

No. 24-5944

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IN THE SUPREME COURT OF THE UNITED STATES

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NATHAN REYES, PETITIONER

v.

UNITED STATES OF AMERICA

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

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MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

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Petitioner contends (Pet. 6-8) that the district court was required to hold a jury trial before revoking his supervised release pursuant to 18 U.S.C. 3583(g), which requires revocation of supervised release and imposition of a term of imprisonment for an offender who violates certain specified conditions of supervised release, including refusal to comply with drug testing and possession of controlled substances. Because petitioner did not request a jury trial in the district court, he would be entitled to relief only if he could show plain error. See Pet. 8; Fed. R. Crim. P. 52(b).

As explained in the government's brief in opposition to the petition for a writ of certiorari in Sevier v. United States, No. 24-5679 (Jan. 8, 2025), which presents the same claim in the same posture, petitioner cannot establish plain error. See Gov't Br. in Opp. at 5-15, Sevier, supra (No. 24-5679) (Sevier Opp.).<sup>1</sup>

No court has held Section 3583(g) unconstitutional. See Sevier Opp. 13-14. Nor does this Court's decision in United States v. Haymond, 588 U.S. 634 (2019), support plain-error relief based on the application of Section 3583(g), which was not at issue in Haymond, to petitioner's case. Sevier Opp. 14. Petitioner asks (Pet. 8) this Court to hold his petition for an unspecified future case that could establish "the 'plain-ness' of error" here, but he identifies no pending petition that raises the question presented in a posture other than plain-error review.

Moreover, as in Sevier, this would be a poor vehicle to consider petitioner's claim because he did not request a jury trial and admitted to the supervised-release violations. See Pet. 8; Pet. App. C. Accordingly, petitioner's own admissions, rather than judicial factfinding, provided the basis for revocation of his supervised release and reimprisonment. See Sevier Opp. 14-15.<sup>2</sup>

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<sup>1</sup> The government has served petitioner with a copy of its brief in Sevier, which is also available on this Court's online docket.

<sup>2</sup> The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.

Respectfully submitted.

ELIZABETH B. PRELOGAR  
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