No. 24-5953

IN THE SUPREME COURT OF THE UNITED STATES

ELLVA SLAUGHTER, PETITIONER

v.

UNITED STATES OF AMERICA

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

BRIEF FOR THE UNITED STATES IN OPPOSITION

SARAH M. HARRIS
Acting Solicitor General
Counsel of Record

ANTOINETTE T. BACON
W. CONNOR WINN
Attorneys

Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

QUESTION PRESENTED

Whether the lower courts correctly determined that petitioner had failed to make a prima facie showing supporting his claim of a violation of his Sixth Amendment right to a jury venire representing a fair cross section of the community, where he provided no evidence that the challenged jury-pool selection practices actually caused underrepresentation of any group.

ADDITIONAL RELATED PROCEEDINGS

United States District Court (S.D.N.Y.):

United States v. Slaughter, 21-cr-230 (Jan. 13, 2023)

United States Court of Appeals (2d Cir.):

United States v. Slaughter, 23-6055 (Aug. 8, 2024)

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-31a) is reported at 110 F.4th 569. The order of the district court (Pet. App. 44a-60a) is unreported.

JURISDICTION

The judgment of the court of appeals was entered on August 8, 2024. The petition for a writ of certiorari was filed on November 6, 2024. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a bench trial in the United States District Court for the Southern District of New York, petitioner was convicted on one count of possessing a firearm following a felony conviction, in violation of 18 U.S.C. 922(g). Judgment 1. The district court sentenced petitioner to 27 months of imprisonment, to be followed by two years of supervised release. Judgment 2-3; C.A. App. 222, 243. The court of appeals affirmed. Pet. App. 1a-31a.

1. In 2003, petitioner was convicted for possessing a firearm following a felony conviction, in violation of 18 U.S.C. 922(g)(1). Presentence Investigation Report (PSR) ¶¶ 7, 34. In 2014, petitioner was ordered to be removed to Jamaica, the country of his citizenship. PSR ¶¶ 38, 41-42.

Six years later, police officers in the Bronx observed a car with both a broken taillight and tinted windows. PSR ¶¶ 8-9. After the officers turned on their police lights, the car fled, ran several red lights, and finally hit another car. PSR ¶¶ 9-10. The officers found petitioner in the driver's seat. PSR ¶ 11. Next to him was a .40 caliber semiautomatic. PSR ¶¶ 7, 11, 18.

2. A grand jury in the Southern District of New York indicted petitioner on one count of possessing a firearm following a felony conviction, in violation of 18 U.S.C. 922(g)(1). Pet. App. 3a.

Petitioner moved to dismiss the indictment, arguing that the grand jury did not include a fair cross-section of the jury-eligible black and Hispanic or Latino populations in the community, in violation of the Sixth Amendment. Pet. App. 4a. Under this court's decision in Duren v. Missouri, 439 U.S. 357 (1979), a defendant seeking to establish a prima facie violation of the Sixth Amendment's requirement that the jury be selected from a fair cross-section of the community must show: (1) "that the group alleged to be excluded is a 'distinctive' group in the community"; (2) "that the representation of this group in venires from which juries are selected is not fair and reasonable in relation to the number of such persons in the community"; and (3) "that this underrepresentation is due to systematic exclusion of the group in the jury-selection process." Id. at 364. The district court found that petitioner had failed to make that showing and denied his motion. Pet. App. 44a-60a.

The district court accepted that petitioner had satisfied the first Duren requirement (a distinctive group) and assumed without deciding that petitioner satisfied the second (underrepresentation). Pet. App. 47a-52a.[1] But the court found

[1] The district court found that the jury-selection plan in effect at the time created "absolute disparities" between the percentage of community population and individuals in the applicable jury wheel ranging between "5.11 percent" to "5.72 percent for Black individuals," and between "9.03 percent" to "9.88 percent for Hispanic individuals." Pet. App. 50a; see Berghuis v. Smith, 559 U.S. 314, 323 (2010) ("'Absolute disparity' is

that petitioner failed to meet his burden under Duren's final step. Id. at 52a, 57a. The court rejected petitioner's assertion that evidence of "persistent and increasing disparities" alone, id. at 54a, could establish a prima facie case that any underrepresentation was "due to systematic exclusion in the jury-selection process," Duren, 439 U.S. at 364. The court observed that treating the mere existence of ongoing disparities as sufficient to make out a prima facie fair-cross-section claim would "substantially read out Duren's third prong" and erase petitioner's burden to show actionable underrepresentation "due to" a systematic defect in the jury-selection plan. Pet. App. 52a, 54a.[2]

Following a bench trial on stipulated facts, petitioner was convicted on one count of possessing a firearm following a felony conviction, in violation of 18 U.S.C. 922(g). Judgment 1; Pet. App. 10a. The district court sentenced petitioner to 27 months of imprisonment, to be followed by two years of supervised release. Judgment 2-3; C.A. App. 222, 243.

