No. _____

IN THE

Supreme Court of the United States

DAN PIZARRO,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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Questions Presented

Petitioner is serving a life sentence imposed by the United States District Court for the Eastern District of Louisiana. But this petition concerns a supervised-release-revocation case in the United States District Court for the Central District of California, which ordered its 18-month sentence to "commence on the earlier of the date that defendant is released from his sentence imposed in" the Louisiana federal case "or on January 1, 2042, whichever is earlier." App. 7a. The Central District of California did so to make its sentence consecutive in the event that the Eastern District of Louisiana imposes a different, lower sentence in that case sometime in the future. The Ninth Circuit affirmed that sentence. This case therefore presents these questions:

1. Does a district court exceed its authority by expressly or effectively ordering its sentence to run consecutively to a sentence in another federal case that has not yet been imposed? [The Court left this question open in *Setser v. United States*, 566 U.S. 231, 241 n.4 (2012).]

2. Does a district court exceed its authority by ordering its sentence to commence on a date far in the future (20 years in this case) or on an unknown date conditioned on some possible future event?

Related Proceedings

United States District Court (C.D. Cal.):

United States v. Dan Pizarro, Case No. CR-14-00218-DSF (February 2, 2022).

United States Court of Appeals (9th Cir.):

United States v. Dan Pizarro, Case No. 22-50014 (January 18, 2023).

United States v. Dan Pizarro, Case No. 18-50164 (May 21, 2021).

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Petition for a Writ of Certiorari

Petitioner Dan Pizarro respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

Opinions Below

The decision of the United States Court of Appeals for the Ninth Circuit (App. 1a-5a) is unpublished. The district court did not issue any relevant written decision, other than its judgment (App. 6a-7a).

Jurisdiction

The court of appeals entered its judgment on January 18, 2023. App. 1a. This Court has jurisdiction under 28 U.S.C. § 1254(1).

Federal Statute Involved

18 U.S.C. § 3584(a) provides: "If multiple terms of imprisonment are imposed on a defendant at the same time, or if a term of imprisonment is imposed on a defendant who is already subject to an undischarged term of imprisonment, the terms may run concurrently or consecutively, except that the terms may not run consecutively for an attempt and for another offense that was the sole objective of the attempt. Multiple terms of imprisonment imposed at the same time run concurrently unless the court orders or the statute mandates that the terms are to

run consecutively. Multiple terms of imprisonment imposed at different times run consecutively unless the court orders that the terms are to run concurrently."

Statement of the Case

A. Legal Background.

When a district court imposes a term of imprisonment on a defendant who is subject to a term of imprisonment that has already been imposed in another state or federal case, but has not been fully served, 18 U.S.C. § 3584(a) allows it to run the terms concurrently or consecutively. As for whether a federal court may impose a sentence consecutively to one that has not yet been imposed, this Court has held that a federal court has discretion to order its sentence to run consecutively to a *state* sentence that hasn't been imposed yet but is anticipated. *Setser v. United States*, 566 U.S. 231, 234-45 (2012). It left open whether the same would be true of an anticipated, but not yet imposed *federal* sentence. *Id.* at 241 n.4. But courts of appeals have held that § 3584(a) does not allow a district court to impose a sentence to run consecutively to another federal sentence that does not yet exist. *See United States v. Ramon*, 958 F.3d 919, 920-23 (10th Cir. 2020); *United States v. Almonte-Reyes*, 814 F.3d 24, 27-29 (1st Cir. 2016); *United States v. Montes-Ruiz*, 745 F.3d 1286, 1290-94 (9th Cir. 2014).

B. Factual Background and Proceedings Below.

In October 2015, the United States District Court for the Central District of California initiated proceedings to revoke Dan Pizarro's supervised release. PSR 24-25; AOB 5-7.[1] While those proceedings were pending, Pizarro was charged, tried, and convicted in the United States District Court for the Eastern District of Louisiana for participating in a methamphetamine-distribution conspiracy. PSR 5-7; AOB 8-9. That court imposed a mandatory minimum life sentence. PSR 5.

