24-6615

No. _____

ORIGINAL

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

GREGORY DAMM — PETITIONER
(Your Name)

vs.

STEVEN GILSTRAP — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS 5TH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Gregory Damm #2401611
(Your Name)

P.O. Box 660334 / 3W-10
(Address)

Dallas, Texas 75266
(City, State, Zip Code)

None
(Phone Number)

QUESTION PRESENTED

Can a federal supervised release defendant can ever obtain relief on plain error for the erroneous admission of hearsay in a revocation proceeding?

LIST OF PARTIES

Gregory P. Damm, petitioner on review, was the Defendant-Petitioner below. The United States of America, respondent on review, was Plaintiff-Appellee. No party is a corporation.

LIST OF PARTIES

[✓] All parties appear in the caption of the case on the cover page.

[ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

United States V. Kebodeaux, 133 S. Ct. 2496 (2013)
United States V. Shepherd, 880 F.3d 734 (5th Cir. 2018)
Texas Dept of Public Safety V. Anonymous Adult Texas Resident, 382 S.W.3d 531 (Tex. App. Aug 30, 2012) also related is Crabtree V. State, 389 S.W.3d 820 (Tex. Crim. App. Oct. 31, 2012) including, Brown, Mims, Scott, and Wall.
United States V. Putnam, 806 F.3d 853 (5th Cir. 2015) also related to United States V. Segura, 774 F.3d 323 (5th Cir. 2014)
United States V. Fernandez, 776 F.3d 344 (5th Cir. 2015)
United States V. Molina-Martinez, 136 S. Ct. 26 (2015)
Dansby V. State, 448 S.W.3d 441 (Tex. Crim. App. 2014)
United States V. Navarro, 54 F. 4th 268 (5th Cir. 2022)

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PETITION FOR A WRIT OF CERTIORARI

Gregory P. Damm respectfully petitions for a writ of certiorari to review the judgment and opinion of the United States Court of Appeals for the Fifth Circuit.

OPINION BELOW

The Fifth Circuit's unreported opinion is available on Westlaw's electronic database at 2024 WL 3508050and reprinted as Appendix A.

JURISDICTION

The Court of Appeals issued its panel opinion on July 23, 2024. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

RELEVANT PROVISIONS

This Petition involves the Fifth Amendment, which states:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

This petition also involves certain portions of Federal Rules of Criminal Procedure 32.1 and 52. Rule 32.1 provides in relevant part:

> **Revocation Hearing**. Unless waived by the person, the court must hold the revocation hearing within a reasonable time in the district having jurisdiction. The person is entitled to:
> (A) written notice of the alleged violation;
> (B) disclosure of the evidence against the person;
> (C) an opportunity to appear, present evidence, and question any adverse witness unless the court determines that the interest of justice does not require the witness to appear;

(D) notice of the person's right to retain counsel or to request that counsel be appointed if the person cannot obtain counsel; and
(E) an opportunity to make a statement and present any information in mitigation.

FED. R. CRIM. P. 32.1(b)(2)

Rule 52 provides in relevant part:

Plain Error. A plain error that affects substantial rights may be considered even though it was not brought to the court's attention.

FED. R. CRIM. P. 52(b).

STATEMENT OF THE CASE

A. Facts and District Court Proceedings

1. Events and Proceedings before the Revocation Hearing

In 2016 Petitioner Gregory P. Damm sustained a conviction under 18 U.S.C. §2250. (Record in the Court of Appeals, at 95). He has since suffered two supervised release revocations, both related to his duty to register and keep Probation informed of his residence. (Record in the Court of Appeals, at 227, 298). As the Probation Officer explained in the second of these proceedings, "[s]ince the commencement of his supervision, Mr. Damm has struggled to secure stable housing." (Record in the Court of Appeals, at 631); *see also* (Record in the Court of Appeals, at 471). This has resulted in his placement in locations that he finds difficult to tolerate and to reporting failures. (Record in the Court of Appeals, at 471). The testimony and questioning shows his complaints about the noisiness of roommates in group housing, and shows that his mandatory housing placement exposed him to people using illegal drugs. (Record in the Court of Appeals, at 471, 485). As the appeal of the first revocation

shows, Mr. Damm lacks for support in the Dallas area, and for resources generally – at the time of his first revocation, he was homeless. *See United States v. Damm*, 694 Fed. Appx. 354 (5th Cir. 2017)(unpublished).