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determined by subtracting the percentage of [a group] in the jury pool * * * from the percentage of [that group] in the local, jury-eligible population.").

[2] The district court rejected petitioner's contentions that the court's jury-selection plan caused underrepresentation by (1) relying on voter-registration lists as the source of prospective jurors; (2) updating the pool of eligible venirepersons every four years; and (3) declining to follow up on juror questionnaires that are unanswered or returned as undeliverable. Pet. App. 54a-57a. Petitioner does not renew those arguments in this Court. See Pet. 28-38.

3. The court of appeals affirmed. Pet. App. 1a-31a. The court recognized that "[t]here is no dispute that Black and Hispanic or Latino people are distinctive groups" for purposes of Duren's first requirement, id. at 13a, and "assume[d] without deciding that the disparities identified by [petitioner] satisfy the second," id. at 22a. But, like the district court, the court of appeals found that petitioner had failed to satisfy Duren's third requirement because he had not shown that any underrepresentation was systematic. Id. at 22a-30a.

The court of appeals rejected petitioner's argument that "continued and increased disparities" in a group's representation in the jury pool would in itself satisfy Duren's final requirement. Pet. App. 23a-24a. The court accepted that "persistent disparities over a significant period of time may 'indicate[] that the cause of the underrepresentation [is] systematic.'" Id. at 24a (quoting Duren, 439 U.S. at 366) (first emphasis added) (brackets in original). But the court observed that such evidence, "standing alone," would not satisfy a defendant's burden because it would not show what "factors intrinsic to the jury venire selection process, if any, systematically drive" such disparities. Ibid. And the court found that petitioner had failed to carry his burden on this record, because he had "provided no evidence" that any practice by the Southern District -- as opposed to "'external forces' outside the [District]'s control," such as the relevant populations' decisions not to respond to juror-eligibility

questionnaires or to register to vote -- "actually cause underrepresentation." Id. at 28a-29a (citation omitted); see id. at 30a-31a.

4. While petitioner's appeal was pending, he completed his term of incarceration. Pet. App. 10a n.5. Petitioner has since been removed from the United States and is inadmissible based on a previous felony conviction not at issue in this case. Ibid.; see Pet. 26.

ARGUMENT

Petitioner renews (Pet. 28-38) his contention that the continuation of a group's substantial underrepresentation in a jury pool, by itself, satisfies a defendant's burden to make a prima facie showing that the underrepresentation is "due to" the "systematic exclusion of the group in the jury-selection process" under Duren v. Missouri, 439 U.S. 357, 364 (1979). The lower courts correctly rejected that contention, and the court of appeals' decision does not conflict with any decision of this Court or of another court of appeals or state court of last resort. This Court has denied other petitions for writs of certiorari that raised similar issues. See Seugasala v. United States, 584 U.S. 934 (2018) (No. 17-6674); Hernandez-Estrada v. United States, 574 U.S. 1029 (2014) (No. 14-5554); Pritt v. United States, 568 U.S. 853 (2012) (No. 11-10637). It should follow the same course here; indeed, this would be a particularly inappropriate vehicle for further review.

1. The Sixth Amendment's guarantee of an "impartial jury" in a criminal case encompasses a right to have the jury selected from a venire representing a fair cross-section of the community. Taylor v. Louisiana, 419 U.S. 522, 526 (1975); see id. at 526-531. That Sixth Amendment right has been applied to grand jury selection. See, e.g., United States v. Torres-Hernandez, 447 F.3d 699, 703-704 (9th Cir.), cert. denied, 549 U.S. 1066 (2006); Murphy v. Johnson, 205 F.3d 809, 817-818 (5th Cir.), cert. denied, 531 U.S. 957 (2000).

