No. _____

In The

Supreme Court of the United States

VICTOR DARNELL BERRY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

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PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

I. Where a conviction that is the basis for a felon in possession of a firearm charge has been set aside at the time of sentencing, does the statutory directive that a conviction that has been set aside "shall not be considered a conviction" preclude conviction on the charge?

II. Where a conviction of felon in possession of a firearm requires proof that the defendant knew he had been convicted of a crime punishable by a term of imprisonment exceeding one year, does the right to present a defense, including the defendant's right to testify, include the right to testify to the defendant's understanding of a statute of conviction that contemplates setting aside the conviction, even if that understanding is mistaken?

PARTIES TO THE PROCEEDINGS BELOW

Petitioner, who was the Defendant-Appellant below, is Victor Darnell Berry.

Respondent, who was the Plaintiff-Appellee below, is the United States of America.

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CITATION OF PRIOR OPINION

The United States Court of Appeals for the Fourth Circuit decided this case in an unpublished per curiam opinion issued on 16 May 2024. The opinion is included in Appendix A.

JURISDICTIONAL STATEMENT

This petition seeks review of an opinion affirming petitioner's conviction and sentence following a conviction of felon in possession of a firearm. The petition is being filed within the time permitted by the Rules of this Court. This Court has jurisdiction to review the Fourth Circuit's order pursuant to 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

Section 921(a)(20) of Title 18 provides:

> (a) As used in this chapter—
>
> (20) The term "crime punishable by imprisonment for a term exceeding one year" does not include—
> (A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or
> (B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.
>
> What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

Section 922(g) of Title 18 provides, in relevant part:

> (g)It shall be unlawful for any person—
>
> (1)who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
>
> ***
>
> to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

STATEMENT OF THE CASE

Mr. Berry's D.C. robbery conviction

On 13 March 2018, Mr. Berry pleaded guilty to robbery in the Superior Court of the District of Columbia. JA100, JA251-252. The court sentenced Mr. Berry under the District of Columbia's Youth Rehabilitation Act. JA 100, JA251-252. Pursuant to the Youth Rehabilitation Act, the court sentenced Mr. Berry to 36 months' incarceration, with execution of the sentence suspended except as to time already served, three years of supervised release suspended, and eighteen months of supervised probation. JA100, JA251-252.

On 15 July 2021, the District of Columbia court entered an Order of Discharge and Certificate Setting Aside Conviction as to Mr. Berry's robbery conviction. JA88.

Traffic stop

In the early morning hours of 29 September 2019, Raleigh Police Officer

Matthew Wescoe initiated a traffic stop for a registration violation of a vehicle driven by Mr. Berry. JA44, JA191. Mr. Berry said he was on probation for a robbery conviction. JA193. Officer Wescoe directed Mr. Berry to step out of the vehicle, and Officer Wescoe began a search of the vehicle. JA194. Officer Wescoe saw the grip of a pistol underneath the radio, and when he removed a panel inside the vehicle, he was able to remove a firearm. JA195.

Federal indictment

Mr. Berry was indicted in federal court on one count of possession of a firearm having been previously convicted of a felony, in violation of 18 U.S.C. §§ 922(g)(1), 924. JA2, JA14-16.

Motion to dismiss

Mr. Berry moved to dismiss the felon in possession charge because the underlying felony conviction had been set aside. JA74-88. Mr. Berry argued that his robbery conviction from the District of Columbia had been set aside pursuant to the District of Columbia's Youth Rehabilitation Act. JA75, JA76-88. The Government opposed the motion to dismiss. JA89-JA101. The Government argued that because Mr. Berry's robbery conviction had been set aside after he allegedly possessed a firearm as charged in the indictment, the fact that the robbery conviction was later set aside was irrelevant. JA89-92.

The district court denied the motion to dismiss in a written order. JA102-105. The court ruled that the Fourth Circuit's decision in United States v. Kahoe, 134 F.3d 1230 (4th Cir. 1998), foreclosed Mr. Berry's argument. See JA102-104.

