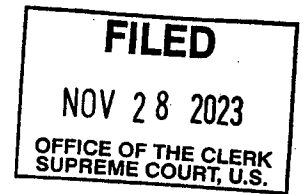


No. 23-6199

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Trayvon Hall — PETITIONER
(Your Name)

VS.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals, Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Trayvon Hall, #64897-037
(Your Name)

U.S. Penitentiary LEE
(Address)
PO Box 305
Jonesville, VA. 24263
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Is a criminal defendant constitutionally entitled to have his sentence executed pursuant to the plain terms of the sentence orally pronounced in his presence?

LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

None

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STATUTES AND RULES

Federal Rules of Criminal Procedures, Rule 43(a)(3)

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was AUGUST 31, 2023.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fifth Amendment Due Process Clause

Sixth Amendment Confrontation Clause

STATEMENT OF THE CASE

At his sentencing hearing, the district court judge made a clear, unambiguous oral pronouncement of Petitioner's sentence contrary to the terms of a plea agreement entered into. The judge stated: "you've reached an agreement with the Government for a total sentence of 480 months on these two charges... And the plea agreement specifically provided for an agreed sentence of 480 months or 40 years." (Sent. trans. pg. 7) The district court then pronounced the sentence in the following manner: "It is ordered that the defendant [A], be sentenced to the custody of the [Bureau of Prisons] for a period of 240 months on Count 1, and 454 months on Count 2, concurrent to Count 1... Just to be clear, the statutory maximum at Count 1 is 20 years." (Sent. trans. pg. 31).

In his pro se brief on appeal, Petitioner argued that his judgment and commitment order was inconsistent with the terms of the sentence orally pronounced by the judge. Specifically, the J/C Order indicated that Petitioner received an active sentence of 454 months running consecutive to Count 1's 240 months; but the oral sentence stated the 454 months was to run concurrent. The court of appeals flat-out rejected the argument without elaboration.

REASONS FOR GRANTING THE PETITION

This Court has long recognized that a criminal defendant has a right to be present when he is sentenced. United States v. Gagnon, 470 U.S. 522 (1985); Snyder v. Massachusetts, 291 U.S. 97 (1934). This right is enshrined in the Constitution's Due Process Clause and the Sixth Amendment right to Confrontation. Indeed, the Federal Rules of Criminal Procedure, Rule 43(a)(3), requires it. Moreover, the Fourth Circuit has consistently held that where a "direct conflict" exists between an orally pronounced sentence and a written order of judgment, "the oral judgment pronounced from the bench controls," United States v. Morse, 344 F.2d 27 (4th Cir. 1965); United States v. Singletary, 984 F.3d 341 (4th Cir. 2021); United States v. Rogers, 961 F.3d 291 (4th Cir. 2020).

The writ should issue because the Fourth Circuit Court of Appeals has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory powers. Petitioner pled guilty under the impression that he received a concurrent sentence of "240-months" as to Count 1, and no active sentence as to Count 2. This is what the judge announced at sentencing.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

✓ Raymond Hill

Date: NOVEMBER 27, 2023