protect an accused's right to expose the magnitude of sentencing benefits at stake for an accomplice cooperating with the government. The Fifth Circuit recognizes that "[c]ounsel should be allowed great latitude in cross examining a witness regarding his motivation or incentive to falsify testimony, and this is especially so when cross exammmg an accomplice." *United States v. Landerman,* 109 F.3d 1053, 1063 (5th Cir. 1997). On that basis, the court has found Confrontation Clause violations when a trial court prohibits questioning on an accomplice's possible sentences. *United States v. Cooks,* 52 F.3d 101, 104 & n.13 (5th Cir. 1995). In *Cooks,* the trial court only allowed cross-examination into the accomplice's general motivation to avoid punishment, but the Fifth Circuit held that "[t]he jury should have been informed of all of the pertinent facts surrounding this motivation." *Id.* at 104; *see also Landerman,* 109 F.3d at 1063 (Confrontation Clause violated when a jury was not informed that an accomplice's "pending charge carried the potential of a life sentence").

In the Ninth Circuit, "[w]here a plea agreement allows for some benefit or detriment to flow to a witness as a result of his testimony, the defendant must be permitted to cross examine the witness sufficiently to make clear to the jury what benefit or detriment will flow, and what will trigger the benefit or detriment."

Schoneberg, 396 F.3d at 1042. In *United States v. Larson,* the court found a Confrontation Clause violation when defense counsel was prohibited from exposing the mandatory minimum an accomplice faced absent cooperation. 495 F.3d 1094, 1106-07 (9th Cir. 2007) (en bane). This information was "highly relevant to the witness' credibility" because "the witness knows *with certainty* that he will receive [the mandatory minimum] unless he satisfies the government." *Id.* at 1106.

Many states likewise recognize an accused's Sixth Amendment right to expose the specific benefits an accomplice receives for testifying. The New Jersey Supreme Court interprets the Confrontation Clause to guarantee "unfettered examination" of an accomplice's plea bargain, including "what sentence he faced and what was offered in the plea agreement." *State v. Jackson,* 243 N.J. 52, 59 (2020). So "on a routine basis" in that state, "a cooperating witness's maximum sentencing exposure is explored through cross-examination." *Id.* at 71. Iowa has adopted the same rule. *See State v. Donelson,* 302 N.W.2d 125, 131 (Iowa 1981)

The Indiana Supreme Court recognizes that a jury should "know the *quantity* of benefit to accusing witnesses." *Jarrett v. State,* 498 N.E.2d 967, 968 (Ind. 1986) (emphasis added). This is because it is "quite relevant" whether the accomplice is "avoiding imprisonment of ten days, ten weeks, or ten years." *Id.*

The Georgia Supreme Court likewise holds that a trial court violates the Confrontation Clause when it does not permit inquiry into "the witness's belief concerning the amount of prison time he is avoiding by testifying against the defendant." *State v. Vogleson,* 275 Ga. 637, 640 (2002). This principle applies to both maximum and minimum sentences because, in the latter case, "the opportunity for earlier release from prison, even if not guaranteed, is an important consideration for a witness facing time behind bars." *Manley v. State,* 287 Ga. 338, 342 (2010).

The South Carolina Supreme Court found a Confrontation Clause violation when a trial court prohibited defense counsel from eliciting that two accomplices "avoided [a] mandatory minimum twenty-five years' imprisonment by pleading guilty to lesser offenses." *State v. Gracely,* 399 S.C. 363, 374 (2012); *accord State v. Brown,* 303 S.C. 169, 171 (1991). It has also confirmed that euphemistic phrases-e.g., "a long sentence"-do not cure this error. *State v. Mizzell,* 349 S.C. 326, 334-35 (2002).

Many other states hold that cross-examination by euphemism does not satisfy the Sixth Amendment. *See, e.g., People v. Mumford,* 183 Mich. App. 149, 154 (1990) (defense counsel entitled to cross-examine accomplice "on all of the details of the plea bargain, including the sentencing consideration [he] received in return for his testimony."); *People v. Bonilla,* 41 Cal. 4th 313, 337 (2007)

("[W]hen an accomplice testifies for the prosecution, full disclosure of any agreement affecting the witness is required to ensure that the jury has a complete picture of the factors affecting the witness's credibility."); *Jackson v. State,* 37 So. 3d 370, 373 (Fla. App. 2010) (violation for prohibiting cross-examination into length of an accomplice's mandatory minimum sentence).

C. The 8th, 7th, 4th and 1st Circuits only allow generalized questions about an accomplice possibly facing a "substantial" sentence rather than the actual sentence.

