

NO. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

KEATRON WALLS,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

- 1.) Whether the Circuit Court of Appeals erred in holding that 18 U.S.C. § 2261A(1) is not an unconstitutional expansion of the Commerce Clause in light of this Court's ruling in *Dobbs v. Jackson Women's Health*, 142 S. Ct. 2228, 213 L.Ed.2d 545 (2022), which was issued after Defendant's trial; and
- 2.) Whether the Circuit Court of Appeals erred by completely disregarding United States Supreme Court precedent when it excused the District Court's cursory review of Walls' argument for a variance in contradiction of the holding in *Rita v. United States*, 551 U.S. 338, 356, 127 S. Ct. 2456, 168 L. Ed. 2d 203 (2007) in which the Supreme Court held that a defendant's non-frivolous argument for a downward variance from the Guidelines requires "the judge ... go further and explain why he has rejected those arguments"; and
- 3.) Whether the Circuit Court of Appeals erred in finding that the 444-month sentence was substantively reasonable and did not violate the 8th amendment to the United States Constitution in light of Defendant's significant and well-documented mental health illnesses and his lack of any criminal history record prior to the offenses at issue.

LIST OF PARTIES

All parties 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:

Keatron Walls, Petitioner

United States of America, Respondent

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINION BELOW

The opinion of the United States Court of Appeals for the Sixth Circuit appears at Appendix A to this Petition and can be found at *United States v. Keatron Walls*, No. 2:17-cr-20296-1, 22-5803 (6th Cir. Filed October 20, 2023) and the denial of Petitioner's Request for *En Banc* hearing can be found under the same case number (6th Cir. Filed January 5, 2024).

JURISDICTION

On October 20, 2023, the Court of Appeals for the Sixth Circuit entered its ruling affirming the district court as it relates to the conviction of Petitioner Keatron Walls. *United States v. Walls*, 2:19-cr-20126-1 (6th Cir. 2019). Due to factual inaccuracies in the initial panel's opinion, Mr. Walls filed a Petition for Rehearing *En banc*, which was denied by the Circuit on January 5, 2024. Accordingly, the jurisdiction of this Court is invoked under 28 U.S.C. § 1254 (1).

STATUTES, ORDINANCES, AND REGULATIONS INVOLVED

1.) 18 U.S.C.S. § 2261(a)

(a) Offense

(1) Travel or conduct of offender. A person who travels in interstate or foreign commerce or enters or leaves Indian country or is present within the special maritime and territorial jurisdiction of the United States with the intent to kill, injure, harass, or intimidate a spouse, intimate partner, or dating partner, and who, in the course of or as a result of such travel or presence, commits or attempts to commit a crime of violence against that spouse, intimate partner, or dating partner, shall be punished as provided in subsection (b).

(2) Causing travel of victim. A person who causes a spouse, intimate partner, or dating partner to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, duress, or fraud, and who, in the course of, as a result of, or to facilitate such conduct or travel, commits or attempts to commit a crime of violence against that spouse, intimate partner, or dating partner, shall be punished as provided in subsection (b).

2.) 18 U.S.C.S. § 3553

(a) Factors to be considered in imposing a sentence. The court shall impose a sentence sufficient, but not greater than necessary, to comply with the

purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider—

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the need for the sentence imposed—

(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;

(3) the kinds of sentences available;

(4) the kinds of sentence and the sentencing range established for—

(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines—

(i) issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, subject to any amendments made to such guidelines by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

(ii) that, except as provided in section 3742(g) [18 USCS § 3742(g)], are in effect on the date the defendant is sentenced; or

(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code, taking into account any amendments made to such guidelines or policy statements by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28);

(5) any pertinent policy statement—

(A) issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28, United States Code, subject to any amendments made to such policy statement by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

(B) that, except as provided in section 3742(g) [18 USCS § 3742(g)], is in effect on the date the defendant is sentenced.[;]

(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(7) the need to provide restitution to any victims of the offense.