The second of these two revocations gives rise to the instant Petition. Probation petitioned the district court to revoke Petitioner's term of release, alleging violations of three conditions. (Record in the Court of Appeals, at 268-271). The Petition invoked the following conditions of release:

> You must answer truthfully the questions asked by your probation officer.

(Standard Condition Four); (Record in the Court of Appeals, at 268);

> You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware a change or unexpected change.

(Standard Condition Five); (Record in the Court of Appeals, at 268);

> The defendant shall register as a sex offender with state and local law enforcement as directed by the probation officer in each jurisdiction where the defendant resides, is employed, and is a student, providing all information required in accordance with state registration guidelines, with initial registration being completed within three business days after release from confinement. The defendant shall provide written verification of registration to the probation officer within three business days following registration and renew registration as required by his probation officer. The defendant shall, no later than three business days after each change of name, residence, employment, or student status, appear in person in at least one jurisdiction and inform that jurisdiction and inform that jurisdiction of all changes in the information required in the sex-offender registry.

(Special Condition); (Record in the Court of Appeals, at 269).

In two paragraphs, it alleged six separate violations of these three conditions. (Record in the Court of Appeals, at 268-269). The first paragraph implicated Standard Condition Four, alleging that Petitioner left his residential reentry center on May 1, 2023 after texting his Probation Officer about it on April 29, 2023, which is fewer than the ten days required by the Condition. (Record in the Court of Appeals, at 269). It also invoked Condition Five, which requires truthful answers to Probation's questions. (Record in the Court of Appeals, at 268-269). Specifically, it alleged that Petitioner told his Probation Officer that he (Petitioner) "deregistered from Hutchins PD," and that he falsely claimed that the reentry center maintained a list of persons permitted to leave the facility for work. (Record in the Court of Appeals, at 269).

The second paragraph implicated the special (or "Additional") Condition regarding registration. (Record in the Court of Appeals, at 269). It alleged specifically that Petitioner "violated this condition of supervised release when he failed to register with Fort Worth, Texas Police Department within three business days in accordance with state registration guidelines." (Record in the Court of Appeals, at 269). It also alleged that he had not "deregistered" from the City of Hutchins, and that he had not scheduled an appointment to register with authorities in Fort Worth. (Record in the Court of Appeals, at 269).

2. The Revocation Hearing

Petitioner pleaded "not true," and the government sought to substantiate all of the allegations through the testimony of a single witness, Petitioner's Probation

Officer. (Record in the Court of Appeals, at 469-481). It introduced no exhibits. (Record in the Court of Appeals, at 469-488). The defense called as a witness Petitioner's Case Manager at the residential reentry center. (Record in the Court of Appeals, at 469-488).

The Probation Officer testified that Petitioner reported problems with his residence, and specifically objected to the noisiness of his roommate. (Record in the Court of Appeals, at 471). According to the Officer, Petitioner said he found a new residence, but that he left before the Officer could verify its suitability. (Record in the Court of Appeals, at 471-472). The Officer did not, however, relate any first-hand observations showing that Petitioner had actually left his facility. (Record in the Court of Appeals, at 471-472). He gave no testimony denying the existence of a list of persons who could leave the facility for employment. (Record in the Court of Appeals, at 472-473). Rather, he testified that Petitioner lied about his employment start date, as substantiated by out-of-court statements from Petitioner's prospective boss. (Record in the Court of Appeals, at 472-473).

As respects the registration issues, the Officer provided the following direct testimony, again reflecting extensive hearsay:

> Once Mr. Damm departed the halfway house, he is supposed to register at the new residence that he occupies. He had provided the residence. It was in Fort Worth, comparatively speaking, to the halfway house, which is in Hutchins.
>
> He should have then deregistered with Hutchins PD, and then at least scheduled an appointment with Fort Worth PD. Fort Worth PD is normally a couple of weeks to maybe a month or two backed up; however, if you just contact them and schedule an appointment, that will suffice until you have your appointment.