Thereafter, Congress passed the First Step Act, Pub. L. 115-391, 132 Stat. 5194 (Dec. 21, 2018). Among other things, the Act amended 21 U.S.C. § 841(b)(1)(A), the statute that required a life sentence in Pizarro's Louisiana federal case. Under the revised version of that statute, a defendant with two qualifying prior convictions now faces a mandatory-minimum sentence of 25 years instead of a mandatory life sentence. First Step Act, § 401(a)(2)(A)(ii). Although Pizarro's appeal in the life-sentence case was pending in the Fifth Circuit when the First Step Act was passed, that court has held that its changes to § 841 did not apply to such cases. *See United States v. Staggers*, 961 F.3d 745, 753-54 (5th Cir. 2020).

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[1] The following abbreviations are for documents filed in the Ninth Circuit: "ER" refers to the appellant's excerpts of record (docket no. 7). "PSR" refers to presentence reports and other sentencing documents filed under seal (docket no. 8). "AOB" refers to the appellant's opening brief (docket no. 6).

In 2019, the Fifth Circuit affirmed Pizarro's conviction and life sentence in the Louisiana case, and then this Court denied review. *See United States v. Pizarro*, 756 Fed.Appx. 458 (5th Cir.), *cert. denied*, 140 S. Ct. 211 (2019). Thereafter, the Eastern District of Louisiana denied Pizarro's 28 U.S.C. § 2255 motion as untimely. *See United States v. Pizarro*, 2021 WL 76405 (E.D. La. 2021).

After all this, the Central District of California resentenced Pizarro for the supervised release violations, after its prior sentence was reversed on appeal for reasons unrelated to this petition. *See* AOB 9-20. At the original sentencing, the Central District had imposed an 18-month sentence "to run consecutively to . . . any previously sentenced federal case" to account for the possibility that Pizarro might someday get out of prison despite the life sentence in the Eastern District of Louisiana case, either because that conviction might be overturned on appeal or because Congress might someday enact retroactive sentencing relief. ER 45, 58-59, 62. At the resentencing, Pizarro objected to such a consecutive sentence, arguing (among other things) that the district court could not properly impose a consecutive sentence just in case the life sentence is reduced in the future because it isn't allowed to order a sentence to run consecutively to another federal sentence that has not yet been imposed. ER 32-34. As requested by the government, however, the district court ordered its 18-month revocation sentence to "commence on the earlier of the date that defendant is released from his sentence imposed in the [Louisiana federal case] or on January 1, 2042, whichever is earlier." App. 7a; *see*

also ER 4-5, 9-10, 18-19, 20-21, 26-27. The district court acknowledged that, given the direct-appeal and § 2555 proceedings in that other case since the last revocation hearing, it was "less likely" that Pizarro will succeed in setting aside that conviction, but it claimed (without elaboration) that "other things will have occurred that may make it more likely that he will serve less than a life sentence[.]" ER 21. The district court acknowledged that precedent precluded it from running its sentence consecutively to a federal sentence that has not yet been imposed. ER 9-10. But it believed that, somehow, "Pizarro could be released during his lifetime under circumstances that would not necessarily be considered an[] anticipated but not yet imposed sentence within the meaning of" that precedent. ER 10.

On appeal, Pizarro argued that the district court exceeded its authority in ordering its sentence to run consecutively to a speculative future sentence in another federal case, for which the current sentence is life. AOB 23-34. He also argued that the consecutive sentence is substantively unreasonable. AOB 34-43.

The Ninth Circuit affirmed the sentence in an unpublished memorandum decision. App. 1a-5a. It started with the observation that Pizarro is already subject to an undischarged term of imprisonment—the life sentence in the Louisiana case. App. 2a-3a. "Even assuming Pizarro is resentenced," the Ninth Circuit went on, "the California supervised-release-revocation sentence would not—by its own terms—run consecutively to the new sentence" because the Central District ordered its sentence "to commence on either 'the date that defendant is released from his

sentence imposed in [the Louisiana case] or on January 1, 2042, whichever is earlier.'" App. 3a. "The sentence thus only may run consecutively to the life sentence imposed (past tense)—not any potential future sentence." App. 3a. "If Pizarro is resentenced in relation to the Louisiana case, the later-sentencing judge would have the discretion to decide whether the new sentence should run consecutively to or concurrently with the California sentence." App. 3a. That is because the California sentence would run consecutively to Pizarro's release from his already-imposed Louisiana *sentence*, not from his release from imprisonment generally." App. 3a (emphasis in original). But the Ninth Circuit also wrote that "Pizarro provides no support for his contention that a later-sentencing judge should have the power to abrogate a prior-imposed sentence from another case." App. 4a. Finally, the Ninth Circuit held that the sentence was not substantively unreasonable because, among other things, "although the district court may not have had perfect information about if or when Pizarro would be released from his life sentence, it had sufficient information to intelligently weigh the § 3553(a) sentencing factors." App. 4a-5a.