STATEMENT OF THE CASE

The alleged events took place over the course of approximately 18 months and, at its essence, involved an on again, off again, love-triangle relationship between alleged victim Felicia Odom, Defendant's cousin Mr. Curtis Walls, and Defendant. Trial Transcript, RE 101, Page ID# 1124. Felicia Odom used and deceived both Curtis Walls and Defendant to win both of their love and, simultaneously, keep them at odds with each other. Her deception began on October 28, 2016, when Defendant picked Ms. Odom up from her apartment in Memphis, Tennessee and engaged in consensual sex with Ms. Odom, yet she later told Curtis Walls and law enforcement that Defendant took her against her will and sexually assaulted her. *Id.* at Page ID# 1130-1155.

Almost one month later, on November 23, 2016, Defendant left Fort Campbell Military Base near Clarksville, Tennessee in the mid-morning hours and traveled to the Memphis, Tennessee area with his two children, of whom he had custody, to spend time with family in Memphis, Tennessee and the northern district of Mississippi for the Thanksgiving holiday. Trial Transcript, RE 100, Page 239. Later that same day, the house of Elizabeth Odom (Felicia Odom's mother) located at 928 Cross Road in Hernando, Mississippi was shot at in the early evening hours. Trial Transcript, RE 101, Page ID# 1174, 1177. Ms. Odom and Curtis Walls were present in the home but were not physically injured. *Id.* Although she accused Defendant of

such brazen and ruthless conduct and behavior towards her and her loved ones, the evidence revealed that Ms. Odom stayed in contact with Defendant after November 23, 2016, communicating through various social media platforms. *Id.* at 83-84.

The tumultuous events and circumstances of the activity and deception by Felicia Odom ended on April 20, 2018, after Defendant checked himself out of a mental health hospital in middle Tennessee, drove to Memphis, Tennessee, where he confronted Curtis Walls and Felicia Odom and took them to a family relative's house in northern Mississippi. *Id.* at 84-100.

Ultimately, Defendant Walls was indicted for 11 separate violations of federal law. The United States Government moved to dismiss Counts 4 and 11 of the Superseding Indictment prior to the trial, which was granted by the District Court. *See* RE's 69 and 72. Defendant proceeded to trial and was acquitted of Counts 1, 2 and 3 but found guilty of counts 5, 6, 7, 8, 9 and 10 of the indictment, namely: 1.) the crimes of interstate stalking under 18 U.S.C. § 2261A(1); 2.) the use or carrying of a firearm during and in relation to a crime of violence under 18 U.S.C. § 924(c); and 3.) interstate kidnapping under 18 U.S.C. 1201(a)(1). Trial Transcript, RE 98, Page #10; *see also* RE 89.

On September 8, 2022, Defendant Walls was sentenced to 240 months for Count 5 and 324 months for Counts 7, 8, 9 and 10, which were to run concurrently with each other and consecutively to the 120 months for Count 6, for a total effective

sentence of 444 months, and the same was entered on September 8, 2022. Trial Transcript, RE 116, Page ID # 1793.

Defendant filed a timely notice of appeal on September 12, 2022 for the United States Court of Appeals for the Sixth Circuit to review and hear this matter. Notice of Appeal, RE 118, Page ID #1806. On October 20, 2023, the Sixth Circuit affirmed the conviction and sentencing of Mr. Walls. Case No. 22-5803, Sixth Circuit Opinion, RE 26-2, Page ID # 1-17. Petitioner then filed his Petition for Rehearing with a request that it be heard *En banc*. *Id.* at RE 34-1, Page ID # 1-31. On January 5, 2024, the Sixth Circuit Court of Appeals denied Petitioner's Petition for Rehearing. *Id.* at RE 36-1, Page ID # 1-2.

REASONS FOR GRANTING THE PETITION

This Court has expressed its legitimate concern for the expansion of federal jurisdiction and the Commerce Clause into matters that are expressly reserved for individual states. The Defendant's case raises this question surrounding a federal statute that has, for many years, unconstitutionally expanded the purpose and meaning of the Commerce Clause into areas that have very little, if any, relation to federal jurisdiction. This matter involves activity that took place within individual states and the sole federal nexus is the fact that an interstate was collaterally used to effectuate the offenses. Such an expansion of the Commerce Clause gives rise to unfettered access of the United States Government into conduct that is well-regulated and properly before the individual states where the activity takes place.

