

No. \_\_\_\_\_

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**SUPREME COURT OF THE UNITED STATES**

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**DONTERRIAN M. LAVENDER,  
Petitioner,**

**VERSUS**

**UNITED STATES OF AMERICA,  
Respondent**

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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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**PETITION FOR A WRIT OF CERTIORARI**

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Respectfully Submitted,

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**ATTORNEY FOR PETITIONER**

## **QUESTIONS PRESENTED FOR REVIEW**

Whether Lavender's sentence is substantively unreasonable.

## **CERTIFICATE OF INTERESTED PERSONS**

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

### **District Court:**

Honorable Terry A. Doughty  
United States District Judge,  
Western District of Louisiana  
201 Jackson Street, Suite 215  
Monroe, LA 71201

### **United States Fifth Circuit:**

Honorable Barksdale, Stewart and Ramirez  
United States Court of Appeals, Fifth Circuit  
600 S. Maestri Place  
New Orleans, LA 70130

### **Defendant – Appellant:**

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**SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI**

**PETITION FOR WRIT OF CERTIORARI**

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINION BELOW**

The Opinion of the United States Court of Appeals for the Fifth Circuit is set forth at *Appendix A*. The Opinion was not designated for publication.

**JURISDICTION**

On March 11, 2025, the United States Court of Appeals for the Fifth Circuit issued its Opinion affirming the District Court's Judgment. *Appx. A*.

No Petition for Rehearing was filed.

This Court has jurisdiction pursuant to *28 U.S.C. §1254(1)*.

The Petition for Writ of Certiorari is due by June 9, 2025.

**CONSTITUTIONAL AND  
STATUTORY PROVISIONS INVOLVED**

This issue presented in this Writ involves whether Lavender's criminal sentence is unreasonably excessive. Specifically, whether the *18 U.S.C. §3553(a)* sentencing factors warrant a lesser sentence.

## **STATEMENT OF THE CASE**

### **A. Brief overview of the case:**

On February 8, 2023, Donterrian M. Lavender was charged by Superseding Indictment with Conspiracy to Possess with Intent to Distribute Methamphetamine and Distribution of Methamphetamine. As will be evident, Lavender played a relatively minor role in a larger drug conspiracy.

On March 4, 2024, pursuant to a written Plea Agreement, Lavender pleaded guilty to Conspiracy to Possess with Intent to Distribute Methamphetamine. The charge carries a statutory term of imprisonment of not more than twenty years.

On July 10, 2024, the Honorable Trial Court sentenced Lavender to 210 months incarceration, with three-years supervised release.

Lavender appealed the sentence arguing, *inter alia*, it was unreasonably excessive, and, on March 11, 2025, the Court of Appeals affirmed the sentence.

Lavender respectfully petitions this Court for a writ of certiorari to review the Judgment of the Fifth Circuit Court of Appeals and ultimately hold that the sentence is unreasonably excessive.

### **B. Brief Overview of Lavender's Role in the Conspiracy:**

On October 28, 2021, law enforcement agents purchased eight ounces of methamphetamine from Laneython Ignont (Defendant No.1). Lavender was a passenger in Laneython's car and handed the narcotics to the confidential

informant. Laneython was the target of the investigation, provided the drugs and received the money.

On November 5, 2021, law enforcement agents purchased four ounces of methamphetamine from Laneython. Lavender was a passenger in Laneython's car but was not involved with the drugs or money. Laneython was the target of the investigation, provided the drugs and received the money.

On June 30, 2022, Lavender sold one ounce of methamphetamine to a confidential informant.

On December 7, 2022, Lavender, Laneython and another individual were detained at the Dallas/Fort Worth airport. \$53,247.00 was found in Lavender's luggage.

On February 28, 2023, Lavender was arrested at his home and the following items were seized: lawfully registered 9 mm handgun, 31.9 grams of marijuana, plastic wrappers and two digital scales.

### **C. Pre-Sentence Report:**

The Pre-Sentence Report held Lavender accountable for the three controlled buys mentioned above (10/28/2021, 11/05/2021 & 06/30/2022) totaling 356.71 grams of actual methamphetamine and 31.9 grams of marijuana found in his home. For guideline purposes, the converted drug weight is 7,134.23 kilograms.

The Pre-Sentence Report **also** held Lavender accountable for the narcotics

found in a search of Laneython's home, which totaled 8,772.45 grams of actual methamphetamine, 2,199.71 grams of heroin and 32 grams of marijuana. For guideline purposes, the converted drug weight is 194,463 kilograms<sup>1</sup>. There is no evidence Lavender had any knowledge or involvement with these drugs.