> Mr. Damm did neither. ***I confirmed with Hutchins PD*** that he did not deregister, and ***then I contacted Fort Worth PD, and they also confirmed*** that he had not scheduled an appointment with them to register.

(Record in the Court of Appeals, at 473-474). As reflected above, the Officer stated that Fort Worth PD usually cannot actually register anyone immediately and can require from two weeks to two months to accomplish this goal. (Record in the Court of Appeals, at 473-474). The Officer thus held the defendant accountable not for failing to register in Forth Worth, but for failing to make an appointment. (Record in the Court of Appeals, at 473-474). He recounted a statement made by Petitioner indicating that he had "deregistered" from Hutchins. (Record in the Court of Appeals, at 473-474). Finally, he related a conversation he, the Officer, had with Fort Worth police in which he learned that Petitioner still hadn't registered with that city three weeks after he left the center. (Record in the Court of Appeals, at 473-474).

On cross-examination, the Officer clarified that he had been on vacation in the period around April 27 to May 1. (Record in the Court of Appeals, at 477). It was during that time that Petitioner texted the Officer to say that he planned to leave the facility. (Record in the Court of Appeals, at 477-478). Cross-examination also established that the facility did require an employment pass for residents to go to work:

> Q. And you are aware that before a person can go out to work, they must sign out of the facility?
> A. I am.
> Q. You're also aware that when a person goes out to work, they must get an employment pass?
> A. Yes, I am.

(Record in the Court of Appeals, at 479). Finally, the Officer acknowledged on cross-examination that Texas law permits registrants seven days to register in a new location. (Record in the Court of Appeals, at 480).

The defense called Petitioner's Case Manager at the facility, who confirmed its system of employment passes. (Record in the Court of Appeals, at 484). He believed the facility logged the residents' meetings with employment specialists. (Record in the Court of Appeals, at 485).

The district court found all of the Petition's allegations true without exception. (Record in the Court of Appeals, at 493, 502-503). It imposed 13 months imprisonment and another round of supervised release. (Record in the Court of Appeals, at 502-503). The court offered the following commentary in explanation of its decision to revoke the term of release:

> Well, and I think the bottom line is you don't get to choose, as a supervised release defendant, where you want to live, and particularly when you are a sex offender. You don't just get to willy-nilly choose, and you really can't blame it on Officer Mabry because he decided to take a three-day vacation. I can imagine, like everybody else, he deserves to get a vacation every once in a while, but we can't have sex offenders running around making their own decisions as to where they want to live, particularly when they are under supervised release, and this has been a consistent problem with Mr. Damm.

(Record in the Court of Appeals, at 492).

B. Proceedings on Appeal

Petitioner appealed, raising two broad claims of error. He first contended that the district court plainly erred in admitting extensive hearsay, where no arguable good cause could be mustered for forgoing cross-examination. *See* Initial Brief in

United States v. Damm, No. 24-10944, 2024 WL 665804, at **10-21 (5th Cir. February 8, 2024)("Initial Brief"). This included evidence from the Probation Officer that Petitioner left his residence early, that he did not begin his job when he said he did, and that he failed to "deregister" in one location, nor register in his new location. *See* Initial Brief, at **12-14. Proof of these facts through out-of-court statements, he argued, contravened his rights under the due process clause and Federal Rule of Criminal Procedure 32.1, both of which require good cause to deny cross-examination. *See id.* at **10-21.He conceded that he failed to object in district court, but sought relief under Federal Rule of Criminal Procedure 52(b), the "plain error" rule. *See id.* at *10.

