

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JARRED ADAMS,

Petitioner,

-v-

UNITED STATES OF AMERICA,

Respondent

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether sentence length is the exclusive means to determine if a subsequent sentence is more severe for vindictive sentencing analysis?

PARTIES

Jarred Adams is the Petitioner; he was the defendant-appellant below. The United States of America is the respondent; it was the plaintiff-appellee below.

Pursuant to Rule 12(6) Petitioner provides notice that Charles Cox was a party to the proceedings below, but Petitioner believes he has no interest in the outcome of this petition.

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PETITION FOR A WRIT OF CERTIORIARI

Petitioner, Jarred Adams, respectfully petitions for a writ of *certiorari* to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINIONS BELOW

The judgment in the district court was entered on January 18, 2024, which is attached as Appendix 1. The unpublished opinion of the United States Court of Appeals for the Fifth Circuit is captioned as *United States v. Adams*, No. 24-20028, 2025 U.S.App. LEXIS 3793, 2025 WL 548259 (5th Cir. 2025), and is provided as Appendix 8.

JURISDICTIONAL STATEMENT

On February 19, 2025, the judgment was affirmed. The instant Petition is filed within 90 days of entry of the Judgment. *See* Sup. Ct. Rule 13.1 and 13.3. This Court's jurisdiction to grant *certiorari* is invoked under 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

A. Procedural History and Disposition Below.

Jarred Adams, Defendant-Petitioner (“Adams”), was charged in an Indictment on June 24, 2021, in Counts 1 and 3 of the offense of Aiding and Abetting Interference with Commerce by Robbery in violation of 18 U.S.C. § 1951(a), and § 2; in Count 2 with Aiding and Abetting Discharge of a Firearm During and in Relation to a Crime of Violence in violation of 18 U.S.C. 924(c)(1)(A)(ii)(iii) and 2; and in Count 4 of Aiding and Abetting Brandishing of a Firearm During and in Relation to a Crime of Violence in violation of 18 U.S.C. 924(c)(1)(A)(i)(ii) and 2. ROA.16-20. He pleaded guilty to the Indictment before the Honorable David Hittner, Senior United States District Judge for the Southern District of Texas, Houston Division, on May 24, 2022, without a plea agreement. ROA.182, 188, 293.

On November 18, 2022, Adams was sentenced within the calculated guidelines range to: an aggregate term of term of confinement of two hundred eighty-one (281) months confinement consisting of seventy-seven (77) months concurrent as to Counts 1 and 3, followed by a consecutive term of one hundred twenty (120) as to Count 2, followed by a consecutive term of eighty-four (84) months as to Count 4, followed by a three year term of supervised release; \$400.00 in total special assessments; and \$500.19 in restitution. ROA.55-61, 78-85. Timely notice of appeal was given from both the judgment and amended judgment. ROA.62-63, 86-87.

On the first direct appeal, the United States Court of Appeals for the Fifth Circuit vacated the sentence and remanded it for re-sentencing. ROA.100.

On December 21, 2023, Adams was re-sentenced within the re-calculated guidelines range to: an aggregate term of term of confinement of two hundred seventy-five (275) months confinement consisting of seventy-one (71) months concurrent as to Counts 1 and 3, followed by a consecutive term of one hundred twenty (120) as to Count 2, followed by a consecutive term of

eighty-four (84) months as to Count 4, followed by a three year term of supervised release; \$400.00 in total special assessments; and \$500.19 in restitution. ROA.112-116. Timely notice of appeal was given from the amended judgment. ROA.119-120.

B. Statement of Facts

On April 13, 2021, Adams and Co-Defendant Charles Cox robbed a Dollar Tree store in Houston, Texas. During the robbery, Adams shot one of the clerks, J.F., with a pistol as the clerks attempted to open the register. ROA.329. The following day, April 14, 2021, Adams and Cox robbed a different Dollar Tree location. ROA.330. A firearm was also pointed at the cashier in that robbery, who opened the register and gave them money. ROA.330. Adams and Cox fled but were arrested shortly afterwards at a nearby gas station and confessed. ROA.329-330. In his confession, Adams confessed to all three robberies including being the shooter in the first. ROA.329-330, ROA.334-335.

On June 24, 2021, Adams was indicted. ROA.16-20. On August 18, 2022, Adams pleaded guilty to the Indictment without a plea agreement. ROA.182-183, 328. A pre-sentence investigation report (“PSIR”) was disclosed on September 14, 2022, to which Adams objected. ROA.262, 287-289. An addendum and final PSIR were filed on November 15, 2022. ROA.290-320. The resulting guidelines range was an offense level of 24 and criminal history category IV, which for the Counts 1 and 3 robberies was 77 to 96 months. ROA. ROA.299, 304, 308. Counts 2 and 4’s statutory mandatory minimums were 120 and 84 months, respectively, which became their guidelines ranges. ROA.308. The aggregate guidelines range was 281 to 300 months. ROA.308, 319.