With the inclusion of Laneython's drugs, the Pre-Sentence Report held Lavender accountable for 9,129.16 grams of actual methamphetamine, 63.9 grams of marijuana and 2,199.71 grams of heroin, totaling 184,782.97 kilograms in converted drug weight.

| <b>Drug:</b>    | <b>Lavender:</b> | <b>Laneython:</b> | <b>Total:</b>  |
|-----------------|------------------|-------------------|----------------|
| Methamphetamine | 356.71 grams     | 8,772.45 grams    | 9,129.16 grams |
| Marijuana       | 31.9 grams       | 34 grams          | 65.9 grams     |
| Heroin          | 0                | 2,199.71 grams    | 2,199.71 grams |
| Total Converted | 7,134.23 kg      | 177,648.74 kg     | 184,782.97 kg  |

The combined drug weight resulted in a base offense level of 38 which is the highest level under the drug quantity table. Two points were added for the handgun found at his residence and three points were deducted for acceptance of responsibility, resulting in a total offense level of 37.

Lavender has one criminal history point from a possession of drug paraphernalia conviction.

Based upon a total offense level of 37 and a criminal history category of I, Lavender's guideline range was 210 to 262 months.

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<sup>1</sup> As shown in the next paragraph, the total converted drug weight is actually 184,782.92 kg.

Lavender originally objected to the base level offense of 38 because it was based primarily on Laneython's drugs. However, the objection was withdrawn, and a Request for Downward Variance was submitted instead. The Trial Court denied the variance request.

Lavender objected to the gun enhancement because it was not used in the conspiracy. The Trial Court overruled the objection.

**D. Sentencing:**

On July 10, 2024, the Trial Court adopted the findings of the Pre-Sentence Report and sentenced Lavender to 210 months incarceration and three years' supervised release. The Court stated the sentence was selected after considering the factors listed in *18 U.S.C. §3553(a)*.

## **REASONS FOR GRANTING THE WRIT**

To provide clarity, guidance, and consistency for the lower courts' implementation of the *18 U.S.C. §3553(a)* sentencing factors, and to provide Lavender with a sentence which complies with the parsimony clause of the *18 U.S.C. §3553(a)*.

## **SUMMARY OF THE ARGUMENT**

Lavender submits his sentence is substantively unreasonable. The evidence shows he was a low-level participant in a larger conspiracy, taking directions from the main culprit, Laneython Ignont. The total drug weight directly attributable to him was 356.71 grams of actual meth and a recreational amount of marijuana. Lavender has no significant criminal history, yet he was sentenced to 17.5 years in prison. If the sentencing goals were designed to "provide just punishment for the offense", Lavender's sentence must be shortened.

While his actions cannot be condoned, punishment should be based on the underlying conduct and not a formulaic, generic set of guidelines. 210 months of incarceration for his role in the conspiracy is substantively unreasonable because it is greater than necessary to affect the purposes of sentencing. The parsimony clause of *18 U.S.C. §3553(a)* directs sentencing courts to "impose a sentence sufficient, but not greater than necessary, to comply with the specific purposes" of subsection (2). [Emphasis added]. Lavender's sentence violates the parsimony

limitation and is unreasonably excessive because it overstates the severity of the offense.

For the reasons contained herein, Lavender respectfully prays that his sentence be vacated, and the matter remanded for a new sentence.

## **ARGUMENT**

### **I. Lavender's sentence is substantively unreasonable.**

#### **A. Standard of Review:**

A sentence is reviewed for reasonableness under an abuse-of-discretion standard. *Gall v. United States*, 552 U.S. 38, 51 (2007). The court must ensure that the district court did not procedurally err by "failing to consider the [18 U.S.C.] § 3553(a) factors" or "selecting a sentence based on clearly erroneous facts." *Id.* If the sentence is procedurally sound, the court then reviews the substantive reasonableness of the sentence. *Id.* Substantive reasonableness "depends on 'the totality of the circumstances, including the extent of any variance from the Guidelines range.'" *United States v. Rhine*, 637 F.3d 525 (5<sup>th</sup> Cir. 2011)(quoting *Gall*, 552 U.S. at 51).

A presumption of reasonableness applies to a sentence imposed within a properly calculated guidelines range. *United States v. Campos-Maldonado*, 531 F.3d 337, 338 (5<sup>th</sup> Cir. 2008). "The presumption is rebutted only upon a showing that the sentence does not account for a factor that should receive significant weight, it gives

significant weight to an irrelevant or improper factor, or it represents a clear error of judgment in balancing sentencing factors." *United States v. Cooks*, 589 F.3d 173, 186 (5th Cir. 2009); *United States v. Leschyshyn* 705 F. App'x 340 (5th Cir. 2017).