Within the federal judicial system, the Jury Selection and Service Act of 1968 (JSSA), 28 U.S.C. 1861 et seq., codifies and implements the Sixth Amendment's "fair cross section" guarantee. 28 U.S.C. 1861. The JSSA requires the creation and operation of a plan for random jury-venire selection in each federal judicial district, 28 U.S.C. 1863(a), and provides a procedural mechanism through which a criminal defendant may contest any "substantial failure to comply with" the Act, 28 U.S.C. 1867(a). Courts of appeals have interpreted the JSSA to impose the same requirement as the Sixth Amendment. See, e.g., United States v. Hernandez-Estrada, 749 F.3d 1154, 1158 (9th Cir.) (en banc) ("[T]he same analysis determines whether the jury selection procedures meet the fair cross-section requirement under either the Jury Selection Act or the Sixth Amendment."), cert. denied, 574 U.S. 1029 (2014); United States v. Rodriguez, 581 F.3d 775, 790 (8th Cir. 2009) (collecting cases), cert. denied, 562 U.S. 981 (2010).

To prove a violation of the Sixth Amendment's fair-cross-section guarantee, the defendant must first establish a prima facie case by showing (1) "that the group alleged to be excluded is a 'distinctive' group in the community," (2) "that the representation of this group in venires from which juries are selected is not fair and reasonable in relation to the number of such persons in the community," and (3) "that this underrepresentation is due to systematic exclusion of the group in the jury-selection process." Duren, 439 U.S. at 364. If a defendant establishes a prima facie case, the burden shifts to the government to show that "a significant state interest [is] manifestly and primarily advanced by those aspects of the jury-selection process * * * that result in the disproportionate exclusion of a distinctive group." Id. at 367-368.

In Duren, this Court found that the defendant had established a violation of the Sixth Amendment fair-cross-section right because Missouri's jury-selection process systematically excluded women. 439 U.S. at 358-360. "To show the 'systematic' cause of the underrepresentation" -- the third requirement of the prima facie showing -- the defendant in Duren "pointed to Missouri's law exempting women from jury service, and to the manner in which Jackson County administered the exemption." Berghuis v. Smith, 559 U.S. 314, 319 (2010). Specifically, the defendant in Duren presented evidence that women in Missouri were significantly underrepresented in "every weekly venire for a period of nearly

a year," which "manifestly indicate[d]" a "systematic" underrepresentation. Duren, 439 U.S. at 366. And he established that "a substantially larger number of women answering the questionnaire claimed either ineligibility or exemption from jury service," ibid., by invoking a Missouri law that allowed women to claim an exemption from jury service as a matter of right, id. at 362, 366. This Court accordingly found that "[t]he resulting disproportionate and consistent exclusion of women from the jury wheel and at the venire stage was quite obviously due to the system by which juries were selected," namely "Missouri's exemption criteria." Id. at 367.

2. In this case, the lower courts correctly found that petitioner failed to satisfy the third requirement of Duren. In particular, they correctly recognized that petitioner cannot satisfy Duren's third requirement simply by pointing to "the persistence of disparities over time, standing alone," without any consideration of whether "factors intrinsic to the jury venire selection process, if any, systematically drive the identified and persistent disparities." Pet. App. 24a. Precisely because underrepresentation in a jury pool may arise from a host of nongovernmental acts or forces, Duren made clear that constitutionally impermissible "systematic exclusion" in the Sixth Amendment context refers to exclusion "inherent in the particular jury-selection process utilized." 439 U.S. at 366; see Taylor, 419 U.S. at 538 ("[T]he jury wheels, pools of names, panels, or

venires from which juries are drawn must not systematically exclude distinctive groups."); see also, e.g., State v. Rivers, 533 P.3d 410, 423 (Wash. 2023) (en banc) ("Importantly, systematic exclusion is not the same as systemic exclusion.").