Motion to suppress

Mr. Berry moved to suppress the evidence seized based on the traffic stop and search. JA17-26. Mr. Berry argued that there was not reasonable suspicion to stop his vehicle. JA24. The Government opposed the motion to suppress. JA27-37.

The district court held a hearing to address Mr. Berry's motion to suppress. JA6, JA38-72. At the conclusion of the hearing, the court made findings of fact and conclusions of law on the record. JA67-70. The court denied the motion to suppress. JA70. The court also entered a written order denying the motion to suppress. JA73.

Evidentiary motions and pretrial conference

Mr. Berry pleaded not guilty, and the court scheduled the matter for trial. JA8, JA123.

The Government moved in limine to preclude Mr. Berry from introducing "[i]nformation, evidence, or argument regarding the Youth Offender laws of the District of Columbia." JA127-131. The Government argued that the court had denied Mr. Berry's motion to dismiss based on the setting aside of the robbery conviction, and that evidence, questioning, or argument regarding the setting aside of the conviction and the fact that Mr. Berry is no longer a felon and could therefore possess a firearm "would promote and encourage jury nullification." JA129.

Mr. Berry moved in limine to preclude the Government from offering evidence of Mr. Berry's "prior discharged felony conviction of Robbery." JA133-137. Mr. Berry noted that under 18 U.S.C. § 921(a)(20), a conviction that has been set

aside cannot be the basis for a felon in possession charge. JA134. Mr. Berry argued that the District of Columbia's Youth Rehabilitation Act defines and limits the purposes for which a conviction that has been set aside under the Act may be used later, and that a federal felon in possession charge is not one of the enumerated uses. JA134-136.

The court held a pretrial conference on 14 March 2022. JA9-10. In opposing the Government's motion in limine to preclude evidence regarding the setting aside of the robbery conviction, Mr. Berry's counsel argued that Mr. Berry's "knowledge of being a felon" was an element of the felon in possession charge. JA142-143. The court stated, "[C]ertainly they can prove that through the judgment. If there's no stipulations, they'll be the judgment of the robbery that's coming in." JA143. The court further stated, "But nothing else is relevant under 401 or 403." JA143. Mr. Berry's counsel argued that he could present testimony from Mr. Berry regarding his understanding, at the time he entered his guilty plea to the robbery charge and at the time he possessed the firearm, regarding whether he was a felon. JA144. The Government argued that Mr. Berry's state of mind regarding whether the robbery conviction was a felony was "irrelevant," because the relevant element for proof of a felon in possession charge is whether the defendant knew he had previously been convicted of a crime punishable by a term of imprisonment exceeding one year. JA146. The court ruled that Mr. Berry's counsel could ask Mr. Berry whether he knew on the date he possessed the firearm that he had been convicted of a crime punishable by a term of imprisonment exceeding one year,

"[a]nd if he says no, that's all he can say." JA147. The court then added that Mr. Berry could testify that on the date he possessed the firearm, "he didn't know on that date that he had been convicted of a felony." JA147.

Mr. Berry's counsel continued to argue that he should be allowed to follow up by asking Mr. Berry for his understanding of what he entered into as an adjudication in the District of Columbia. JA153. When the court asked Mr. Berry's counsel how Mr. Berry would answer that question, Mr. Berry's counsel said, "I would rather not say that," calling it "strategic." JA153. After further comments from the court, Mr. Berry's counsel asked whether Mr. Berry would be allowed to testify that he understood that he was entering a plea pursuant to the Youth Rehabilitation Act in the District of Columbia and that if he stayed out of trouble for some time the conviction would be set aside, "and because of that I didn't think I was a convicted felon." JA155. The court questioned the appropriateness of testimony that Mr. Berry had "a vague knowing that at some point [the conviction] was going to get set aside." JA155.

The court summarized that Mr. Berry would be able to testify that as of the date he possessed the firearm, he did not know he had been convicted of a crime punishable by a term of imprisonment in excess of one year because he entered a plea under the Youth Rehabilitation Act. JA156-157. Mr. Berry's counsel argued that Mr. Berry ought to be able to testify that because he understood that the conviction could be set aside, it was not a felony conviction. JA158. The court emphasized that the "key date" is when Mr. Berry possessed the firearm, and the

element of the offense is "his knowledge on that date." JA158. The court said that it would apply Federal Rules of Evidence 401 and 403, and that the focus of testimony could go to the element of whether Mr. Berry knew he had been convicted of a crime punishable by a term of imprisonment exceeding one year. JA159-160.