At the first sentencing hearing, the district court adopted the final PSIR and addendum. ROA.201. The prosecution asked for a sentence of 281 months, the bottom of the range calculated

in the PSIR. ROA.206-207. The district court followed this request and sentenced Adams to an aggregate term of confinement of 281 months, consisting of 77 months concurrent as to each of the Hobbs Act robberies (Counts 1 and 3), followed by a consecutive term of 120 months as to the § 924(c) discharge count (Count 2), followed by a consecutive term of 84 months as to the § 924(c) brandishing count (Count 4); followed by a three year term of supervised release; \$400.00 in total special assessments; and \$500.19 in restitution, jointly and severally with his Co-Defendant. ROA.63-69, 86-92, 321-322. Adams timely gave notice of appeal. ROA.70-71, 94-95.

In a single issue on appeal, Adams argued that “the district court’s application of a six level permanent or life-threatening bodily injury enhancement was reversible error because the Government did not sufficiently prove the requisite degree of bodily injury.” ROA.104. The Fifth Circuit agreed, vacated, and remanded the sentences consistent with its opinion. ROA.106; *United States v. Cox*, 2023 U.S.App.LEXIS 25072, No. 22-6036 (5th Cir. Sep. 21, 2023).

On remand, the Government filed a sentencing memorandum on November 9, 2023, arguing that the clerk’s injury was life threatening and for an upward departure to the same sentence. ROA.350, 432-434. Adams responded in writing that the Government’s request would be more severe because the prosecution had originally requested a sentence at the “low end” of the guidelines, which the Court followed, and that had the guidelines been calculated correctly, a bottom of the guidelines sentence would have been lower. ROA.435-437. A revised PSIR and Second Addendum were disclosed on November 16, 2023. ROA.325-351. The Government subsequently filed “Government’s Supplemental Sentencing Memorandum,” to which Defendant filed a written objection. ROA.439-457.

A re-sentencing hearing before the same district court judge was held on December 21, 2023. ROA.213. The advisory guidelines range for counts 1 and 3 was determined to be offense

level 23, criminal history category III, which was 57-71 months. The ranges for Counts 2 and 4, were their respective statutory mandatory minimums of ten (120 months) and seven years (84 months) to be served consecutively, for an aggregate range of 261 to 275 months. ROA.343-344, 255-256.

Adams requested a sentence no greater than the bottom of the recalculated guidelines range, 261 months, arguing that a greater sentence would be more severe for Appellant without any additional considerations. ROA.255. The Government sought an aggregate sentence of 275 months, which the district court ultimately imposed without any explanation for the additional severity. ROA.114, 114. Adams objected to vindictiveness— that his new sentence was more severe than the sentence originally imposed. ROA.260. An Amended Judgment was entered on January 4, 2024. ROA.112-118. Notice of Appeal was timely given. ROA.119.

C. Proceedings in the Fifth Circuit

In his sole point of error to the Fifth Circuit, Adams claimed that “Appellant’s Due Process Rights were Violated by Vindictive Sentencing after a Successful Appeal.” Appendix at A_____. Adams argued that because the district court judge sentenced Adams at the high end of the recalculated guidelines range, whereas prior to reversal the same judge sentenced Adams at the low end of the calculated guidelines range, the sentence was more severe and the presumption of vindictiveness applied.

The Fifth Circuit disagreed, holding that “[w]here, as here, the defendant’s sentence is based on multiple related counts, we use the aggregate package approach to “compare the total original sentence to the total sentence after resentencing.” *United States v. Campbell*, 106 F.3d 64, 68 (5th Cir. 1997). Because Adams’s aggregate sentence at resentencing was not greater than the

aggregate original sentence, the *Pearce* presumption of vindictiveness is not applicable. *See id.* at 68-69.” AP____.

BASIS OF FEDERAL JURISDICTION
IN THE UNITED STATES DISTRICT COURT

This case was brought as a federal criminal prosecution involving Aiding and Abetting Interference with Commerce by Robbery in violation of 18 U.S.C. § 1951(a), and § 2; in Count 2 with Aiding and Abetting Brandishing and Discharge of a Firearm During and in Relation to a Crime of Violence in violation of 18 U.S.C. 924(c)(1)(A)(i),(ii),(iii) and 2. The district court therefore had jurisdiction pursuant to 18 U.S.C. § 3231.