Consistent with this Court's approach, the federal courts of appeals require defendants "to provide evidence linking" a jury-selection plan to a group's underrepresentation to establish systematic exclusion. United States v. Rodriguez-Lara, 421 F.3d 932, 945 (9th Cir. 2005), overruled on other grounds, Hernandez-Estrada, 749 F.3d at 1164-1165. The Second Circuit's understanding that "[t]here is systematic exclusion" under Duren's third requirement "when the underrepresentation is due to the system of jury selection itself, rather than external forces," United States v. Rioux, 97 F.3d 648, 658 (1996) (emphasis added), is shared by other courts of appeals.[3] And state supreme courts have applied

[3] Accord, e.g., Pet. App. 24a; United States v. Pion, 25 F.3d 18, 23-24 (1st Cir.), cert. denied, 513 U.S. 932 (1994); United States v. Savage, 970 F.3d 217, 259-261 (3d Cir. 2020), cert. denied, 142 S. Ct. 481 (2021); Truesdale v. Moore, 142 F.3d 749, 755 (4th Cir.), cert. denied, 525 U.S. 951 (1998); Paredes v. Quarterman, 574 F.3d 281, 290 (5th Cir. 2009); Ford v. Seabold, 841 F.2d 677, 685 (6th Cir.) (en banc), cert. denied, 488 U.S. 928 (1988); United States v. Neighbors, 590 F.3d 485, 491 (7th Cir. 2009); United States v. Garcia, 991 F.2d 489, 491-492 (8th Cir. 1993); Randolph v. California, 380 F.3d 1133, 1141-1142 (9th Cir. 2004); Trujillo v. Sullivan, 815 F.2d 597, 610-611 (10th Cir.), cert. denied, 484 U.S. 929 (1987); United States v. Clarke, 562 F.3d 1158, 1163 (11th Cir.), cert. denied, 558 U.S. 1077 (2009); United States v. Smith, 108 F.4th 872, 878 (D.C. Cir. 2024).

Duren's straightforward test in a similar manner.[4]

Courts have made clear that defendants have various ways to make the required factual showing under Duren. See, e.g., United States v. Jackman, 46 F.3d 1240, 1242-1243, 1248 (2d Cir. 1995) (finding a Duren violation where a computer error excluded individuals residing in the two counties where a large proportion of the relevant minority groups lived). In this case, however, petitioner attempted to make that showing in the proceedings below, but the courts rejected his factual claims. Pet. App. 25a-31a. Petitioner does not seek this Court's review of those case-specific findings, see p. 4 n.2, supra, but instead claims that they are unnecessary as a matter of law. That claim is unsound.

Petitioner errs in asserting (Pet. 28) that Duren "held that * * * consistent underrepresentation" is itself "sufficient to establish" systematic exclusion for purposes of its third requirement. To the contrary, this Court made clear that "systematic exclusion" refers to exclusion "inherent in the particular jury-selection process utilized." Duren, 439 U.S. at 366 (emphasis added). In the context of the particular system at issue there, the Court noted that the defendant's "undisputed demonstration that a large discrepancy occurred not just

[4] See, e.g., Rivers, 533 P.3d at 423-424; State v. Mong, 988 N.W.2d 305, 312 (Iowa 2023); State v. Dangcil, 256 A.3d 1016, 1033-1034 (N.J. 2021); People v. Henriquez, 406 P.3d 748, 763 (Cal. 2017), cert. denied, 586 U.S. 897 (2018); Israel v. United States, 109 A.3d 594, 604-605 (D.C. 2014), cert. denied, 577 U.S. 985 (2015); State v. Perez, 457 N.W.2d 448, 456 (Neb. 1990).

occasionally, but in every weekly venire for a period of nearly a year manifestly indicates that the cause of the underrepresentation was systematic -- that is, inherent in the particular jury-selection process utilized." Ibid. (emphasis added). But the defendant there also presented specific evidence "demonstrat[ing] that the underrepresentation of women in the final pool of prospective jurors was due to the operation of Missouri's exemption criteria -- whether the automatic exemption for women or other statutory exemptions -- as implemented in Jackson County," id. at 367, rather than external factors. See Pet. App. 24a ("[I]n Duren it was the presence of disparities over time and several practices that effectively excluded 39.5% of eligible women from jury service that, together, demonstrated systematic exclusion.").

Petitioner here, in contrast, can point to no such express exemption of the assertedly underrepresented group, and he has "provided no evidence that the challenged [jury-pool selection] practices actually cause underrepresentation." Pet. App. 29a; see Berghuis, 559 U.S. at 319 (noting that the defendant in Duren "pointed to Missouri's law exempting women from jury service, and to the manner in which Jackson County administered the exemption"). Nor can petitioner dispense with the requirement to provide some evidentiary link by asserting that he lacks the government's "peculiar knowledge of the relevant facts." Pet. 33 (citation omitted). As an initial matter, the authors of jury-selection

plans are the federal courts, not the Executive Branch. 28 U.S.C. 1863(a). Congress and the courts provide defendants appropriate access to jury-selection plans and data to advance claims under Duren and the JSSA. See, e.g., United States v. Royal, 100 F.3d 1019, 1025-1026 (1st Cir. 1996) (remanding to allow defense "access to '[the] contents of records or papers used by the jury commission or clerk in connection with the jury selection process'") (quoting 28 U.S.C. 1867(f)). And defendants may engage experts to review, supplement, or offer opinions on those documents and data, as petitioner did in the proceedings below. Pet. App. 7a-9a.