Mr. Berry's counsel turned to the motion in limine Mr. Berry had filed. JA166-167. Mr. Berry's counsel argued that the District of Columbia statute at issue limited the admission of evidence of a conviction under that statute. JA167. The court indicated that the Federal Rules of Evidence were controlling in the trial of this case. JA168. The court denied the motion as consistent with its ruling on Mr. Berry's motion to dismiss. JA169.

In addition to the discussion of the evidentiary issues, Mr. Berry's counsel reported that he had been in discussions with the Government and based on those discussions he understood that the Government would not offer a conditional plea agreement to allow Mr. Berry to preserve the ability to challenge on appeal the ruling on the motion to suppress. JA165. Mr. Berry's counsel asked the court for guidance on its position regarding the prospect for acceptance of responsibility at sentencing if Mr. Berry proceeded to trial but did not put on any evidence. JA165. The court confirmed that it could not get involved in plea negotiations, but said that it had conducted bench trials in situations where the defendant wanted to preserve a legal issue for appellate review, and the defendant received credit for acceptance of responsibility at sentencing. JA165.

Following the pretrial conference, the court entered a written order denying

Mr. Berry's motion in limine. JA138-139.

Bench trial

Mr. Berry agreed to waive his right to a jury trial, the Government consented to the waiver of a jury trial, and after confirming Mr. Berry's waiver and the Government's consent on the record, the court signed a Waiver of Jury and Consent to and Approval of Bench Trial. JA140, JA186-190; see Fed. R. Crim. P. 23(a).

At trial, Officer Wescoe testified for the Government. JA190-197. After the Government concluded its examination of Officer Wescoe, Mr. Berry's counsel asked no questions. JA197.

The Government offered, and the court accepted, Rebecca Byers as an expert in latent fingerprint examination. JA198-200. Ms. Byers opined that the fingerprint on the firearm was from Mr. Berry's right middle finger. JA203-205. After the Government concluded its examination of Ms. Byers, Mr. Berry's counsel asked no questions. JA205.

The Government also offered a certified copy of the criminal judgment from the District of Columbia against Mr. Berry, a report showing that the fingerprints taken from Mr. Berry on the night of the traffic stop matched records of Mr. Berry's fingerprints from his District of Columbia arrest, and a report from an ATF Special Agent who opined that the firearm at issue was manufactured in Croatia and, therefore, traveled in and affected interstate commerce. JA205-206. After the court admitted those exhibits, the Government rested its case. JA206.

Mr. Berry did not offer any evidence. JA206.

The court made findings and conclusions on the record. JA207-210. The court found that the Government had proved all of the elements of a felon in possession of a firearm charge beyond a reasonable doubt and adjudged Mr. Berry guilty. JA207-210.

Sentencing

The Probation Office prepared a presentence investigation report. J.A. 248-259. The Probation Office determined that Mr. Berry's criminal history score was zero. JA251. The Probation Office reported that Mr. Berry was convicted of robbery in the District of Columbia, but that the conviction was later expunged. JA251-252. Mr. Berry's criminal history category was I. JA251.

The Probation Office determined that the total offense level was 18. JA256. Based on a criminal history category of I and total offense level of 18, the Probation Office determined that the Guidelines range was 27 to 33 months' imprisonment. JA256.

The Probation Office concluded that Mr. Berry had not clearly demonstrated acceptance of responsibility for the offense. JA256. The Probation Office noted that Mr. Berry was found guilty after a bench trial to preserve his appellate rights and that he made a statement accepting responsibility for the offense conduct. JA259; see JA251 (noting that Mr. Berry "provided a written statement to the United States Probation Office accepting responsibility for his involvement in the instant offense and expressing remorse"). The Probation Office stated that it followed a consistent policy to deny acceptance of responsibility when a defendant tests

positive for a controlled substance while on pretrial release. JA259. The Probation Office noted that Mr. Berry tested positive for marijuana on 26 January 2021, 20 April 2021, and 21 March 2022. JA259.