The court rejected this claim on the sole ground that he could not show plain error in the absence of an objection. *See* [Appx. A]; *United States v. Damm*, No. 23-10944, 2024 WL 3508050, at *1 (5th Cir. July 23, 2024)(unpublished). In its view, it is at least arguable that a district court's duty to assess good cause for hearsay arises only upon an objection to hearsay evidence. *See Damm*, 2024 WL 3508050, at *1. As such, the court below cannot use plain error review to vacate a revocation sentence for the erroneous admission of hearsay. *See id.* It said:

> A district court may deny the right of confrontation in a supervised-release proceeding for "good cause". To find "good cause", courts "must employ a balancing test which weighs the defendant's interest in the confrontation of a particular witness against the government's interest in the matter". The court did not determine whether "good cause" existed because Damm did not object. Because "it is neither clear nor obvious that a court is required to make [a good-cause] finding where the defendant makes no hearsay or confrontation objection", Damm does not show the requisite clear-or-obvious error.

Id. (quoting *United States v. Grandlund*, 71 F.3d 507, 510 (5th Cir. 1995), and *United States v. McDowell*, 973 F.3d 362, 365–66 (5th Cir. 2020)).

Petitioner also contended that the evidence actually introduced failed to establish the violations alleged in the Petition for Revocation, that some violations alleged in the Petition did not correspond to the Conditions actually imposed by the prior judgment, and that the evidence showed that compliance with one Condition was factually impossible. *See* Initial Brief, at **21-27. The court of appeals rejected these claims, finding that at least some valid grounds for revocation enjoyed sufficient record support. *See Damm*, 2024 WL 3508050, at *1-2.

REASONS FOR GRANTING THIS PETITION

The courts of appeals are in conflict on an important federal question: whether the erroneous admission of hearsay in a supervised release revocation can ever be remedied on plain error, or whether, as the court below held, the absence of objection necessarily defeats a showing of clear or obvious error in this context. The rule applied below invites miscarriages of justice, was the sole and explicit basis for decision in the court of appeals, and likely determined the outcome.

A. The courts of appeals are divided.

This Court held in *Morrissey v. Brewer*, 408 U.S. 471 (1972), that parolees carry a limited collection of due process rights into revocation proceedings, among them "the right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation)." *Morrissey*, 408 U.S. at 489. The federal circuits have since held that federal defendants on supervised release enjoy the same right in their own revocation proceedings. *See United States v. Lloyd,* 566 F.3d 341, 344–45 (3d Cir.2009); *United States v. Ferguson*, 752 F.3d 613, 616 (4th Cir. 2014); *United States v. McCormick*, 54 F.3d 214, 221 (5th Cir. 1995); *United States v. Pettigrew*, 4 F.3d 995 (6th Cir. 1993); *United States v. Mosley*, 759 F.3d 664, 667 (7th Cir. 2014); *United States v. Martin*, 984 F.2d 308, 310 (9th Cir.1993); *United States v. Jones*, 818 F.3d 1091, 1098 (10th Cir. 2016); *United States v. Frazier*, 26 F.3d 110, 114 (11th Cir. 1994). Federal Rule of Criminal Procedure 32.1(b)(2)(C) likewise provides supervised release revokees the right to "question any adverse witness unless the court determines that the interest of justice does not require the witness to appear."

Although appellate courts require an objection to preserve error in the ordinary case, Federal Rule of Criminal Procedure 52(b) provides an exception: "A plain error that affects substantial rights may be considered even though it was not brought to the court's attention." As construed by this Court, this Rule requires a showing of: 1) error, 2) that is clear or obvious, 3) that affects substantial rights, and 4) that affects the fairness, integrity, or public reputation of judicial proceedings. *United States v. Olano*, 507 U.S. 725, 732 (1993).

Notwithstanding Rule 52(b), the court below held that revokees may not obtain relief from the denial of cross-examination in the absence of an objection below. It reasoned that district courts might not need to determine whether good cause permits the admission of hearsay information in the absence of an objection. As such, the admission of hearsay cannot be plain in the court below absent objection, even if good cause is obviously lacking. This unenumerated per se restriction on the availability of plain error review follows a lengthy history of similar rules generated by the court below, each of which has been disapproved by this Court, sometimes unanimously. ***Compare*** *United States v. Blocker*, 612 F.3d 413 (5th Cir. 2010)(no plain Guideline error if defendant sentenced within correct Guideline range), ***with*** *Molina-Martinez v. United States*, 578 U.S. 189 (2016)(Guideline error generally affects the outcome, even defendant sentenced within correct range); ***compare*** *United States v. Jackson*, 549 F.3d 963, 977 (5th Cir. 2008)(defendant may not rely on decisions post-dating the sentencing to show plain error), ***with*** *Henderson v. United States*, 568 U.S. 266 (2013)(error may become plain on direct appeal); *see United States v. Rosales-Mireles*,