Under the contrary view, it is enough if the jury learns of the "substantial", or "lengthy" sentence that a person is facing prior to receiving the substantial assistant motion. Other jurisdictions deny that an accused has a constitutional right to cross-examine accomplices about the magnitude of benefits received from the government. In *Cropp,* for example, the Fourth Circuit affirmed a conviction when defense counsel "were not permitted to ask any quantitative questions whatsoever about the benefits ... witnesses expected to receive for their cooperation." *United States v. Cropp*, 127 F.3d 454, 459 (4th Cir. 1997).

The First Circuit agreed in *United States v. Luciano-Mosquera,* 63 F.3d 1142, 1153 (1st Cir. 1995). There, prosecutors dropped an accomplice's firearms charge in exchange for his cooperation. *Id.* After eliciting this fact, however, defense counsel could not ask any questions about the thirty-five-year mandatory

minimum the accomplice avoided as a result. *Id.* The First Circuit concluded that the Confrontation Clause only guarantees inquiry into the general topic of whether an accomplice "received a benefit for his testimony." *Id.* Nothing beyond that was required. *Id.*

Other jurisdictions approve limitations that only allow references to sentencing benefits in euphemistic terms. The two accomplices in *United States v. Trent,* 863 F.3d 699, 704 (7th Cir. 2017), *cert. denied,* 138 S. Ct. 2025 (2018), avoided twenty-year mandatory minimums by testifying. And the Seventh Circuit upheld a restriction that only allowed defense counsel to ask whether the accomplices had originally faced "substantial" mandatory minimums. *Id.* at 706.

The Eighth Circuit approved a similar limitation in *United States v. Walley,* 567 F.3d 354, 360 (8th Cir. 2009). There, defense counsel could only characterize an accomplice's five-year mandatory minimum as "significant." *Id.* The court acknowledged the "malleability" of this term and that the jury was just as likely to think "significant" meant two, five, ten, or even twenty years. *Id.* But the court found no constitutional violation because, in its view, it was "not self-evident that a witness facing a longer mandatory minimum has a greater desire to please the government." *Id.*

In *United States v. Wright,* 866 F.3d 899, 907 (8th Cir. 2017), the Eighth Circuit expressly disagreed with the Ninth and held that a trial court did not

violate the Confrontation Clause by only allowing defense counsel to characterize an accomplice's mandatory life sentence as "decades" in prison. *Id.* at 908.

d. Lower courts are also divided on the correct standard of review.

There is also an acknowledged circuit split on the standard of appellate review. *United States v. John,* 849 F.3d at 917-18. The Tenth Circuit "review[s] de novo all Confrontation Clause challenges to restrictions on cross-examination." *Id.* The Fifth Circuit does the same. *See United States v. Richardson,* 781 F.3d 237, 243 (5th Cir. 2015).

By contrast, the Eighth Circuit "review[s] a district court's limitations on cross-examination ... [for] an abuse of discretion" and "will reverse only if a clear abuse of discretion occurred." App. 9. The same standard applies in the Second, Third, Fourth, Sixth, and D.C. Circuits. *See United States v. Ulbricht,* 858 F.3d 71, 118 (2d Cir. 2017); *United States v. Mussare,* 405 F.3d 161, 169 (3d Cir. 2005); *United States v. Kiza,* 855 F.3d 596, 603-04 (4th Cir. 2017); *United States v. Ford,* 761 F.3d 641, 651 (6th Cir. 2014); *United States v. Vega,* 826 F.3d 514, 542 (D.C. Cir. 2016).

Other circuits apply a two-tier standard of review. The Ninth Circuit reviews a trial court's exclusion of an entire "area of inquiry" de nova, but applies abuse of discretion to "limitation[s] on the scope of questioning within a given area."

Larson, 495 F.3d at 1101. In the First Circuit, once an accused "establish[es] a reasonably complete picture of the witness' veracity, bias, and motivation," the court reviews "particular limitations" on cross-examination for abuse of discretion. *United States v. JimenezBencevi,* 788 F.3d 7, 21 (1st Cir. 2015); *accord United States v. Garcia,* 13 F.3d 1464, 1468 (11th Cir. 1994).

The Seventh Circuit's standard of review depends on whether the trial court's limitation "directly implicates the core values of the Confrontation Clause." *Trent,* 863 F.3d at 704. If so, review is de nova. *Id.* Otherwise, review is only for abuse of discretion. *Id.*

State courts are equally divided on the standard of review. Many review Confrontation Clause violations de novo. *See, e.g., State v. Orn*, 197 Wn.2d 343, 350 (2021); *State v. Rainsong*, 807 N.W.2d 283, 286 (Iowa 2011); *State v. Davis*, 298 Conn. 1, 11 (2010); *People v. Hill*, 282 Mich. App. 538, 540 (2009). Others review for abuse of discretion. *See, e.g., Jackson*, 243 N.J. at 64; *People v. Linton*, 56 Cal. 4th 1146, 1188 (2013); *State v. Tran*, 712 N.W.2d 540, 550 (Minn. 2006).

