

No. _____

IN THE SUPREME COURT
OF THE
UNITED STATES OF AMERICA

October Term, 2024

LEGARIUS DESHAWN BONNER,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

On Petition For Writ of Certiorari to the
United States Court of Appeals for the Fourth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

DOES THE COURT VIOLATE A DEFENDANT'S RIGHTS TO DUE PROCESS OF LAW WHEN IMPOSING A SENTENCE UPON REVOCATION OF SUPERVISED RELEASE, WHEN THE COURT EMPLOYS THE PROTECT ACT AND SENTENCES DEFENDANT TO A MAXIMUM TERM OF IMPRISONMENT BASED ON THE DANGEROUS NATURE OF ALLEGATIONS OF SUBSEQUENT CRIMINAL CONDUCT WHICH FORM THE BASIS FOR THE VIOLATION OF SUPERVISED RELEASE?

LIST OF PARTIES

All parties to this case appear in the caption of cases on the cover page.

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PETITION FOR WRIT OF CERTIORARI

The petitioner, Legarius Deshawn Bonner, respectfully requests that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fourth Circuit issued on February 25, 2025, affirming the revocation of petitioner's supervised release and the imposition of a maximum term of two years of imprisonment employing the Protect Act.

OPINION BELOW

Petitioner's revocation of his supervised release and sentence was affirmed by a Panel of the United States Court of Appeals for the Fourth Circuit in an unpublished decision, a copy of which appears as Appendix A.

JURISDICTION

This petition is filed within 90 days of the denial of his relief by the Fourth Circuit Court of Appeals. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1254.

CONSTITUTIONAL PROVISION INVOLVED

The Fifth Amendment to the United States Constitution provides in pertinent part:

...nor shall any person be subject for the same offense 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....

STATEMENT OF THE CASE

On March 22, 2019, the petitioner was convicted of the offense of possession of a firearm by a felon in the Middle District of North Carolina. He received an active term of imprisonment of 37 months to be followed by a term of 3 years of supervised release. On March 11, 2022, petitioner was found to have violated the terms of his supervised release and it was revoked. He was committed to the custody of the

Bureau of Prisons for a term of 8 months. An additional term of supervised release was imposed for a term of 26 months under the same terms and conditions as had been previously imposed.

On February 22, 2024, a Petition alleging the petitioner had violated his 2nd term of supervised release was filed alleging four separate violations. A hearing before the District Court Judge was convened on August 21, 2024. At the commencement of the hearing, it was announced that the Government was only proceeding on the allegations of violations numbers 2 and 3. The violations alleged two subsequent offenses involving state charges of possession of a firearm by a felon and multiple counts of discharging a weapon into occupied property.

The Court found petitioner had violated the terms of his supervised release and revoked his supervised release. With respect to an appropriate sentence, the petitioner's probation officer recommended that the Court apply the pre-Protect Act aggregation rule and that he be sentenced to an active term of imprisonment of 16 months. The probation officer advised the Court in his report that it is the "policy established by the Judicial Conference of the United States, which recommends that the pre-Protect Act Aggregation Rule be extended to Protect Act offenders." The Court instead imposed the Protect Act statutory maximum of 24 months imprisonment. When explaining his reasoning for doing so, the Court emphasized the dangerous nature of the allegations of subsequent criminal conduct which formed the basis for the violations of petitioner's supervised release.

REASONS FOR GRANTING THE WRIT

Certiorari should be granted because the decision of the decision of the United States Court of Appeals for the Fourth Circuit has decided an important question of constitutional law that has not been, but should be, decided by this Court. Specifically, in *Johnson v. United States*, 529 U.S. 694 (2003), this Court took up the question of punishment subsequent to a revocation of supervised release. This Court held that while violations of supervised release may be criminal in their own right and may be the basis for a separate prosecution, the violations of supervised release should be treated as a penalty for the initial offense thereby avoiding double jeopardy issues.

Contrary to the *Johnson* rule, the District Court found that Mr. Bonner should be punished for new criminal conduct, possession of a firearm by a felon and discharging a weapon into occupied property. According to §3583(e), in devising a revocation sentence the District Court is not authorized to consider whether the revocation sentence “reflect[s] the seriousness of the offense, ...promote[s] respect for the law, and...provide[s] just punishment for the offense,” § 3553 (a) (2)(A), or whether there are other “kinds of sentences available,” § 3553(a)(3). *United States v. Crudup*, 461 F.3d 433, 438-39 (4th Cir. 2006).

By using this reasoning to impose the maximum revocation sentence, the District Court denied Mr. Bonner important due process rights that otherwise attach

prior to punishment for a subsequent conviction. The rights afforded a defendant at a revocation hearing do not reach the breadth of the protections provided to an indicted criminal defendant by the guarantees of due process. For example, a revocation defendant is not ever allowed a jury trial. A defendant's rights to question adverse witnesses and challenge hearsay evidence are not protected in a revocation hearing. Upon revocation, the government may discharge its burden of proof by only a preponderance of the evidence standard. The District Court' sentence does not reflect the usual Constitutional criminal safeguards in a criminal case. Additionally, the District Court did not consider that a sentence of sixteen months under the pre-PROTECT Act aggregation rule would have been sufficient but not greater than necessary.