850 F.3d 246 (5th Cir. 2017)(no reversible plain error unless error shocks the conscience or constitutes a miscarriage of justice), *reversed* 585 U.S. 129 (2018); ***compare*** *United States v. Lopez*, 923 F.2d 47, 50 (5th Cir. 1991)(factual error can never be plain), ***with*** *Davis v. United States*, 589 U.S. 345 (2020)(factual error can be plain).

This time, the Fifth Circuit is joined in its view by the Eighth Circuit, which has likewise questioned whether district courts can ever err by failing to exclude hearsay in a revocation absent objection. *United States v. Burrage*, 951 F.3d 913, 915–16 (8th Cir. 2020)(holding that where defendant "gave the district court no opportunity to address the absence of live testimony[, t]he district court did not plainly err in failing to address that issue," and citing *United States v. Simms*, 757 F.3d 728, 732-33 (8th Cir. 2014), for the proposition that "district court was not obligated to apply the Bell balancing test because the defendant did not object to lack of live testimony").

But the view of the Fifth and Eighth Circuits conflicts directly with the practice of the Ninth and D.C. Circuits, both of which undertaken plain error review , and none of which have concluded that the admission of hearsay in a revocation cannot be plain because a district court may have no duty to consider good cause in the absence of an objection. *See United States v. Simmons*, 812 F.2d 561, 564–65 (9th Cir. 1987)(evaluating reliability of the challenged hearsay in order to determine whether its admission amounted to plain error); *United States v. Stanfield*, 360 F.3d 1346, 1360 (D.C. Cir. 2004)("We therefore review the admission of the bulk of the hearsay

evidence - all except the double hearsay - for plain error."). The Sixth Circuit, moreover, has expressly rejected the Fifth Circuit's reasoning below when offered to it by the government:

> Without citing any authority, the government asks us to completely bar Whitely's challenge due to his failure to object, thus allowing the government to sustain the revocation of his supervised release using the probation officer's unsworn testimony as support. Instead we review for plain error so that Whitely's failure to object below raises the bar for reversal, but does not waive the issue entirely.

United States v. Whitely, 356 F. App'x 839, 843 (6th Cir. 2009)(unpublished)(citing *United States v. Pluta*, 176 F.3d 43, 51 (2d Cir.1999), and *United States v. Talk*, 13 F.3d 369, 371 (10th Cir.1993)).

B. The conflict in authority merits review.

Particularly in light of the Sixth Circuit's treatment of the issue in *Whitely*, the conflict is clear, direct, and explicit. It involves multiple circuits on both side and is accordingly unlikely to resolve spontaneously.

Further, it is a matter of some importance. The rule applied in the court below carries an extraordinary risk of wrongful imprisonment, that is, imprisonment on the basis of factual error.

> "Cross-examination is the principal means by which the believability of a witness and the truth of his testimony are tested." Indeed, th[is] Court has recognized that cross-examination is the "greatest legal engine ever invented for the discovery of truth."

Kentucky v. Stincer, 482 U.S. 730, 736 (1987)(quoting *Davis v. Alaska*, 415 U.S. 308, 316 (1974), and *California v. Green*, 399 U.S. 149, 158, (1970), quoting 5 J. Wigmore, *Evidence* § 1367, p. 29 (3d ed. 1940)). And in the subset of cases where plain error

review would mean the difference between a new hearing and affirmance, the revokee would necessarily be able to show that the government had no cause to forego a live witness, that the absence of any good cause was not even arguable, and that the outcome would have been different had the hearsay been excluded. That subset is narrowed further by the fourth prong of plain error review, which requires a showing that the error affected the fairness, integrity, or public reputation of judicial proceedings. A case that meets all of these requirements is very likely to be one in which the revokee will suffer imprisonment on the basis of questionable information.