3. Contrary to petitioner's suggestion (Pet. 13-20, 27-28), the court of appeals' decision does not conflict with any other court of appeals or state court of last resort. As noted above, the consensus view is that a defendant may not rely on persistent disparities alone without any evidence that the disparity is "due to the system by which juries were selected." Duren, 439 U.S. at 367; see id. at 364; pp. 10-11 & nn.3-4, supra.

a. Petitioner errs in asserting (Pet. 14-15) that the First, Third, Sixth, and Tenth Circuits have "embrace[d]" his position.

Petitioner cites (Pet. 14) the First Circuit's decision in Barber v. Ponte, 772 F.2d 982 (1985), cert. denied, 475 U.S. 1050 (1986), but he relies on the initial panel opinion, which was later "reverse[d]" by the full court. Id. at 996 (en banc); see id. at 996-1000 (denying Duren claim on rehearing). Since then, the First

Circuit has rejected petitioner's view that persistent underrepresentation alone shows systematic exclusion. See, e.g., Pion, 25 F.3d at 24 & n.7.

The Third Circuit's decision in United States v. Weaver, 267 F.3d 231 (2001), cert. denied, 534 U.S. 1152 (2002), likewise does not suggest a division of authority because the court did "not reach" Duren's third requirement. Id. at 244. Although the court expressed a view that systematic exclusion "can be shown by a large discrepancy repeated over time such that the system must be said to bring about the underrepresentation," ibid. (emphasis added), it qualified that view by making clear that such evidence might satisfy Duren's third requirement only "under some circumstances," id. at 245. The Third Circuit's subsequent decisions likewise have not adopted petitioner's proposed categorical rule; instead, that court has treated the persistence of disparities as one of many factors bearing on the systematic-exclusion inquiry. See, e.g., United States v. Savage, 970 F.3d 217, 259-261 (3d Cir. 2020), cert. denied, 142 S. Ct. 481 (2021).

Similarly, although the Sixth Circuit has suggested that "a large routine discrepancy" could show systematic exclusion in certain instances, United States v. Johnson, 95 F.4th 404, 412 (6th Cir.), cert. denied, 144 S. Ct. 2619 (2024), petitioner cites no decision from that court finding that such evidence, standing alone, satisfies Duren's third requirement. See, e.g., ibid. (collecting cases where a defendant failed to show a sufficiently

long and routine discrepancy to prove systematic exclusion). Rather, the Sixth Circuit has rejected Duren claims when, as here, the defendant fails to show that the alleged "underrepresentation was due to the [jury-selection] system itself." Ford v. Seabold, 841 F.2d 677, 685 (6th Cir.) (en banc), cert. denied, 488 U.S. 928 (1988).

Finally, petitioner's reliance on United States v. Test, 550 F.2d 577 (10th Cir. 1976), is misplaced. Not only did Test predate Duren, but the court of appeals rejected the defendants' effort to show that groups had been "systematically excluded" based on "statistical disparity alone," finding no precedent for such a conclusion. Id. at 587; see id. at 588. The Tenth Circuit's post-Duren case law has similarly rejected petitioner's position. See, e.g., Trujillo v. Sullivan, 815 F.2d 597, 610-611 (10th Cir.) ("In addition to showing that a distinctive group's representation in a jury panel is not fair and reasonable in relation to the number of such persons in the community, * * * Mr. Trujillo must also have established that the under- or over-representation resulted from systematic exclusion or inclusion of the group in the jury-selection process itself."), cert. denied, 484 U.S. 929 (1987).

b. Petitioner asserts (Pet. 18-21) that some courts have misapplied Duren by requiring defendants to produce evidence that jury-selection officials "intentional[ly]" crafted discriminatory plans. But that issue is not implicated here because the court of appeals did not purport to apply such a rubric in petitioner's

case. It is well established in the Second Circuit that "discriminatory intent is not an element of a Sixth Amendment 'fair cross-section' claim." United States v. Biaggi, 909 F.2d 662, 678 (1990), cert. denied, 499 U.S. 904 (1991).

