

IN THE SUPREME COURT OF THE UNITED STATES

No. 24-5774

DWAYNE BARRETT, PETITIONER

v.

UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MOTION OF THE RESPONDENT FOR DIVIDED ARGUMENT

Pursuant to Rules 21 and 28.4 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for divided argument in this case. The United States requests that petitioner and the United States each be allotted 15 minutes of argument time and that the appointed amicus curiae be allotted 30 minutes of argument time. Counsel for petitioner consents to this motion.

This case presents the question whether a defendant may be cumulatively sentenced both for murder using a firearm during a crime of violence, in violation of 18 U.S.C. 924(j), and also for the predicate offense of using a firearm during and in relation to

the same crime of violence, in violation of 18 U.S.C. 924(c)(1)(A). The court of appeals held that the two statutes required the imposition of multiple punishments for the same conduct.

The United States agrees with petitioner that Congress did not clearly indicate an intent to authorize cumulative convictions and sentences under Sections 924(c)(1)(A) and (j). The United States has accordingly filed a brief as respondent supporting petitioner and has a substantial interest in the Court's resolution of the question presented. The United States is a party to criminal proceedings under Sections 924(c)(1)(A) and (j) and has a significant stake in the correct interpretation of the statutes defining the federal offenses that it prosecutes. Division of argument will therefore materially assist the Court in its consideration of this case.

The government has participated in oral argument in prior federal criminal cases in which the Court appointed an amicus to defend the judgment below. See, e.g., Hewitt v. United States, No. 23-1002, 2025 WL 1758501 (June 26, 2025); Erlinger v. United States, 602 U.S. 821 (2024); Jones v. Hendrix, 599 U.S. 465 (2023); Holguin-Hernandez v. United States, 589 U.S. 169 (2020); Beckles v. United States, 580 U.S. 256 (2017); Welch v. United States, 578 U.S. 120 (2016). The government respectfully submits that the same course is warranted here.

Respectfully submitted.

D. JOHN SAUER
Solicitor General
Counsel of Record

JULY 2025