Reasons for Granting the Writ

Granting review will allow the Court to address a question it left open in a prior case: Does a district court exceed its authority by ordering its sentence to run consecutively to a sentence in another federal case that has not yet been imposed? If the Court concludes that the answer is yes, the case presents the subsidiary

question of whether a district court can skirt the prohibition on such consecutive sentences by imposing a de facto consecutive sentence that commences on a far-future date, conditional on what happens in the other federal case. A second related question is whether a district court even has statutory authority to order its sentence to commence on a date far in the future or on an unknown date conditioned on some possible future event. A subsidiary question is whether such a sentence can comply with the Constitution and federal sentencing statutes.

1. When a district court imposes a term of imprisonment on a defendant who is subject to "an undischarged term of imprisonment"—in other words, one that has already been imposed in another state or federal case, but has not been fully served—18 U.S.C. § 3584(a) allows it to run the terms concurrently or consecutively. The Court considered whether a federal court may impose a sentence consecutively to one that has not yet been imposed in *Setser v. United States*, 566 U.S. 231 (2012). There, a district court imposing a drug-trafficking sentence anticipated that the defendant would soon be sentenced by a state court in pending probation-revocation proceedings, so it ordered the federal sentence to run consecutive to that state sentence. *Id.* at 233. Noting that § 3584 is silent on the matter, the Court held that the federal judge had the authority to do so. *Id.* at 234-45. The Court cautioned that "a district court should exercise the power to impose anticipatory consecutive (or concurrent) sentences intelligently. In some situations,

a district court may have inadequate information and may forbear, but in other situations, that will not be the case." *Id.* at 242 n.6.

The Court left open whether it would allow a federal court to order its sentence to run consecutively to an anticipated, but not yet imposed *federal* sentence. *Setser*, 566 U.S. at 241 n.4. But it suggested that the result might be different: "It could be argued that § 3584(a) impliedly prohibits such an order because it gives that decision to the federal court that sentences the defendant when the other sentence is 'already' imposed—and does not speak (of course) to what a *state* court must do when a sentence has already been imposed." *Id.* (emphasis in original). Thereafter, courts of appeals held that § 3584(a) precludes a federal court from running a sentence consecutively to an anticipated, but not yet imposed sentence in another federal case. *See United States v. Ramon*, 958 F.3d 919, 920-23 (10th Cir. 2020); *United States v. Almonte-Reyes*, 814 F.3d 24, 27-29 (1st Cir. 2016); *United States v. Montes-Ruiz*, 745 F.3d 1286, 1290-94 (9th Cir. 2014); *see also United States v. Obey*, 790 F.3d 545, 549 (4th Cir. 2015) (prior circuit precedent holding that district courts lack authority to order a sentence to run consecutively to *any* future sentences abrogated by *Setser* as to anticipated *state* sentences but not as to anticipated *federal* sentences) (citing *United States v. Smith*, 472 F.3d 222, 225-27 (4th Cir. 2006)); *United States v. Quintana-Gomez*, 521 F.3d 495, 497-98 (5th Cir. 2008) (pre-*Setser* case holding that district court could impose sentence to run consecutively to

an anticipated, but not-yet-imposed state sentence, but not to an anticipated, but not-yet-imposed federal sentence).[2]

These courts of appeals recognized that the plain language § 3584(a) requires the other "terms of imprisonment" to "already *exist* in real life before a court can run another sentence to them, whether consecutively or concurrently." *Ramon*, 958 F.3d at 922 (emphasis in original); *see also Almonte-Reyes*, 814 F.3d at 28; *Montes-Ruiz*, 745 F.3d at 1292-93. Otherwise, the first federal court could usurp the sentencing authority that § 3584(a) grants exclusively to the second federal court. *Ramon*, 958 F.3d at 922; *Almonte-Reyes*, 814 F.3d at 29; *Montes-Ruiz*, 745 F.3d at 1292. "The later sentencing court" would be "put under the pressure of either ignoring its own judgment or contradicting another district court." *Almonte-Reyes*, 814 F.3d at 29. Congress could not have intended this "Hobson's choice." *Montes-Ruiz*, 745 F.3d at 1292 (quoting *Quintana-Gomez*, 521 F.3d at 498) (cleaned up). The Tenth Circuit recognized another problem:

> Obviously, the later sentencing court may well resent the preemptive strike or even just disagree with consecutive time. Suppose that second sentencing court ignores the earlier court's attempted

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[2] The Sixth and Eighth Circuits have noted, but not resolved, the issue. *See United States v. Wright*, 841 Fed.Appx. 940, 943 (6th Cir. 2021); *United States v. Watson*, 843 F.3d 335, 336-38 (8th Cir. 2016).