Additionally, the subject of mental health and its connection to criminal behavior has taken on greater significance in recent years, as society has become more aware and educated as to the impact that long-term mental health problems may have on a person's choices and behavior. As such, when confronted with documented medical history of a defendant's mental health diagnoses and behavior in the days and weeks leading up to the commission of a criminal offense, the District Court should give great weight and deference to requests for departures and variances and, if said request for a departure and/or variance is denied, must explain in detail the reason for the denial.

ARGUMENT

- I. The Sixth Circuit Court of Appeals the Circuit Court of Appeals erred in holding that 18 U.S.C. § 2261A(1) is not an unconstitutional expansion of the Commerce Clause in light of this Court’s ruling in *Dobbs v. Jackson Women’s Health*, 142 S. Ct. 2228, 213 L.Ed.2d 545 (2022), which was issued after Defendant’s trial.**

Count Five of the Superseding Indictment reads as follows:

On or about November 23, 2016, in the Western District of Tennessee and elsewhere, the defendant, KEATRON WALLS, traveled in interstate commerce from Tennessee to Mississippi with the intent to injure, harass and intimidate another person, and in the course of and as a result of such travel, engaged in conduct that placed that person in reasonable fear of serious bodily injury; in violation of Title 18, United States Code, Section 2261A(1).

Title 18 U.S.C. § 2261A(1) states:

Whoever:

(1)travels in interstate or foreign commerce or is present within the special maritime and territorial jurisdiction of the United States, or enters or leaves Indian country, with the intent to kill, injure, harass, intimidate, or place under surveillance with intent to kill, injure, harass, or intimidate another person, and in the course of, or as a result of, such travel or presence engages in conduct that—

(A)places that person in reasonable fear of the death of, or serious bodily injury to—

(i)that person;

(ii)an immediate family member (as defined in section 115) of that person;

(iii)a spouse or intimate partner of that person; or

(iv)the pet, service animal, emotional support animal, or horse of that person; or

(B)causes, attempts to cause, or would be reasonably expected to cause substantial emotional distress to a person described in clause (i), (ii), or (iii) of subparagraph (A);

18 U.S.C. § 2261A(1).

The scope of the interstate commerce power, U.S. Const. art. I, § 8, cl. 3, must be considered in the light of the dual system of government and may not be extended so as to embrace effects upon interstate commerce so indirect and remote that to embrace them, in view of complex society, would effectually obliterate the distinction between what is national and what is local and create a completely centralized government. Congress may regulate intrastate activity that has a "substantial effect" on interstate commerce and activity that exerts a substantial economic effect on interstate commerce. The court decides whether a rational basis exists for concluding that a regulated activity sufficiently **affects** interstate commerce.

United States v. Lopez, 514 U.S. 549 (1995) (emphasis added).

While there have been previous challenges to the constitutionality of the above-referenced statute, those rulings were issued prior to the landmark decision of this Court in *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228, 213 L.Ed.2d 545 (2022). “For much of the 20th century, “the scales of the federal courts’ [interstate] Commerce Clause jurisprudence tipped more towards according to Congress considerably greater latitude in regulating conduct rather than to maintaining a distinction between ‘what is truly national and what is truly local.’” *United States v. Bredimus*, 352 F.3d 200, 204-05 (5th Cir. 2003) (quoting *United States v. Morrison*, 529 U.S. 598, 608 (2000); *Lopez*, 514 U.S. 549, 567-68 (1995)). However, this Court heralded essentially a “new era” of interstate Commerce Clause

jurisprudence with the decisions of *United States v. Lopez*, and *United States v. Morrison*, which “clarified the legal standards applicable to a constitutional challenge under the [interstate] Commerce Clause.” *Id.* These cases, and their progeny, have determined the “outer limits” of Congress’s power to enact legislation and provide the framework for any analysis of interstate Commerce Clause questions. *Id.* *United States v. Martinez*, 599 F. Supp. 2d 784, 802-03 (W.D. Tex. 2009) (citing *Lopez*, 514 U.S. at 556-567); *United States v. Ho*, 311 F.3d 589, 596 (5th Cir. 2002).

