

No. 24-5943

In the
Supreme Court of the United States

Travyrus Jerard Stradford,
Petitioner,

v.

United States of America,
Respondent.

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

REPLY IN SUPPORT OF
PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Whether 18 U.S.C. § 3583(g) comports with the Fifth and Sixth Amendments?

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ARGUMENT

In *United States v. Haymond*, 588 U.S. 634 (2019), this Court concluded that the mandatory minimum found in 18 U.S.C. §3583(k) triggers a right to a jury trial. Below, the Fifth Circuit declined to apply that holding to 18 U.S.C. §3583(g), which requires a revocation and term of imprisonment for four classes of conduct related to drug possession, drug testing, and firearm possession. *See United States v. Stradford*, No. 24-10144, 2024 WL 3824648 (5th Cir. August 15, 2024)(unpublished). Petitioner urges review of that holding here.

In *Carpenter v. United States*, No. 24-5594, the Petitioner asks this Court to hold that the constitution requires a jury trial as to any fact that permits a revocation of supervised release, or, at least, as to any allegation involving a new crime. *See* Petition in *Carpenter v. United States*, No. 24-5594, p. i (Filed September 16, 2024). Should Carpenter prevail in either claim, the result would establish clear or obvious error in this case. Facts that compel revocation under §3583(g) would obviously fall within the first holding urged by Carpenter, which would compel a jury trial for all facts that authorize revocation. Carpenter's alternative claim that the Sixth Amendment applies whenever a revokee is accused of a new crime would also apply to allegations triggering 18 U.S.C. §3583(g), which either directly allege, or function essentially as proxies, for criminal activity.

In this case, the government urges denial of the Petition because: 1) no court has held 18 U.S.C. §3583(g) unconstitutional, 2) Petitioner did not seek a jury trial in district court, and 3) Petitioner pleaded true to the allegations against him.

This Court can consider the government's first argument in connection with its decision to grant or deny certiorari in *Carpenter* or comparable Petitions.

The government's second argument shows only that his claim must be reviewed for plain error. But clear or obvious error may be established by decisions issued by this Court while a case is on direct appeal. *See Henderson v. United States*, 568 U.S. 266 (2013). A victory for Carpenter would so plainly vindicate Petitioner's position on the merits that this Court should hold the instant Petition at least until the resolution of that case.

Nor is the government's third argument a good reason to deny this Petition. Petitioner's plea of true represents a waiver of his right to have a judge decide whether he violated the terms of his supervised release. Controlling law recognized no right to have the decision made by a jury, *see United States v. Garner*, 969 F.3d 550 (5th Cir. 2020), and his plea of true cannot be understood as a knowing and intelligent waiver of a right unavailable to him at the time.

CONCLUSION

Petitioner respectfully submits that this Court should grant *certiorari* to review the judgment of the United States Court of Appeals for the Fifth Circuit.

Respectfully submitted this 22d day of January, 2025.

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