> usurpation and imposes its sentence to run concurrently to the earlier one. What then? A mess, one Congress has avoided.

Ramon, 958 F.3d at 922 n.5 (emphasis added).

As for who has to clean up such a mess if the two federal courts disagree, the First Circuit observed that "the question ends up having to be resolved by the Bureau of Prisons, whose choice of how to implement the sentence will necessarily fail to accord with one of the federal judges' decisions." *Almonte-Reyes*, 814 F.3d at 29. "Resolution of the issue by the Bureau of Prisons would run counter to 'our tradition of judicial sentencing, and the accompanying desideratum that sentencing not be left to employees of the same Department of Justice that conducts the prosecution.'" *Id.* (quoting *Setser*, 566 U.S. at 242) (cleaned up). On the other hand, precluding the first sentencing federal judge from limiting the second sentencing federal judge's discretion "is consistent with the principle, recognized by the *Setser* Court as 'undoubtedly true,' that 'when it comes to sentencing, later is always better because the decisionmaker has more information.'" *Id.* (quoting *Setser*, 566 U.S. at 242).

The concerns raised by these courts highlight the importance of this question of federal law, which the Court raised (but did not answer) in *Setser*. The Court should answer that question now.

2. If the Court agrees that a district court cannot expressly order its sentence to run consecutively to a sentence in another federal case that has not yet been

imposed, it should also address whether a district court can sidestep this prohibition by imposing a sentence that commences on a far-future date, conditional on what happens in the other federal case.

The Central District of California's express intent was to make it's 18-month supervised-release-revocation sentence run consecutively to the petitioner's sentence in the Eastern District of Louisiana *if he is resentenced someday* to less than life imprisonment. ER 9-13, 20-22, 58-59, 62; AOB 10-11, 16-20. To accomplish that goal, it originally ordered its revocation sentence to run consecutively "to the sentence imposed in any previously sentenced federal case[.]" ER 45, 58. At a resentencing, however, the petitioner pointed out that the Central District of California 's intent to dictate what should happen if the Eastern District of Louisiana imposes a new sentence in the future runs afoul of the rule at issue in this petition. ER 32-34; AOB 14, 19. In response, the Central District of California attempted to do that again, albeit using a different strategy. Instead of using the word "consecutive," it ordered its 18-month revocation sentence to "commence on the earlier of the date that defendant is released from his sentence imposed in the [Louisiana federal case] or on January 1, 2042, whichever is earlier." App. 7a. That court's express purpose was to make the petitioner serve additional *consecutive* prison time "if he's released before 2042" due to a *resentencing* in the Eastern District of Louisiana case, where his current sentence is life. ER 19; *see also* ER 9-10, 21-22.

Again, the Court should hold that § 3584(a) prohibits a district court from *expressly* ordering its sentence to run consecutively to a future federal sentence, which would usurp the sentencing authority of the other federal court, put pressure on that court to either ignore its own judgment or contradict the first court, and put the Bureau of Prisons in the position of having to interpret and resolve the conflict if the two courts disagree. *See Ramon*, 958 F.3d at 922-23; *Almonte-Reyes*, 814 F.3d at 28-29; *Montes-Ruiz*, 745 F.3d at 1292-93. The Central District of California's de facto consecutive-sentence order creates all the same problems as an express one. Granting review would therefore allow the Court to establish that district courts cannot engage in such creative judicial maneuvers to accomplish what they cannot do expressly.