Turning to the recent opinion in *Dobbs*, this Court underscored and gave both credence and power to the historic chorus of warnings that our courts must be on guard against the overreach of federal government. *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228, 213 L.Ed.2d 545 (2022) (returning to the states the authority to regulate abortion). Just as *Lopez* and *Morrison* heralded a “new era” of interstate Commerce Clause jurisprudence, so too does *Dobbs*. While it is plain that the subject matter between the present case and that of *Dobbs* is different—and although *Dobbs* is dealing with a constitutional right versus causes of action specifically under the Commerce Clause—there is one thing that they have in common, which is that the matter at hand in both cases are better handled by the states. Just as this Court determined that the question regarding the legality of

abortion is best suited for each individual state, so too is the question of the prosecution of alleged illegal acts that occur solely in one state.

As the Court's landmark decision in *West Coast Hotel* illustrates, the Court has previously overruled decisions that wrongly removed an issue from the people and the democratic process. As Justice White later explained, 'decisions that find in the Constitution principles or values that cannot fairly be read into that document usurp the people's authority, for such decisions represent choices that the people have never made and that they cannot disavow through corrective legislation. For this reason, it is essential that this Court maintain the power to restore authority to its proper possessors by correcting constitutional decisions that, on reconsideration, are found to be mistaken'.

Dobbs, 142 S.C. at 2265 (internal citations omitted).

"Invalidating a federal statute is an unwelcome responsibility for federal judges; the elected Congress speaks for the entire nation, its judgment and good faith being entitled to utmost respect." *Gregg v. Georgia*, 428 U.S. 153, 175 (1976) (plurality opinion). "But a lower federal court such as ours must follow its best understanding of governing precedent, knowing that in large matters the Supreme Court will correct mis-readings (and even if it approves the result will formulate its own explanation)." *Massachusetts v. United States HHS*, 682 F.3d 1, 15 (1st Cir. 2012).

In the instant matter, there is no doubt that the only way in which the interstate commerce clause is implicated is through Mr. Walls's alleged use of the interstate between Tennessee and Mississippi in Counts Five and Six of the indictment.

However, the alleged conduct and the actual acts involving Counts Five and Six all took place within the State of Mississippi. This Court's fear expressed in *Dobbs* is encapsulated in matters such as this: where the alleged conduct takes place solely in one State or jurisdiction and yet the federal Government and Congress stretch the Commerce Clause to include alleged offenses and conduct that have very little, if any, effect on or use of the channels of interstate. The State of Mississippi is in the best position to address conduct that takes place within its jurisdiction. After all, the conduct giving rise to Counts Five and Six took place in Mississippi, affected Mississippi residents and the State of Mississippi has prosecutorial powers through its legislature to punish those persons convicted of this type of crime that takes place within its borders.

If left unchecked, this type of intrusion into the affairs of state activity will continue to erode the true purpose and power of the Commerce Clause under the United States Constitution. Due to the highly mobile and nuclear expansion of our family, employment and social ties, the use of interstate highway for travel is more frequent than ever. Prior to *Dobbs*, this Court held other federal legislation to be an unconstitutional expansion of the Commerce Clause and intrusions into matters that are purely local in nature or should be addressed by local governments. *See United States v. Lopez*, 514 U.S. 549, 115 S. Ct. 1624 (1995). *Lopez* was a landmark case sparking a wave of cases demanding reconsideration and review of the scope and

reach of the Commerce Clause. Thus, the analysis of the *Dobbs* Court should be applied to the instant matter and lead to a determination that 18 U.S.C. § 2261A(1) is, in fact, an unconstitutional use of the Commerce Clause especially in light of the specific facts of the present case at bar.