The court held a sentencing hearing on 21 June 2022. JA11, JA216-38. The court first addressed Mr. Berry's objection to the Probation Office's decision to not give Mr. Berry credit for acceptance of responsibility. JA219-221. The court said that it had discretion whether to reduce the offense level based on acceptance of responsibility when Mr. Berry had tested positive for drug use. JA220-221. The court ruled that it would deny acceptance of responsibility credit. JA221. The court determined that the Guidelines range was 27 to 33 months based on criminal history category I and offense level 18. JA221.

Mr. Berry's counsel asked the court to vary downward from the Guidelines range. JA222. The court denied the request for a downward variance. JA231, JA234. The court imposed a sentence of 27 months' imprisonment and three years of supervised release. JA234.

Mr. Berry timely filed a notice of appeal on 5 July 2022. JA12, JA246-247.

Appeal

Mr. Berry raised four issues in his appeal. First, Mr. Berry argued that the district court erred when it denied his motion to dismiss because the conviction that was the basis for the felon in possession charge had been set aside. Appellant's Br. 21-25, Dkt. No. 24, United States v. Berry, No. 22-4381. Second, Mr. Berry argued that the district court erred in denying his motion to suppress. Id. at 25-32. Third,

Mr. Berry argued that the district court violated his constitutional right to put on a defense when it improperly limited his ability to present evidence relevant to the knowledge element of the felon in possession charge. Id. at 32-36. Finally, Mr. Berry argued that he had clearly demonstrated acceptance of responsibility for the offense of conviction, and the district court erred when it denied the reduction in the Guidelines offense level for acceptance of responsibility.

The Fourth Circuit affirmed. App. 3. Rejecting Mr. Berry's argument that the felon in possession charge was subject to dismissal, the court ruled that the decision in United States v. Kahoe, 134 F.3d 1230 (4th Cir. 1998), "forecloses Mr. Berry's interpretation of the statute." Id. at 8. The court reasoned that it was "irrelevant that a defendant's conviction was vacated after he unlawfully possessed a firearm because the conviction was still disabling at the time of the § 922(g) conduct. Id. The Fourth Circuit also rejected Mr. Berry's argument that the district court improperly limited his ability to defend the felon in possession charge based on his lack of knowledge. Id. at 8-10. The Fourth Circuit reasoned that "Mr. Berry was free to testify on the relevant issue as to whether he knew that his D.C. conviction was punishable by a term of imprisonment exceeding one year and that he was unaware of that punishment because his plea agreement was under the YRA." Id. at 9-10.[1]

[1] The Fourth Circuit used the shorthand reference "YRA" to mean the District of Columbia's Youth Rehabilitation Act." App. 4.

MANNER IN WHICH THE FEDERAL QUESTIONS WERE RAISED AND DECIDED BELOW

The questions presented were argued and reviewed in Mr. Berry's appeal. Mr. Berry's claim is appropriate for this Court's consideration.

REASONS FOR GRANTING THE WRIT

Mr. Berry respectfully contends that the Fourth Circuit's decision conflicts with relevant decisions of this Court. See S. Ct. R. 10(c).

DISCUSSION

I. WHERE THE CONVICTION UNDERLYING THE FELON IN POSSESSION CHARGE AGAINST MR. BERRY WAS SET ASIDE, THE FELON IN POSSESSION CHARGE WAS SUBJECT TO DISMISSAL.

A. A Conviction That Has Been Set Aside Is Not A "Conviction" For Purposes Of The Crime Of Felon In Possession Of A Firearm.

Under 18 U.S.C. § 922(g)(1), a person "who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year" may not possess any firearm. 18 U.S.C. § 922(g)(1). Section 921(a)(20) qualifies the definition of "conviction": "What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held," and any conviction "which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms." 18 U.S.C. § 921(a)(20). "Throughout the statutory scheme, the inquiry is: Does the person have a qualifying conviction on

his record." Beecham v. United States, 511 U.S. 368, 371 (1994).