3. Given what the Central District of California did here, granting review would also allow the Court to address the second related question of whether a district court can *ever* delay commencement of its sentence to *either* some specific date far in the future *or* an unknown date conditioned on some possible future event. Contrary to what the Central District of California assumed, only the Bureau of Prisons has the authority to determine when a sentence commences under 18 U.S.C. § 3585(a). *See United States v. Taylor*, 973 F.3d 414, 418 n.7 (5th Cir. 2020); *United States v. Hayes*, 535 F.3d 907, 909-10 (8th Cir. 2008); *United States v. Wells*, 473 F.3d 640, 645 (6th Cir. 2007); *United States v. Luna-Reynoso*, 258 F.3d 111, 116-17 (2d Cir. 2001). And ordering *conditional* commencement on some uncertain date based on

an event that may or may not occur in the future strays even further from what that federal statute allows. After all, even though a federal court has the ability to order its sentence to run consecutively to a future *state* sentence, that state sentence must be close and certain enough to be reasonably "anticipated." *See Setser*, 566 U.S. at 233, 240-41, 244-45.

4. That leads to a subsidiary question—whether a sentence to commence on a far-future date, conditional on what happens in another federal case, is consistent with fundamental federal-sentencing requirements. "It has been uniform and constant in the federal judicial tradition for the sentencing judge to consider every convicted person as an individual and every case as a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and the punishment to ensue. Underlying this tradition is the principle that the punishment should fit the offender and not merely the crime." *Pepper v. United States*, 562 U.S. 476, 487-88 (2011) (cleaned up).

Under 18 U.S.C. § 3553(a), a district court must "impose a sentence sufficient, but not greater than necessary" to serve these purposes: "(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (B) to afford adequate deterrence to criminal conduct; (C) to protect the public from further crimes of the defendant; and (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner." "The substantive standard

that Congress has prescribed for trial courts is the parsimony principle enshrined in § 3553(a)." *Holguin-Hernandez v. United States*, 140 S. Ct. 762, 766 (2020) (cleaned up). In applying this principle, a district court must consider certain factors, including "the nature and circumstances of the offense and the history and characteristics of the defendant[.]" 18 U.S.C. § 3553(a)(1). "No limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence." 18 U.S.C. § 3661. A district court must consider the same factors in deciding whether to run terms concurrently or consecutively. 18 U.S.C. § 3584(b); *see also* 18 U.S.C. § 3583(e) (district court also considers same factors, except § 3553(a)(2)(A) and (a)(3), when imposing supervised-release-revocation sentence). Furthermore, due process requires that a defendant be sentenced on the basis of accurate information. *See Roberts v. United States*, 445 U.S. 552, 556 (1980).

Given the required sentencing analysis, timing matters. Thus, in *Pepper v. United States*, the Court held that when a sentence is set aside on appeal and the case is remanded for resentencing, a district court may consider evidence of defendant's rehabilitation after the original sentencing. 562 U.S. at 490. Among other things, "evidence of postsentencing rehabilitation may be highly relevant to several of the § 3553(a) factors that Congress has expressly instructed district courts to consider at sentencing"—including, "the history and characteristics of the

defendant" (§ 3553(a)(1)) and "the need for the sentence imposed" to "afford adequate deterrence to criminal conduct," "protect the public from further crimes of the defendant," and "provide the defendant with needed educational or vocational training . . . or other correctional treatment in the most effective manner" (§ 3553(a)(2)). *Id*. at 491. "Postsentencing rehabilitation may also critically inform a sentencing judge's overarching duty under § 3553(a) to 'impose a sentence sufficient, but not greater than necessary,' to comply with the sentencing purposes set forth in § 3553(a)(2)." *Id*.

Consistent with *Pepper*, the Court in *Setser* warned district courts to "forbear" imposing anticipatory consecutive sentences when they "have inadequate information" precluding them from exercising their power "intelligently." 566 U.S. at 242 n.6. Indeed, the word "anticipated" contemplates circumstances where the federal court can reasonably predict a particular sentencing in the near future, as in *Setser*, where the district court knew that the defendant would soon face a probation-revocation hearing in state court. *Id.* at 233.

Pepper and *Setser* are consistent with Heraclitus's pronouncement that a man cannot step twice into the same river. *See The New Yale Book of Quotations* (2012) (Heraclitus 3). A man sentenced today is not the same man who may be resentenced a year or two from now; and the more time that passes, the more the man will change. Section 3553(a) therefore requires analysis of the relevant sentencing factors at a particular moment in time. It's impossible to balance those

factors and apply § 3553(a)'s parsimony principle as of an uncertain date many years, or perhaps decades, in the future. But that's exactly what the Central District of California purported to do when it ordered its 18-month revocation sentence to "commence on the earlier of the date that defendant is released from his sentence imposed in the [Louisiana federal case] or on January 1, 2042, whichever is earlier." App. 7a. The 2042 date was picked arbitrarily, apparently because it was 20 years after the revocation resentencing in the Central District of California. ER 19, 26-27; AOB 15, 39. Anyway, that sentence means one thing if the petitioner is somehow resentenced to five years in the Louisiana federal case tomorrow, and something else entirely if he is resentenced to 25 years two decades from now. At each of those points in time, and at every point in between, the § 3553(a) factors would be different, and would depend on whatever the new sentence is. There are simply too many unknown variables to intelligently balance the relevant factors now.

Consider the following possible scenario. In 2040, Congress passes a law giving retroactive effect to the First Step Act, thereby reducing the mandatory minimum in the petitioner's Louisiana federal case from life to 25 years (but keeping the life maximum). Any resentencing pursuant to such a law would require the Eastern District of Louisiana to balance the § 3553(a) factors at that time, when the petitioner will be 70 years old and will have been in continuous custody for 24 years. The Louisiana federal judge carefully considers the totality of the circumstances

and decides that a 30-year term is sufficient, but not greater than necessary, to accomplish § 3553(a)(2)'s sentencing goals. With good-time credit, that sentence should result in the petitioner's immediate release. So what happens then with regard to the Central District of California's judgment ordering its 18-month sentence to "commence on the earlier of the date that defendant is released from his sentence imposed in" the Louisiana federal case "or on January 1, 2042, whichever is earlier"? App. 7a. If the new sentence is considered to be the "sentence imposed in" the Louisiana federal case, then the 18 months would run immediately consecutive to that new sentence, contrary to § 3584(a) and despite the Eastern District of Louisiana's considered judgment that the elderly petitioner should no longer remain in custody. If, however, the new sentence is considered *not* to be the "sentence imposed in" the Louisiana federal case, then the "or on January 1, 2042" clause would presumably kick in, purportedly requiring the petitioner to commence serving the 18-month revocation sentence *more than a year after being released* in 2040 due to the new sentence in the Louisiana case—a delayed consecutive sentence. Suppose the Eastern District of Louisiana recognizes that that contravenes § 3584(a) by allowing the Central District of California to make its sentence consecutive, so it rules that its immediate-release ruling controls, regardless of what the Central District has tried to do. Ultimately, "the question ends up having to be resolved by the Bureau of Prisons, whose choice of how to implement the sentence will necessarily fail to accord with one of the federal judges'

decisions." *Almonte-Reyes*, 814 F.3d at 29. As the Tenth Circuit put it: "A mess"! *Ramon*, 958 F.3d at 922 n.5.

5. The Court reviews cases that involve its "significant interest in supervising the administration of the judicial system" to ensure "compliance with proper rules of judicial administration," particularly "when those rules relate to the integrity of judicial processes." *Hollingsworth v. Perry*, 558 U.S. 183, 196 (2010); *see*, *e.g.*, *id.* at 184-85 (addressing whether the District Court improperly changed its rules regarding the broadcasting of trials shortly before trial was to begin); *Nguyen v. United States*, 539 U.S. 69, 73-74 (2003) (addressing whether the judgment of the Court of Appeals was invalid because of the presence of a non-Article III judge on the panel). This is such a case. It concerns not only the limits of district courts' consecutive-sentence authority under § 3584(a) but also whether a court can bypass those limits with creative language designed to effectively impose a consecutive sentence without using the word "consecutive," and whether a district court has authority to order its sentence to commence on a date far in the future or on an unknown date conditioned on some possible future event. These are important questions that have not been, but should be, settled by the Court. Sup. Ct. R. 10(c).

Conclusion

For the foregoing reasons, the petitioner respectfully requests that this Court grant his petition for a writ of certiorari.

March 29, 2023

Respectfully submitted,

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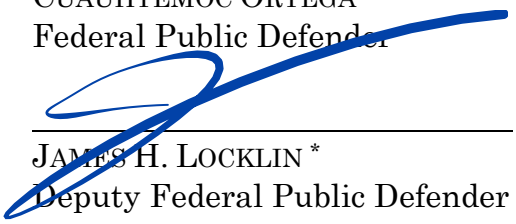

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