**B. Lavender's sentence is substantively unreasonable.**

Lavender was a low-level participant in a larger drug conspiracy. His criminal record is negligible and there are no aggravating factors in his case. The great majority of his sentence is based on a co-defendant's drugs for which he knew nothing about. Lavender is being punished for crimes he did not commit and for things he did not do. As his mother aptly stated after the sentencing: "I thought the judge had the wrong file." **Her son was caught with 356.71 grams of meth and was sentenced for 184,782,970 grams of converted drugs.** Based on the true facts of his case, it was reversible error for the trial court not to grant the Request for Downward Departure.

A review of the *18 U.S.C. §3553(a)* sentencing factors clearly show the sentence is excessive.

**The nature and circumstances of the offense and the history and characteristics of the defendant. §3553(a)(1)**

The nature and circumstances of the offense show Lavender was a small-time participant in a larger drug conspiracy. His involvement was limited to the direct sale of one controlled buy and riding passenger in two other controlled buys. Based

solely on these facts, Lavender's guideline range would have been 108-135. (Offense level of 32, +2 gun enhancement, -3 acceptance of responsibility, and criminal history of I). However, after Laneython's drugs were included, Lavender's guideline range **doubled** to 210-262. (Offense level of 38, +2 gun enhancement, -3 acceptance of responsibility, and criminal history of I). **Unless relief is granted, the second half of Lavender's sentence will be served as punishment for Laneython's drugs.** The nature and circumstances of Lavender's offense warrant a lesser sentence.

The history and characteristics of the defendant weigh heavily in favor of a lesser sentence. By all accounts, Lavender was a hardworking, law-abiding, productive member of society with no significant criminal history. After dropping out of high school in eleventh grade, he worked multiple jobs and maintained steady employment until his arrest. His only criminal history point is for possession of drug paraphernalia. Prior to his arrest on the instant offense, he had never been to jail.

Courts have varied under §3553(a)(1) based on a defendant's history and characteristics, including the defendant's criminal history and various personal characteristics. Courts also have varied upward or downward from the guideline range to reflect the nature of the offense.

The nature and circumstances of the offense and the history and characteristics of the defendant weigh heavily in favor of a lesser sentence.

**The need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense. §3553(a)(2)(A)**

Courts have varied under §3553(a)(2) based on the need to protect the public from further crimes of the defendant by, for example, varying downward where the defendant could be deterred from future crimes through means other than imprisonment. In addition, courts have varied both upward and downward to provide just punishment for the offense or reflect its seriousness.

Lavender is thirty years old and has never been in serious trouble before in his life. He is now serving 17.5 years as a first-time, non-violent, drug offender. His crime was a serious offense, but not one warranting such an excessive sentence.

“Just” is defined as morally upright, good or fair. “Just punishment for the offense” must equate the crime to the punishment. Anything more is simply punitive with no corresponding benefit.

**The need for the sentence imposed to afford adequate deterrence to criminal conduct. §3553(a)(2)(B)**

With a 210-month sentence, Lavender will spend approximately the next fifteen years in prison. His children will grow up, family members will die off, friends will move on, all while he is housed away in some remote correctional facility. Certainly, this sentencing goal can be achieved without resort to such a draconian sentence. Lavender’s illegal conduct can be addressed and discouraged by far less means than a sentence of 17.5 years. Lavender has learned his lesson regardless of the sentence.

**The need for the sentence imposed to protect the public from further crimes of the defendant. §3553(a)(2)(C)**

The public does not need protection from Lavender. He participated in the conspiracy mainly at the direction of a co-defendant. He has no record, no history of violence or use of weapons. He has a strong work history and family support. The instant offense is more of an anomaly than a pattern. Lavender is not a repeat offender or a threat to society, and there is no justification for such a lengthy sentence.

**The need for the sentence imposed to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner. §3553(a)(2)(D)**

Lavender does not need vocational training, medical care or other correctional treatment. Prior to the instant offense, he maintained steady employment with no criminal activity. He has shown himself to be a productive member of society and prays for the chance at redemption.

**CONCLUSION**

The Trial Court's sentence is substantively unreasonable because it is far greater than necessary to achieve the §3553(a)(2) sentencing factors. While the factors are important, a "just" sentence must consider the defendant and the devastating affect the sentence imposes. If a lower, or non-guideline, sentence could fulfill the same sentencing objectives, then the sentence is greater than necessary to comply with §3553(a) and violates the parsimony provision. Punishment that is

more severe than is necessary to achieve valid and applicable purposes is morally unjustifiable. Lavender's sentence is morally unjust.

For the above-enumerated reasons, Donterrian M. Lavender prays this Honorable Court grant the Petition for Writ of Certiorari, and ultimately hold that his sentence is substantively unreasonable. He further prays for any such relief as to which he may justly be entitled.

Respectfully Submitted,

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