B. The Plain And Unambiguous Text Of § 921(a)(20) Requires Dismissal Of Mr. Berry's Felon In Possession Of A Firearm Charge.

There is no dispute that the conviction that was the basis for the felon in possession charge against Mr. Berry, a robbery conviction in the District of Columbia, was set aside by the District of Columbia court. JA88. Under the plain and unambiguous text of § 921(a)(20), a conviction that has been set aside "shall not be considered a conviction for purposes of this chapter." 18 U.S.C. § 921(a)(20).

In all statutory construction cases, the Court begins "with the language itself [and] the specific context in which that language was used." McNeill v. United States, 563 U.S. 816, 819 (2011) (quotation omitted; alteration in McNeill). The Court "cannot construe a statute in a way that negates its plain text." Honeycutt v. United States, 581 U.S. 443, 454 n.2 (2017). This Court has "stated time and again that courts must presume that a legislature says in a statute what it means and means in a statute what it says there." Conn. Nat'l Bank v. Germain, 503 U.S. 249, 253–54 (1992). "When the words of a statute are unambiguous, then, this first canon is also the last: 'judicial inquiry is complete.'" Id. (quoting United States v. Rubin, 449 U.S. 424, 430 (1981)).

Here, the words of the statute are unambiguous—where Mr. Berry's robbery conviction was set aside, that conviction "shall not be considered a conviction" for purposes of the felon in possession statute. See 18 U.S.C. § 921(a)(20). The Fourth Circuit's decision and its opinion in United States v. Kahoe "negate[] the plain text

of the statute. See Honeycutt v. United States, 581 U.S. at 454 n.2. Quoting Kahoe, the Fourth Circuit reasoned that "[t]he plain language of § 921(a)(20) means that a conviction that has been set aside can no longer be disabling[,] [t]he language does not provide that such a conviction is not disabling between the time it was obtained and the time it was set aside." App. 8 (quoting Kahoe, 134 F.3d at 1233) (alterations in Berry). But the question is not what the text of § 921(a)(20) "does not provide"; Congress "means in a statute what it says," Conn. Nat'l Bank v. Germain, 503 U.S. at 254, and the plain text of that section says a conviction that has been set aside "shall not be considered a conviction." Mr. Berry was entitled to dismissal of the felon in possession of a firearm charge.

II. THE DISTRICT COURT VIOLATED MR. BERRY'S CONSTITUTIONAL RIGHT TO PUT ON A DEFENSE WHEN IT LIMITED HIS ABILITY TO PRESENT EVIDENCE RELEVANT TO THE KNOWLEDGE ELEMENT OF THE FELON IN POSSESSION OF A FIREARM CHARGE.

A. Mr. Berry Had A Constitutional Right To Put On A Defense, Including The Right To Testify In His Own Defense.

The right to present a defense "is a fundamental element of due process of law." Washington v. Texas, 388 U.S. 14, 19 (1967). Pursuant to the Sixth Amendment, the defendant has the right to present a defense to a criminal charges. See, e.g., Herring v. New York, 422 U.S. 853, 856-57 (1975). This includes the right of the defendant to testify in his own defense. See Rock v. Arkansas, 483 U.S. 44, 51 (1987).

B. Mr. Berry's Right To Put On A Defense Included His Right To Testify To His Understanding Of His Conviction Under The Youth Rehabilitation Act, As Relevant To The Knowledge Element Of The Felon In Possession Of A Firearm Charge.

In Rehaif v. United States, this Court held that in prosecuting a felon in possession of a firearm charge under §§ 922(g) and 924(a)(2), "the Government must prove both that the defendant knew he possessed a firearm and that he knew he belonged to the relevant category of persons barred from possessing a firearm." 588 U.S. 225, 237 (2019). This Court reasoned that where § 924(a)(2) makes it a crime to "knowingly" violate § 922(g), "Congress intended to require the Government to establish that the defendant knew he violated the material elements of § 922(g)." Id. at 231. Focusing on the knowledge of status element, the Court recognized there would be a defense where a defendant "has a mistaken impression concerning the legal effect of some collateral matter and that mistake results in his misunderstanding the full significance of his conduct, thereby negating an element of the offense." Id. at 234 (quotation omitted). The Court explained:

> The defendant's status as an alien "illegally or unlawfully in the United States" refers to a legal matter, but this legal matter is what the commentators refer to as a "collateral" question of law. A defendant who does not know that he is an alien "illegally or unlawfully in the United States" does not have the guilty state of mind that the statute's language and purposes require.

Id. at 235.

The felon in possession charge against Mr. Berry was based on a robbery conviction in the District of Columbia. JA14-16, JA89. Mr. Berry had been convicted of robbery and sentenced under the District of Columbia's Youth Rehabilitation Act. JA100.

Under the Youth Rehabilitation Act, "[i]f the court determines that a youth offender would be better served by probation instead of confinement, it may suspend imposition or execution of sentence and place the youth offender on probation." D.C. Code § 24-903(a)(1); *see id.* § 24-903(b)(1) ("If the offense for which a youth offender is convicted is punishable by imprisonment under applicable provisions of law other than this subsection, the court may use its discretion in sentencing the youth offender pursuant to this chapter, up to the maximum penalty of imprisonment otherwise provided by law."). The Youth Rehabilitation Act provides for unconditional discharge and setting aside of a conviction:

> Where a youth offender has been placed on probation by the court, the court may, in its discretion, unconditionally discharge the youth offender from probation before the end of the maximum period of probation previously fixed by the court. The discharge shall automatically set aside the conviction.
>
> If the sentence of a youth offender who has been placed on probation by the court expires before unconditional discharge, the court may, in its discretion, set aside the conviction.

Id. § 24-906(e).

In this case, Mr. Berry's theory of defense focused on the knowledge element of the felon in possession charge. See Rehaif, 588 U.S. at 231, 237. The Government was required to prove that Mr. Berry knew that he had been convicted of a crime punishable by a term of imprisonment for more than one year. Mr. Berry wanted to offer, through his testimony, his understanding of the robbery conviction and sentence under the District of Columbia's Youth Rehabilitation Act. See JA142-160. His testimony would have been relevant to rebut the Government's proof of the knowledge element as required by Rehaif.

The district court ruled that Mr. Berry would be able to testify that as of the date he possessed the firearm, he did not know he had been convicted of a crime punishable by a term of imprisonment in excess of one year because he entered a plea under the Youth Rehabilitation Act. JA156-157. The court said that if Mr. Berry "says no, that's all he can say." JA147. The court would not permit Mr. Berry to testify why he had that understanding—why he had that "mistaken impression," resulting in "his misunderstanding the full significance of his conduct, thereby negating an element of the offense." Rehaif, 588 U.S. at 234.

In affirming the district court, the Fourth Circuit misapplied Rehaif. Mr. Berry argued in both his opening brief, Appellant's Br. 35-36, Dkt. No. 24, and in his reply brief, Appellant's Reply Br. 8-10, Dkt. No. 35, that under Rehaif, he was entitled to testify to his understanding of his conviction under the Youth Rehabilitation Act, even if that was a "mistaken impression," because such testimony was relevant to the knowledge element. See Rehaif, 588 U.S. at 234-35. The Fourth Circuit acknowledged the import of Rehaif, but the court did not discuss this Court's reasoning that a defendant's mistaken impression of the legal effect of some collateral matter could negate an element of the offense at issue. See App. 8-10. Mr. Berry's D.C. conviction was the "collateral matter," and he was entitled to testify that because his conviction could be (and eventually was) set aside, he did not know the "full significance" of his conduct in possessing the firearm after his conviction. See Rehaif, 588 U.S. at 234-35. Mr. Berry had a viable defense to the felon in possession of a firearm charge, and the district court's evidentiary ruling

limiting that defense was reversible error. See Herring v. New York, 422 U.S. at 856-57; Washington v. Texas, 388 U.S. at 19.

CONCLUSION

For the foregoing reasons, Petitioner Victor Darnell Berry respectfully requests that the Court grant this petition and issue a writ of certiorari to review the opinion of the Fourth Circuit in this case.

This the 14th day of August, 2024.

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