

No. 23-6896

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IN THE  
SUPREME COURT OF THE UNITED STATES

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Anthony Rimas - PETITIONER

vs.

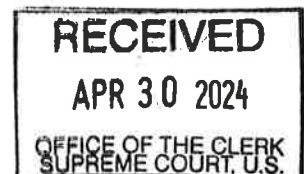
United States - RESPONDENT

ON PETITION FOR REHEARING OF DENIAL OF CERTIORARI TO

Supreme Court of the United State

PETITION FOR REHEARING OF DENIAL OF CERTIORARI

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## REASONS FOR GRANTING REHEARING OF PETITION

The questions presented in the petition for writ of certiorari question if the sentencing commission has over stepped the authority granted it by Congress under 28 U.S.C. § 994(a). "...[T]his court has established at least one firm rule: 'we expect Congress to speak clearly' if it wishes to assign to an executive agency decisions 'of vast economic and political significance.'" National Federation of Independent Business V. OSHA, 142 S. Ct. 661 at 667 (2022) (citing Alabama Assn. of Realtors V. Department of Health and Human Servs., 210 L. Ed. 2d 656, 860 (2021)).

Congress spoke clearly to the limits of the Sentencing Commissions authority under 28 U.S.C. § 994(a) "...consistent with all pertinent provisions of any federal statute...". 28 U.S.C. § 994(a). The Sentencing Commission acknowledges these limits of authority under its own Guideline § 1A1.1 "...with respect to guidelines, policy statements, and commentary promulgated or amended pursuant to specific congressional directive, pursuant to the authority contained in that directive in addition to the authority under section 994(a) of title 28, United States Code.". Congress spoke clearly and the Sentencing Commission acknowledged the Sentencing Commission must stay within the confines of federal statute when using the authority granted it by Congress.

The Sentencing Commission, with no specific congressional directive, under amendment 664 expanded congress' definition of 'minor' codified under 18 U.S.C. § 2256(1) which states "'minor' means any person under the age of eighteen years;" to include under cover law enforcement officers posing as under eighteen years of age. The Sentencing Commission exceeded the authority granted it by not deferring to the definition of 'minor' Congress had intended to be used and codified. Congress specifically created a definition statute, 18 U.S.C. § 2256, to be used under all of

chapter 110 of the United States Code. If Congress intended for an alternate definition of 'minor' to be used Congress surely would have said so, especially after Congress intentionally defined 'minor' and codified Congress' definition.

In expanding the definition of 'minor' the Sentencing Commission was not attempting to clarify an ambiguous congressional statute. Congress' definition of 'minor' is very clear with no ambiguity. The Sentencing Commission made a substantive change to Congress' definition of 'minor'. "We have repeatedly stated that a guidelines amendment is substantive unless it plainly serve[s] to clarify pre-existing law, rather than alter it..." while 'definitions may overlap, no definition should be completely subsumed with another.'" United States V. Stevens, 462 F. 3d 1169 at 1171 (9th Cir. 2006) (citations omitted). In making a substantive change to the definition of 'minor' to be used under Guidelines § 2g2.2 the Sentencing Commission has steered the courts away from the definition of 'minor' Congress had intended the Sentencing Commission defer to. This has caused the courts to unintentionally miscalculate Sentence Guidline Ranges under § 2g2.2 leading to longer than necessary prison sentences in turn vastly affecting economic factors by increasing the cost of incarceration society must bear. This also has political implications as Congress has not spoken clearly on this matter. "'[A]ny amount of actual jail time' is significant, and 'ha[s] exceptionally severe consequences for the incarcerated individual [and] for society which bears the direct and indirect costs of incarceration.'" Rosales-Mireles V. United States, 138 S. Ct. 1897 at 1907 (2018) (citations omitte).

By ignoring the limits of the congressional authority granted it the Sentencing Commission has run a fowl of the major questions doctrine. "Why does the major questions doctrine matter? It ensures that the national

power to make the laws that govern us remains where Article 1 of the Constitution says it belongs-with the peoples elected representatives... they must at least be able to trace that power to a clear grant of authority from Congress." National Federation of Independent Business V. OSHA, 142 S. Ct. 668. The Sentencing Commission can trace a clear grant of authority by Congress under 28 U.S.C. § 994, however that grant of authority limits the Sentencing Commissions authority by stating the Sentencing Commission must be consistent with federal statutes.

Congress stayed within the limits of the nondelegation doctrine when granting the Sentencing Commission its authority when it limited the Sentencing Commissions authority to remain within federal statutes. The Sentencing Commission used its own amendment process, which is subject to the same federal statute limitation, to expand Congress' definition of 'minor'. The Sentencing Commissions amendment process can not be a work around or a convenient tool for Congress "to reduc[e] the degree to which they will be held accountable for unpopular actions." National Federation of Independent Business V. OSHA, 142 S. Ct. 669. If Congress allows the Sentencing Commission to work around the limits of its delegated authority by using its own amendment process to ignore federal statute Congress would then have run a foul of the nondelegation doctrine by essentially allowing the Sentencing Commission unlimited unchecked power. "The non-delegation doctrine ensures democratic accountability by preventing Congress from intentionally delegating its legislative powers to unelected officials." National Federation of Independent Business V. OSHA, 142 S. Ct. 669.

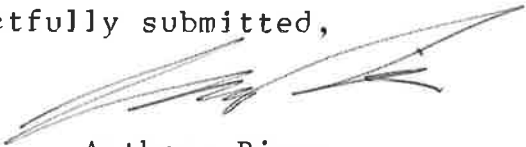
The questions presented do not question if Congress has the authority to delegate authority to government agencies. "Congress has undoubted power to regulate the practice and procedure of federal courts, and may exercise that power by delegating to this or other federal courts authority

to make rules not inconsistent with the statutes or the Constitution of the United States". Mistretta V. United States, 488 US 361,387 (1989) (citing Sibbach V. Wilson & Co. 312 US 1 at 9-10). The questions ask if the Sentencing Commission has stayed within the authority granted it by Congress or if Congress has allowed the Sentencing Commission too much power under the Sentencing Commissions amendment process.

### CONCLUSION

The petition for rehearing of denial of denial of certiorari should be granted to decide if the Sentencing Commission has stayed within the authority granted it by Congress.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Anthony Rimas', with a long, sweeping horizontal stroke extending to the right.

Anthony Rimas

Date: April 18, 2024

No. 23-6896

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United States - RESPONDENT

CERTIFICATION OF COUNSEL

I, Anthony Rimas, do swear or declare that on this date, April 18, 2024, as required by Supreme Court Rule 44 I am proceeding pro se and am not represented by counsel or have had any assistance of counsel with this petition. I also swear or declare this petition is restricted to the grounds specified in Supreme Court Rule 44 and is presented in good faith and not for delay.

I declare under penalty of perjury that the foregoing is true and correct  
Executed on April 18, 2024



Anthony Rimas

No. 23-6896

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PROOF OF SERVICE

I, Anthony Rimas, do swear or declare that on this date, April 18, 2024, as required by Supreme Court Rule 29 I have served the enclosed PETITION FOR REHEARING OF DENIAL OF CETIORARI, CERTIFICATION OF COUNSEL AND CHANGE OF ADDRESS NOTIFICATION on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first class postage prepaid.

The names and addresses of those served are as follows:

AUSA Seth Aframe  
U.S. Attorneys Office District of N.H.  
54 Pleasant St. 4th Floor  
Concord, N.H. 03301

I declare under penalty of perjury that the forgoing is true and correct  
Executed on April 18, 2024



Anthony Rimas