Regardless, most of the jurisdictions that petitioner invokes require evidence that a jury-selection plan operates in a "'discriminatory manner'" -- not that government officials crafted or implemented a plan with a "discriminatory purpose." Truesdale v. Moore, 142 F.3d 749, 755-756 (4th Cir.) (citation omitted) (juxtaposing fair-cross-section claims and Fourteenth Amendment Equal Protection claims), cert. denied, 525 U.S. 951 (1998); accord United States v. Snarr, 704 F.3d 368, 385 (5th Cir. 2013), cert. denied, 571 U.S. 1195, and 571 U.S. 1196 (2014); United States v. Moreland, 703 F.3d 976, 982 (7th Cir. 2012), cert. denied, 568 U.S. 1240, and 569 U.S. 988 (2013); Berryhill v. Zant, 858 F.2d 633, 636-637, 639 (11th Cir. 1988); State v. Perez, 457 N.W.2d 448, 456 (Neb. 1990).[5] And petitioner's remaining citations merely

[5] Petitioner cites (Pet. 21) James v. State, 613 N.E.2d 15, 29 (Ind. 1993) for the proposition that Indiana requires proof of purposeful discrimination to support a Duren claim. The Indiana Supreme Court, however, has disavowed the position petitioner ascribes to it. Bradley v. State, 649 N.E.2d 100, 104 n.4 (Ind. 1995) ("Notwithstanding any statements or inferences to the contrary in previous opinions of this Court, no finding of discriminatory purpose is required for a Sixth Amendment violation" under Duren.). Only New Jersey appears to have understood Duren's third requirement in the way petitioner suggests. See Dangcil, 256 A.3d at 1031-1032 & n.6. But that approach cannot provide a sound basis for certiorari here because the courts below did not employ it, and petitioner would not be entitled to relief under it.

reflect the proposition that defendants must identify a defect in a jury-selection plan beyond relying on facially neutral voter-registration lists. See United States v. Phillips, 239 F.3d 829, 841-842 (7th Cir.), cert. denied, 534 U.S. 884, and 534 U.S. 967 (2001); Truesdale, 142 F.3d at 755; United States v. Cecil, 836 F.2d 1431, 1445 (4th Cir.) (en banc), cert. denied, 487 U.S. 1205 (1988); United States v. Steen, 55 F.3d 1022, 1030 (5th Cir.), cert. denied, 516 U.S. 1015 (1995); United States v. Lopez, 588 F.2d 450, 451-452 (5th Cir.) (per curiam), cert. denied, 442 U.S. 947 (1979); State v. Thomas, 637 N.W.2d 632, 652 (Neb.), cert. denied, 537 U.S. 918 (2002), overruled on other grounds by State v. Vann, 944 N.W.2d 503, 513-514 (2020); see also Berghuis, 559 U.S. at 321 ("[T]he fair-cross-section principle must have much leeway in application.") (citation omitted).

4. At all events, even if the question presented otherwise warranted this Court's review, this case would be an unsuitable vehicle for considering it.

As a threshold matter, "numerous courts have noted that an absolute disparity below 10% generally will not reflect unfair and unreasonable representation" for purposes of Duren's second requirement. Howell v. Superintendent Rockview SCI, 939 F.3d 260, 268 (3d Cir. 2019) (collecting cases), cert. denied, 141 S. Ct. 275 (2020). And even assuming that the third requirement -- the only one at issue in the question presented -- is dispositive here, the question whether the jury-selection plan in effect during

petitioner's grand-jury proceedings comported with Duren is a matter of diminishing importance. The Southern District of New York recently amended its procedures to "reduc[e] the interval for refilling the master jury wheels from four to two years." Pet. App. 7a; see id. at 25a-30a. Finally, petitioner, a citizen of Jamaica, completed his term of incarceration while his appeal was pending, was removed from the United States, and is inadmissible in light of an unrelated felony conviction. Id. at 10a n.5; Pet. 26; PSR ¶¶ 38, 41-42. A decision in petitioner's favor would thus have little practical import no matter what.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

SARAH M. HARRIS
Acting Solicitor General

ANTOINETTE T. BACON
W. CONNOR WINN
Attorneys

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