II. THE 8TH CIRCUIT PANEL DECISION HERE FURTHER DEMONSTRATES THE NEED TO GRANT CERTIORARI ON BOTH QUESTIONS.

Here, the 8th Circuit, applying the abuse of discretion standard, found that it did not matter that the jury only learned of the "substantial" sentences that cooperators were facing. Appx. D-6. It noted:

> Here, the district court allowed defense counsel to cross-examine the government's cooperating witnesses about looming mandatory minimum or "substantial" sentences they faced, the possibility of receiving an increased sentence based on prior criminal history, and their hopes of earning a reduced sentence through their cooperation. However, the court did not allow cross-examination that would reveal the precise amount of incarceration, in years, that any witness was facing.

Appx. D, p. 6.

It did not violate his rights because the "while the cooperating witness *hoped* for a reduction in his sentence, the government had not yet granted him leniency in exchange for his cooperation." Id. The 8th Circuit reasoned that "[b]ecause this leniency had not yet been granted, the degree of leniency-and, more significantly, the consideration granted to the witness for his cooperation-was unascertainable at the time of cross-examination. Id. at 7.

It then distinguished prior 8th Circuit cases in those cases where leniency had already been extended to the witnesses.

> William cites cases like *United States v. Caldwell*, 88 F.3d 522 (8th Cir. 1996)-and Junior, as discussed below, cites *United States v. Roan Eagle*, 867 F.2d 436 (8th Cir. 1989)--in which we found that a district court's limitation on crossexamination *was* an abuse of discretion. However, in Caldwell and Roan Eagle, we found that the district court had erred by forbidding cross-examination concerning potential minimum and maximum sentences

> because the government had *already* extended leniency to the cooperating witnesses. "Our decisions in Roan Eagle and Caldwell, therefore, emphasized that the accused should have been able to contrast the original punishment faced by the witness with the more lenient punishment contemplated by the plea agreement-not merely that the original punishment alone was evidence of bias." *Walley*, 567 F.3d at 360.

Appx. D, p. 9.

The Court found that the cross-examination was good enough for 6th Amendment purposes noting that the "jury was aware of the plea agreements' existence, that the witnesses faced "substantial sentences," and that those witnesses hoped to receive a reduction in those sentences through their cooperation. Id. at p. 9.

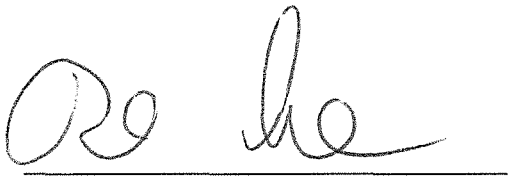
This line of cases leaves the jury without the most critical piece of information on assessing how much weight, if any, to give the cooperating witness in deciding whether the Government had met its burden. Imagine deciding to take a job and the employer stating that the prospective employee will receive a "substantial" salary or a home seller selling price as "substantial." This scenario involves not a job or a purchasing a home, but a Defendant's freedom, the most central freedom protected by the United States Constitution and guaranteed by the 6th Amendment. This type of imprecision is simply unacceptable where the consequences are so grave for the Defendant and the prejudice is fairly minimal for the Government. It just allows the Defendant and the jury to have accurate and

precise information in deciding how much weigh to give a cooperating witness, which in many drug cases is the most important piece of information available. This Court should finally resolve this question and upon such review, find that allowing a Defense attorney only to cross-examine about a "substantial" sentence that a witness does not satisfy the rights secured by 6th Amendment Confrontation Clause.

CONCLUSION AND REQUESTED RELIEF

For the above reasons, Petitioner asks this Court to grant the Writ on the questions presented.

RESPECTFULLY SUBMITTED,



ROCKNE O. COLE
AT:00001675
209 E. Washington Street
Paul-Helen Building, Ste 304
Iowa City, Iowa 52240
(319) 519-2540 Office
(319) 359-4009 Fax
ATTORNEY FOR PETITIONER

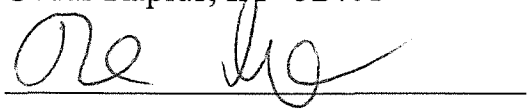
CERTIFICATE OF SERVICE

I, Rockne Cole, counsel for Petitioner, hereby certify that, on July 8, 2021, I mailed an original and 10 copies to the Supreme Court via United States Postal Service Express Mail to:

United States Supreme Court
Clerk's Office
1 First Street, N.E.,
Washington, D.C. 20543

and one copy to:

Emily Nydle
Northern District of Iowa
111 7th Ave SE, Box 1
Cedar Rapids, IA 52401



CERTIFICATE OF WORD COUNT

I, Rockne Cole, certify that the above Petition includes 4193 words and was prepared in 14 Point New Times Roman and therefore, complies with US Supreme Court Rule 33.1.

Rockne Cole