The primary rationale for supervision is to reintroduce a defendant into mainstream society. Consistent with this objective, any further imprisonment must be infrequent and moderate. Chapter 7 of the Federal Sentencing Guidelines provides that District Courts should focus on the defendant's "failure to follow the court-imposed conditions of ...supervised release as a "breach of trust" when imposing revocation sentences. Guidelines Manual, ch. 7., pt. A, introductory cmt. 3(b). "[I]mposition of an appropriate punishment for any new criminal conduct [is] not ...the primary goal of a revocation sentence. Instead, the sentence imposed upon revocation [is] intended to sanction the violator for failing to abide by the conditions of the court-ordered supervision." *Id. United States v. Crudup*, 461 F.3d 433, 438-39

(4th Cir. 2006). The maximum revocation sentence in Mr. Bonner's case, based on the District Court's reasoning, does not comport with the guidance of Chapter 7 or the Judicial Council's recommendation with respect to pre-PROTECT Act aggregation rules. The supervised release system is not the proper vehicle for the imposition of heavy punishments for new offenses. If Mr. Bonner had been indicted, he would have been afforded all of the protections of a criminal defendant under the Constitution.

Supervision is a method of transition, rather than a method of further punishment not otherwise allowed under the original offense statute. The maximum revocation sentence denied Mr. Bonner the Constitutional safeguards used to guard against the wrongful imposition of further punishment for new offenses. The District Court's explanation for the sentence demonstrates how the due process protections offered by the adversarial criminal justice system can be circumvented.

CONCLUSION

For the reasons set forth above, Petitioner requests this Court to grant a writ of certiorari to review the United States Court of Appeals for the Fourth Circuit judgment below to answer this important constitutional question.

This the 13th day of May 2025.

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APPENDIX A:

Unpublished Decision of the United States Court of Appeals for
the Fourth Circuit

UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 24-4490

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LEGARIUS DESHAWN BONNER,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Thomas D. Schroeder, District Judge. (1:18-cr-00304-TDS-1)

Submitted: February 20, 2025

Decided: February 25, 2025

Before AGEE, HARRIS, and RUSHING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

ON BRIEF: John D. Bryson, WYATT, EARLY, HARRIS & WHEELER, LLP, High Point, North Carolina, for Appellant. Randall S. Galyon, Acting United States Attorney, Julie C. Niemeier, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Legarius Deshawn Bonner pleaded guilty to possession of a firearm by a felon, in violation of 18 U.S.C. § 922(g)(1). In 2019, the district court sentenced Bonner to 37 months' imprisonment followed by three years of supervised release. In 2024, the district court revoked Bonner's supervised release and sentenced him to 24 months' imprisonment. On appeal, Bonner argues that the upward-variant revocation sentence is plainly unreasonable. We affirm.

“A district court has broad discretion when imposing a sentence upon revocation of supervised release. [We] will affirm a revocation sentence if it is within the statutory maximum and is not plainly unreasonable.” *United States v. Patterson*, 957 F.3d 426, 436 (4th Cir. 2020). Before deciding “whether a revocation sentence is plainly unreasonable, [we] must first determine whether the sentence is procedurally or substantively unreasonable,” *id.*, applying “the same procedural and substantive considerations that guide our review of original sentences” but taking “a more deferential appellate posture than we do when reviewing original sentences,” *United States v. Padgett*, 788 F.3d 370, 373 (4th Cir. 2015) (internal quotation marks and brackets omitted). “[I]f a sentence is either procedurally or substantively unreasonable,” we then address “whether the sentence is plainly unreasonable—that is, whether the unreasonableness is clear or obvious.” *Patterson*, 957 F.3d at 437 (internal quotation marks omitted).

“A revocation sentence is procedurally reasonable if the district court adequately explains the chosen sentence after considering the Sentencing Guidelines’ nonbinding Chapter Seven policy statements and the applicable 18 U.S.C. § 3553(a) factors.” *United*

States v. Coston, 964 F.3d 289, 297 (4th Cir. 2020) (internal quotation marks omitted); *see 18 U.S.C. § 3583(e)* (listing applicable factors). “[A]lthough the court need not be as detailed or specific when imposing a revocation sentence as it must be when imposing a post-conviction sentence, it still must provide a statement of reasons for the sentence imposed.” *United States v. Slappy*, 872 F.3d 202, 208 (4th Cir. 2017) (internal quotation marks and ellipsis omitted). The district court must, at a minimum, explain the sentence sufficiently to permit meaningful appellate review, “with the assurance that the court considered any potentially meritorious arguments raised by [the defendant] with regard to his sentencing.” *United States v. Gibbs*, 897 F.3d 199, 205 (4th Cir. 2018) (internal quotation marks, emphasis, and brackets omitted). And where, as here, a court imposes a sentence above the policy statement range, the court must explain why that sentence “better serves the relevant sentencing [factors].” *Slappy*, 872 F.3d at 209 (internal quotation marks omitted). “A revocation sentence is substantively reasonable if, in light of the totality of the circumstances, the court states an appropriate basis for concluding that the defendant should receive the sentence imposed.” *Coston*, 964 F.3d at 297 (internal quotation marks omitted).

Here, the district court sufficiently explained its reasons for imposing the upward-variant, statutory maximum 24-month revocation sentence. The court considered the relevant statutory factors, imposed a sentence within the statutory maximum, gave sufficiently detailed reasons for its decision, and addressed Bonner’s arguments for a lower sentence. We discern no error in the court’s consideration of the relevant sentencing

factors. Accordingly, we conclude that the 24-month sentence is reasonable. We therefore affirm the revocation judgment.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED