

No. 23-5427

IN THE SUPREME COURT OF THE UNITED STATES

RANSON LONG PUMPKIN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE EIGHTH CIRCUIT

PETITIONER'S REPLY BRIEF

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REPLY TO GOVERNMENT'S BRIEF IN OPPOSITION

Pursuant to United States Supreme Court Rule 15(6), Long Pumpkin files this reply to the Government's Brief for the United States in Opposition, filed December 7, 2023.

I. The Government has mis-stated an important fact:

In its Brief [cited herein as Gov. Brief], the government mis-states one critical fact. The government asserts that Long Pumpkin's Confrontation Clause rights were not violated because the district court only prohibited him from cross-examining High Pipe and Maho about their drug use "on the day of the crime." Gov. Brief p. 11, 12. This is false.

The District Court issued an Order "prohibiting defense counsel from inquiring in any way into either witness's controlled substance use prior to the events on trial, during the events on trial, or after the events on trial." The scope of this Order prejudiced Long Pumpkin irreparably because it meant that he could not ask either witness how their near constant drug use before, during, and after the alleged crime, up to and including their drug use the day before their trial testimony, impacted their past and present abilities to perceive and recall events accurately and reliably.

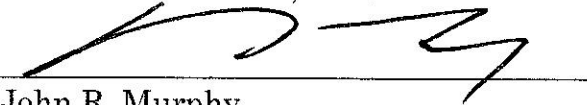
II. The issue in dispute is not in an interlocutory state:

The government argues that Long Pumpkin's Petition should be denied because it is in an interlocutory posture. Gov. Brief p. 9. This argument is based on the fact that Long Pumpkin's case was remanded for re-sentencing, which has not

yet occurred. The government states, Long Pumpkin and Crowe “will be able to raise their current claims, together with any other claims that may arise with respect to the re-sentencing proceedings, in a single petition for a writ of certiorari.” Gov. Brief p. 10.

The re-sentencing hearing will not impact any of the issues presented in Long Pumpkin’s Petition, nor will it lead to any additional issues being raised on appeal. The re-sentencing hearing is strictly limited to Long Pumpkin’s second count of conviction, and the only impact of Eighth Circuit’s decision is to change the mandatory minimum for that offense. *United States v. Long Pumpkin*, 56 F.4th 604, 615 (8th Cir. 2022). No additional facts related to his Confrontation Clause challenge will be addressed during Long Pumpkin’s re-sentencing hearing. Thus, though the case is not over, the issue in dispute has been litigated to its conclusion and no further facts in regard thereto will be received by the lower court. *See Wrotten v. New York*, 560 U.S. 959, 130 S. Ct. 2520, 177 L. Ed. 2d 316 (2010) (Statement, Sotomayor, J.) (denial of certiorari was warranted based on the interlocutory posture of the Confrontation Clause challenge because the appellate court had remanded the case to the trial court for factual findings on the issue).

Dated December 13, 2023



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