The rule applied below is incorrect. This Court has recognized a due process "right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation)." *Morrissey*, 408 U.S. at 489. Nothing about the formulation of this rule excuses hearsay in the absence of objection – cross-examination is the expectation rather than the exception. *Morriessey* implies a due process right to the exclusion of evidence if good cause is not actually present – it does not merely provide a right to a ruling by the judge. If the district court admits hearsay where good cause is clearly lacking, it has made "[a] 'deviation from a legal rule' [ ] that has not been intentionally relinquished or abandoned, i.e., affirmatively waived, by the Petitioner." *Puckett v. United States*, 556 U.S. 129, 135 (2009) (quoting *Olano*, 507 U.S. 725, 732–33 (1993)), which may be remedied through plain error review. The very point of Rule 52(b) is that the mere absence of an objection does not "intentionally relinquish[] or abandon[], i.e. affirmatively waive[]" the benefit of a legal rule. Were it otherwise, the Rule would have no effect.

C. The present case is an apt vehicle.

The government's case relied heavily on information beyond the personal knowledge of its witness, the Probation Officer: that Petitioner left his residential reentry center on May 1, 2023, (Record in the Court of Appeals, at 472, 474, 477), that Petitioner did not start his job at the beginning of May, (Record in the Court of Appeals, at 472-473), and that Petitioner neither deregistered in Hutchins upon leaving that city, nor made any effort to register in Fort Worth, the site of his new residence, (Record in the Court of Appeals, at 473-474). The last of these explicitly referenced phone calls made to these authorities, so there is again no question but that it repeated out-of-court statements. (Record in the Court of Appeals, at 473-474).

Yet no reasonable case could be made that the government had good cause to deny cross-examination in favor of hearsay. There is no evidence that any of the ultimate sources of information for these entirely mundane matters feared the defendant. They were local, not distant. And the information they provided was not, like scientific testimony, imbued with any special reliability such that cross-examination might be of only marginal utility. Petitioner could have easily satisfied the first and second prongs of plain error review – error, that is clear or obvious – had the court but applied it.

The error also likely would have satisfied the third prong of plain error review, affecting the outcome of the proceedings. Certainly, the government's evidence that Petitioner left his residential center affected the court's decision to impose the sentence it did. *See* (Record in the Court of Appeals, at 492, lines 10-20)(showing

court's concern with the residential violations). Likewise, the government's evidence that Petitioner failed to comply with his registration requirements directly supported – and was essential to -- the government's case as to multiple violations. (Record in the Court of Appeals, at 627). The government used this testimony to show that Petitioner lied when he said he deregistered in Hutchins, and to show that he did not register as required, the second paragraph in the Petition for Revocation. (Record in the Court of Appeals, at 473-474, 627).

The final prong of plain error review – an effect on the fairness, integrity, or public reputation of judicial proceedings – is necessarily less predictable, as it represents an open-ended and discretionary inquiry. Nonetheless, the error requires only another hearing, not a full-blown jury trial, which weighs in Petitioner's favor. *See Rosales-Mireles*, 585 U.S. at 143. In the court below, moreover, constitutional error is more readily corrected than other error. *See Lopez*, 923 F.2d at 50, *abrogated on other grounds by Davis, supra.* Here, the error sounds in due process. There is thus a very good chance that the application of plain error would produce a different outcome.

Finally, while it is true that Petitioner has completed his term of imprisonment, he has not discharged the sentence imposed on revocation – he has yet to begin his latest term of supervised release. This Court has recognized "[t]here can be no doubt that equitable considerations of great weight exist when an individual is incarcerated beyond the proper expiration of his prison term." *United States v. Johnson*, 529 U.S. 53, 60 (2000). Further, it has recognized when a defendant

has served an erroneously term of imprisonment, the district court may give him or her a remedy by modifying the conditions of release or ending the term of supervised release early. See Johnson, 529 U.S. at 60.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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October 8, 2024 / Originally Submitted

Date: February 6, 2025

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