In this specific case, there is a path for the State of Mississippi to pursue recourse for the alleged criminal activity that occurred within its jurisdiction on November 23, 2016. As a practical matter, the states of Tennessee and Mississippi are contiguous and, as the proof in this matter revealed, both Defendant and the alleged victim frequently traveled between Tennessee and Mississippi due to their familial and employment ties to both states. This is the exact set of circumstances contemplated by the *Dobbs* Court when analyzing just how far Congress has expanded the application and intent of Commerce Clause legislation. While this Court has previously given great deference to Congress' power to promulgate legislation such as 18 U.S.C. § 2261A(1) under the theory that the instruments of interstate commerce are being used, it is truly a new day and time as *Dobbs* reflects. Accordingly, this Court should revisit and reconsider its earlier rulings concerning the constitutionality of § 2261A(1) especially in light of *Dobbs*, and, upon renewed analysis, hold that 2261A(1) is an unconstitutional expansion of the Commerce Clause.

II. The Circuit Court of Appeals for the Sixth Circuit erred by completely disregarding United States Supreme Court precedent when it excused the District Court's cursory review of Walls' argument for a variance in contradiction of the holding in *Rita v. United States*, 551 U.S. 338, 356, 127 S. Ct. 2456, 168 L. Ed. 2d 203 (2007) in which the Supreme Court held that a defendant's non-frivolous argument for a downward variance from the Guidelines requires "the judge ... go further and explain why he has rejected those arguments."

This Court reviews a defendant's sentence for procedural and substantive reasonableness under an abuse-of-discretion standard. *Gall v. United States*, 552 U.S. 38, 51, 128 S. Ct. 586, 169 L. Ed. 2d 445 (2007); *United States v. Libbey-Tipton*, 948 F.3d 694, 705 (6th Cir. 2020). Although a district judge need not compose "a full opinion in every case," it is important to provide a statement of reasons sufficient "to satisfy the appellate court that he has considered the parties' arguments and has a reasoned basis for exercising his own legal decision-making authority." *Rita v. United States*, 551 U.S. 338, 356, 127 S. Ct. 2456, 168 L. Ed. 2d 203 (2007). Where a defendant's non-frivolous argument advocates for a downward variance from the Guidelines, "the judge will normally go further and explain why he has rejected those arguments." *Id.* at 357. This Court has held similarly in *Chavez*, where this Court ruled and held the record, "we said, showed that the sentencing judge "listened to each argument[,] . . . considered the supporting evidence[,] . . . was fully aware of defendant's various physical ailments[,]” imposed a sentence at

the bottom of the Guidelines range, and, having considered the §3553(a) factors, said simply that the sentence was ““appropriate.”” *Chavez-Meza v. United States*, 138 S. Ct. 1959, 1963 (2018). Overall, the record should reflect "that the sentencing judge listened to each argument, considered the supporting evidence, was fully aware of the defendant's circumstances and took them into account in sentencing him." *United States v. Vonner*, 516 F.3d 382, 387 (6th Cir. 2008). *United States v. Kennedy*, 683 F. App'x 409, 413 (6th Cir. 2017).

In the present matter, Defendant moved the District Court to vary downward from the guidelines under 18 U.S.C. 3553(a) due to his significant mental health disorders. The Pre-Sentence Report was replete with information concerning Defendant's history of mental health struggles as a child, continuing into his adult life and military enlistment, up to the day he was arrested on April 20, 2018. Pre-Sentence Report, RE 112, page 1573-75. Amazingly, despite multiple attempts at suicide and bouts with major depressive disorder and post-traumatic stress disorder because of childhood experiences and military deployments, and the resulting trauma therefrom, Defendant progressed through the military and had zero criminal history points at sentencing. *Id.* at 1565. In fact, one day prior to his arrest on April 20, 2018, Defendant checked himself out of the Lincoln Trails Behavioral Health facility in middle Tennessee, where he had been admitted two weeks earlier to address his anger and mental health disorders. *Id.* at 1573. On January 25, 2018,

