

NO. 23-6187

IN THE
Supreme Court of the United States

JAMAR GREEN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent,

**PETITION TO RECONSIDER OR, IN THE
ALTERNATIVE, GRANT GVR RELIEF**

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Counsel of Record

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Counsel for Appellant

**PETITION TO RECONSIDER OR, IN THE ALTERNATIVE, GRANT GVR
RELIEF**

COMES NOW JAMAR GREEN, Petitioner herein, and moves this Honorable Court to reconsider its denial of the Petition for Writ of Certiorari filed in this matter, and grant the Petition, vacate the holding of the Fourth Circuit, and remand the matter for Fourth Circuit review.

Mr. Green raised several issues on appeal, including whether he was properly advised of the perils of self-representation, when he ostensibly waived his right to counsel. Several of his other issues were related to this factor. The Fourth Circuit denied him any consideration of this question holding that

“Green waived [this challenge] when he entered his valid, unconditional guilty plea; Green’s assertion that his guilty plea was invalid because it was not counseled is without merit.”

United States v. Green, 21-4336, *3 (4th Cir. Aug 10, 2023).

In its Brief in Opposition to Mr. Green’s Petition for Writ of Certiorari, the United States concedes that “a guilty plea to a felony charge entered without counsel and without waiver of counsel is invalid.” *See* Brief in Opposition at 14 (quoting *Brady v. United States*, 397 U.S. 742, 748 n.6 (1970)). The United States further concedes that the Fourth Circuit **erred** in refusing to consider this issue on appeal. *See* Br. in Opp. at 14. The United States agrees with Mr. Green that an uncounseled defendant’s felony guilty plea does not waive consideration on direct appeal of whether the defendant’s purported waiver of counsel was valid. Br. in Opp. at 13-15.

Given that the United States concedes plain error, Mr. Green submits that this Court should reconsider its denial of Writ of Certiorari and grant the Petition, vacate the Fourth Circuit's finding in error, and remand this matter for Fourth Circuit consideration. *See Lawrence v. Chater*, 516 U.S. 163, 168 (1996) (discussing applicability of GVR when the respondent or appellee confesses error in the judgment below).

Mr. Green has a statutory federal right to appellate review and is being denied that right given by the Fourth Circuit's holding in his case. Mr. Green is entitled to a plenary appellate review - especially on an issue such as whether he was lawfully deprived of his right to an attorney and then pleaded guilty to a felony and was sentenced without a lawyer. His argument to the Fourth Circuit that he was not properly warned of the perils of proceeding *pro se* has not been considered by any appellate court, despite his right to appeal his conviction.

WHEREFORE, Mr. Green prays that this Honorable Court grant this motion and remand this matter to the Fourth Circuit for appellate review.

Dated: June 14, 2024

/s/ Cary S. Greenberg
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CERTIFICATE OF SERVICE

Counsel certifies that the grounds specified in his Motion are consistent with Rule 44 of the Supreme Court Rules. Counsel overlooked the remedy provided by the GVR docket. Considering the Government's concession in its Reply Brief that the Fourth Circuit applied the wrong standard of review and deprived Petitioner of his right to appellate review, Counsel requests the Court to vacate and remand this matter to the Fourth Circuit for proper review and determination.

I hereby certify that on this 14th day of June 2024, that the above referenced motion was served to the opposing counsel pursuant to the electronic filing system.

Respectfully Submitted,

/s/ Cary S. Greenberg

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