REASONS FOR GRANTING THE WRIT

The decision below inappropriately limits this Court’s precedent regarding vindictive sentencing to sentence length

In *North Carolina v. Pearce*, 395 U.S. 711, 725, 89 S.Ct. 2072, 23 Led.2d 656 (1969), this Court held that “[d]ue process of law, then, requires that vindictiveness against a defendant for having successfully attacked his first conviction must play no part in the sentence he receives after a new trial.” *Pearce* announced requirements for an explanation, or, a presumption of vindictiveness, “whenever a judge imposes a more severe sentence” *Id.* It did not, however, hold that a determination of “a more severe sentence” was confined to the length of time of the sentence.

The Fifth Circuit has impliedly decided an important question of federal law that has not been, but should be, settled by this Court. It is important because clarification is necessary for all federal criminal Defendants who are re-sentenced upon remand within an applicable guidelines range to receive due process. The Fifth Circuit correctly states that “a presumption of vindictiveness when a defendant receives a harsher sentence on resentencing by the same judge who imposed the original sentence.” AP ____ (internal citations omitted). However, this Court has never limited a severity analysis to sentence length, alone, in vindictive sentencing claims.

A. This decision improperly narrows this Court’s ruling in *North Carolina v. Pearce*

If in *Pearce* and its progeny, this Court had meant to restrict the presumption of vindictiveness to sentences that are “longer” than the original sentence, it would have said so. Of course, this Court has *never* made that holding because there are other components to punishment beyond the mere number of months of imprisonment. The Fifth Circuit’s ruling fails to account for even the most obvious of these, after sentence length, i.e. fine, forfeiture, the length or other terms and conditions of supervised release. *See* 18 U.S.C. §§ 982, 3571, and 3583(d). A Court of Appeals must review more than the bare number of months of imprisonment to evaluate

whether a new sentence is “harsher” or “more severe” than the original to evaluate a claim of vindictive sentencing.

B. There is insufficient guidance for the courts of appeals.

Two other circuits appear to have rejected a similar argument similar to that made by Petitioner in the Fifth Circuit for similar reasons. *United States v. Arrington*, 255 F.3d 637, 639 (8th Cir. 2001), *cert. denied*, 534 U.S. 1049, 151 L. Ed. 2d 554, 122 S. Ct. 634 (2001). *United States v. Garcia-Morena*, 214 Fed. Appx. 134, 138 (3rd Cir. 2007) (unpublished opinion). However, neither case held sentence length is the *exclusive* means of judging severity in the context of vindictive sentencing. None of the three Circuits (3rd, 5th, and 8th) have looked at a second sentence deeper than determining whether the second sentence is *longer* than the first. Because in these cases, it was not, they held it was not more severe.

C. This Court should resolve this question through this case

This issue merits the Court’s attention through this case for a variety of reasons. First, the holding unjustifiably limits this Court’s previous rulings by restricting the interpretation of severity or harshness to only sentence length. This is unreasonable given the statutory importance placed upon the United States Sentencing Guidelines. 18 U.S.C. § 3553(a)(4). The high and low ends of applicable guidelines ranges may differ by many years. Therefore, the relative placement of a sentence within the advisory range reflects severity. Second, judges know that they are unlikely to be reversed for imposing a sentence within a correctly calculated range. Therefore, if upon remand, a Defendant such as Petitioner, is eligible for a lower guidelines sentence (as he received before), but instead receives a relatively higher sentence within the calculated range, the Court will evade review although it appears it was unwilling to consider the full range of punishment.

Third, this is an important issue that confronts all federal criminal Defendants who are re-

sentenced upon reversal and remand. Absent guidance, Defendants and Courts will be left to their own different interpretations of what constitutes more severe or harsh sentencing other than sentence length. This case is an ideal vehicle to provide clarity that sentence length is not the exclusive measure of severity. This Court may reverse and remand for further proceedings.

If, however, the Court wishes to look deeper, Petitioner would be entitled to relief. Reversal would result in a favorable outcome for Petitioner, specifically a lower sentence. Only the Fifth Circuit's limitation of severity analysis to sentence length precluded a presumption of vindictive sentencing. Because the district court did not explain its more severe sentence at all, the case would have been reversed and remanded. This Court should grant relief to provide guidance to the many defendants whose sentences are reversed and resentenced each year and courts on this important question of federal law. This Court should grant *certiorari*.

CONCLUSION

For the foregoing reasons, Petitioner asks that this Honorable Court grant a writ of certiorari to the United States Court of Appeals for the Fifth Circuit.

Respectfully submitted this 15th day of May, 2025.

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