Defendant reported for an individual therapy session at Lincoln Trails, “at which time he stated his suicidal ideations had lessened but he had increased thoughts of hurting others. The defendant advised his primary concerns remained anger issues, depressed mood, and legal issues.” *Id.* Between January 31, 2018, and March 26, 2018, Defendant reported for weekly follow-up sessions with the provider and completed four prolonged exposure therapy sessions for PTSD. On March 27, 2018, “. . . the defendant [was referred] to the Lincoln Trail Behavioral Health System for residential treatment in the PTSD program because he required a higher level of care than available through outpatient therapy.” *Id.*

The facts in this case suggest and reveal a man who dealt with significant mental health issues, and the instability of his relationship with Felicia Odom was likely a breaking point for him. Defendant presented the expert opinion of Dr. Samuel Holcombe, a psychologist, who opined that Defendant “appears to be a man whose personality structure lends itself to dysregulated emotion. For a soldier with three years in hostile environments, this can create a dangerous level of behavioral reactivity.” *See* October 9, 2020 Report of Dr. Samuel Holcombe, Exh. 2 to September 8, 2022 Sentencing Hearing (RE 122, Page ID 1915.)

This is not a case in which Defendant harassed and targeted random people or sought to gain money or drugs at the cost of other people’s safety and well-being; rather, this is a fact pattern that supports the proposition and adage that “hurt people

hurt other people.” Whether it was justified, Defendant believed that his actions were warranted on or about April 20, 2018 to get to the truth of his relationship with Ms. Odom. Although having multiple opportunities to kill or seriously harm Felicia Odom and Curtis Walls that night, Defendant went to the home of a family member in North Mississippi to clear the air and get to the truth as to who she wanted to be with. This was a misguided crime of passion largely influenced and affected by Defendant’s mental health disorders. Accordingly, the District Court’s failure to vary downward in light of Defendant’s significant mental health issues was procedurally and substantively unreasonable.

Defendant respectfully submits that the District Court gave minimal and passing consideration to the extreme mental health conditions referenced above and failed to properly weigh said factors in determining the sentence. Moreover, the District Court never expressly stated why the request for a downward variance based on the well-documented history of mental health issues was denied. As a result of such lack of consideration, the District Court pronounced a sentence of 444 month, greatly exceeding what is reasonable in light of the comprehensive factors to be considered pursuant to the factors under 18 U.S.C. § 3553(a).

In this case, given the substantiated historical and proper medical context surrounding Defendant Walls and his mental health disorders, the Circuit Court should have reversed the District Court’s denial of a downward variance.

Accordingly, Defendant respectfully urges this Court to reverse his sentence, or alternatively, remand to the district court for resentencing.

CONCLUSION

For the foregoing reasons, Petitioner, Keatron Walls, respectfully prays that this Court grant certiorari to review the judgment of the Sixth Circuit in his case.

Dated: This the 25th day of March, 2024.

RESPECTFULLY SUBMITTED,
THE WHARTON LAW FIRM

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**IN THE
SUPREME COURT OF THE UNITED STATES**

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

CERTIFICATE OF SERVICE

I, Alexander C. Wharton, do swear or declare that on this date, March 25, 2024, as required by Supreme Court Rule 29, I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI 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:

Mr. Tony Arvin
Assistant United States Attorney
8th Floor, Federal Building
167 North Main Street
Memphis, Tennessee, 38103

Ms. Elizabeth Prelogar
Solicitor General of the United States
Room 5614, Department of Justice
950 Pennsylvania Ave., NW
Washington, D. C. 20530-0001

With a courtesy copy also e-mailed this same date to the Solicitor General,
at: SUPREMECTBRIEFS@USDOJ.GOV.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this the 25th day of March, 2024.

s/Alexander C. Wharton
Alexander C. Wharton
Court-Appointed Counsel for Petitioner

APPENDIX

- 1.) Opinion of the Court of Appeals for the Sixth Circuit in *United States v. Hope*, No. 2:19-cr-20126 (6th Cir. Filed October 20, 2023).
- 2.) Order of the United States Court of Appeals for the Sixth Circuit denying for Petition for Rehearing En Banc.
- 3.) Order of the United States Court of Appeals for the Sixth Circuit issuing its mandate.