

IN THE
Supreme Court of the United States

JARROD EUGENE DAVIS,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Where the sentencing court disregarded mitigating evidence and upwardly departed based largely on convictions Petitioner sustained as a teenager, whether the above-Guidelines sentence of 138 months is greater than necessary to achieve sentencing objectives under 18 U.S.C. § 3553(a).

TABLE OF CONTENTS

QUESTION PRESENTED	i
TABLE OF AUTHORITIES	iii
OPINION BELOW.....	1
LIST OF PRIOR PROCEEDINGS	1
JURISDICTION.....	2
STATUTE INVOLVED.....	2
STATEMENT OF THE CASE.....	2
REASONS FOR GRANTING THE PETITION.....	3
CONCLUSION.....	4
APPENDIX A: Opinion of the U.S. Court of Appeals for the Fourth Circuit (June 17, 2024)	1a

TABLE OF AUTHORITIES**CASES**

<i>Gall v. United States</i> , 552 U.S. 38 (2007)	3
<i>Koon v. United States</i> , 518 U.S. 81 (1996)	3

STATUTORY PROVISIONS

18 U.S.C. § 922(g)(1)	3
18 U.S.C. § 924(c)(1)(A)(i)	2
18 U.S.C. § 3553(a)	2-4
21 U.S.C. § 841(a)(1)	2
28 U.S.C. § 1254(1)	2

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Petitioner Jarrod Davis respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit.

OPINION BELOW

The Fourth Circuit's unpublished opinion is available at 2024 WL 3025152, 2024 U.S. App. LEXIS 14644 (4th Cir. June 17, 2024); *see also infra*, Pet. App. 1a.

LIST OF PRIOR PROCEEDINGS

- (1) *United States v. Jarrod Eugene Davis*, United States District Court, Eastern District of North Carolina, No. 7:23-CR-5-D-RJ-1 (final judgment entered August 9, 2023).
- (2) *United States v. Jarrod Eugene Davis*, United States Court of Appeals for the Fourth Circuit, No. 23-4515 (unpublished per curiam opinion issued June 17, 2024).

JURISDICTION

The Fourth Circuit issued its opinion on June 17, 2024. Pet. App. 1a. This Court’s jurisdiction rests on 28 U.S.C. § 1254(1).

STATUTE INVOLVED

Section 3553(a) of Title 18 of the United States Code provides in relevant part that: “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.”

Paragraph (2), in turn, lists the following purposes:

(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[.]

STATEMENT OF THE CASE

A. District Court Proceedings

Petitioner pled guilty without a plea agreement to (1) possession with the intent to distribute a quantity of fentanyl and heroin, as proscribed by 21 U.S.C. § 841(a)(1); (2) possession of a firearm in furtherance of a drug trafficking crime, as proscribed by 18 U.S.C. § 924(c)(1)(A)(i); and (3) possession of a firearm by a felon,

as proscribed by 18 U.S.C. § 922(g)(1). At sentencing on July 28, 2023, the court granted the government’s motion for an upward departure and imposed a total sentence of 138 months’ imprisonment. Petitioner appealed to the Fourth Circuit.

B. Court of Appeals Proceedings

On appeal, the Fourth Circuit rejected Petitioner’s argument that the sentence was unreasonable. App. 1a. The Fourth Circuit thus affirmed the district court. This petition followed.

REASONS FOR GRANTING THE PETITION

As this Court has consistently explained, “a district court should begin all sentencing proceedings by correctly calculating the applicable Guidelines range.” *Gall v. United States*, 552 U.S. 38, 49 (2007). But the Guidelines are only “the starting point.” *Id.* The district court must then “consider all of the § 3553(a) factors to determine whether they support the sentence requested by a party.” *Id.* at 49-50. “In so doing, he may not presume that the Guidelines range is reasonable.” *Id.* at 50. Instead, the sentencing court “must make an individualized assessment based on the facts presented” to determine a sentence that is “sufficient but not greater than necessary” to achieve the sentencing purposes of 18 U.S.C. § 3553(a). *Id.* If the court “decides that an outside-Guidelines sentence is warranted, he must consider the extent of the deviation and ensure that the justification is sufficiently compelling to support the degree of the variance.” *Id.* “[A] major departure should be supported by a more significant justification than a minor one.” *Id.* If, under the totality of the circumstances, the § 3553(a) factors do not justify the extent of the

variance, the sentence is substantively unreasonable and must be reversed. *Id.* at 51.

Here, the court departed significantly above the Guidelines, imposing a sentence almost *three years* longer than the Guidelines recommended. In imposing the sentence, the court focused almost entirely on Petitioner's criminal history, much of which he accrued as a teenager, and gave only passing attention to other relevant information, such as his impoverished childhood, repeated exposure to violence and trauma, untreated depression, and severe alcoholism. Indeed, the court openly discounted Petitioner's depression and alcoholism, explaining that these circumstances were within Petitioner's control.

"It has been uniform and constant in the federal judicial tradition for the sentencing judge to consider every convicted person as an individual and every case as a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and the punishment to ensue." *Koon v. United States*, 518 U.S. 81, 113 (1996). Where the court failed to account for Petitioner's mitigating factors and appears only to have magnified his failings, the variance is unjustified. Because the 138-month sentence is ultimately longer than necessary to serve the purposes of sentencing, it is substantively unreasonable. The sentence should thus be vacated and this case remanded for resentencing.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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