No. _____

IN THE

Supreme Court of the United States

KH'LAJUWON MURAT,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

HECTOR A. DOPICO
FEDERAL PUBLIC DEFENDER
ANSHU BUDHRANI
Counsel of Record
ASSISTANT FEDERAL PUBLIC DEFENDER
150 West Flagler Street
Suite 1700
Miami, FL 33130
305-530-7000
Anshu_Budhrani@fd.org

Counsel for Petitioner

June 26, 2025

QUESTION PRESENTED

In *Johnson v. United States*, 529 U.S. 694 (2000), this Court, interpreting a since-amended version of 18 U.S.C. § 3583(e)(3), applied an "unconventional" definition of "revoke" to find that a revoked term of supervised release "retain[s] some vitality after revocation." *Johnson*, 529 U.S. at 706–07. This Court did so in order to allow for the reimposition of supervised release following revocation, "a power not readily apparent from the text of § 3583(e)(3)." *Id.* at 698. It "depart[ed] from the rule of construction that prefers ordinary meaning" because "the realization of clear Congressional policy (here, favoring the ability to impose supervised release) [was] in tension with the result that customary interpretive rules would deliver." *Id.* at 706 n.9. Importantly, the Court so reasoned against the backdrop of an already-amended § 3583; it had access to a metaphorical crystal ball that made clear how Congress intended the supervised release statute to function. As a result, it "yield[ed] to the Congress of the United States" and abandoned textualism. *Id.*

But § 3583 has been meaningfully amended in a manner that no longer requires application of an "unconventional" definition of revoke. The language of § 3583(e)(3) itself has changed, and Congress has also added subsection 3583(h), explicitly empowering district courts to impose a new term of supervised release following imprisonment post-revocation. Justice Scalia so recognized when he wrote: "This is not an important case, since it deals with the interpretation of a statute that has been amended to eliminate, for the future, the issue we today resolve." *Johnson*,

529 U.S. at 727 (Scalia, J., dissenting). Problematically, however, multiple courts of appeals, including the Eleventh Circuit, continue applying the old "unconventional" definition of revoke to the new version of § 3583. In so doing, they have held that courts retain jurisdiction to revoke the same term of supervised release multiple times. Doing so flies in the face of the ordinary meaning of "revoke" and leads to absurd results, such as what occurred here.

The question presented is:

1. Whether, when a district court revokes a term of supervised release and imposes a period of imprisonment followed by a new term of supervised release, the original term of supervised release survives its revocation, contrary to the plain meaning of "revoke" as used in 18 U.S.C. § 3583(e)(3).

PARTIES TO THE PROCEEDING

The case caption contains the names of all parties to the proceedings.

RELATED PROCEEDINGS

The following proceedings are directly related to this petition:

- *United States v. Murat*, No. 1:23-tp-20072-KMW (S.D. Fla.) (Judgment entered Feb. 26, 2024; Judgment entered May 8, 2024).
- *United States v. Murat*, No. 24-11614 (11th Cir. Mar. 28, 2025).

There are no other related proceedings within the meaning of Rule 14.1(b)(iii).

TABLE OF CONTENTS

TABLE OF APPENDIX

TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

IN THE

Supreme Court of the United States

KH'LAJUWON MURAT,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

Kh'lajuwon Murat ("Petitioner") respectfully seeks a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case.

OPINION BELOW

The Eleventh Circuit's opinion (App. A) is published, and available at 132 F.4th 1347 (11th Cir. 2025).

STATEMENT OF JURISDICTION

Jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1) and Part III of the Rules of the Supreme Court of the United States. The Eleventh Circuit issued its decision on March 28, 2025. This petition is timely filed.

STATUTORY AND OTHER PROVISIONS INVOLVED

Section 3583(e)(3) of Title 18 of the U.S. Code provides:

> The court may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7) –
>
> (3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve on any such revocation more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case.

Section 3583(h) of Title 18 of the U.S. Code provides:

> (h) Supervised Release Following Revocation. –
>
> When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment, the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

U.S.S.G. § 7B1.1 provides:

> Classification of Violations (Policy Statement)
>
> (a) There are three grades of probation and supervised release violations:
>
> (1) Grade A Violations — conduct constituting (A) a federal, state, or local offense punishable by a term of imprisonment exceeding one year that (i) is a crime of violence, (ii) is a controlled substance offense, or (iii) involves possession of a firearm or destructive device of a type described in 26 U.S.C. § 5845(a); or

(B) any other federal, state, or local offense punishable by a term of imprisonment exceeding twenty years;

(2) Grade B Violations — conduct constituting any other federal, state, or local offense punishable by a term of imprisonment exceeding one year;

(3) Grade C Violations — conduct constituting (A) a federal, state, or local offense punishable by a term of imprisonment of one year or less; or (B) a violation of any other condition of supervision.

(b) Where there is more than one violation of the conditions of supervision, or the violation includes conduct that constitutes more than one offense, the grade of the violation is determined by the violation having the most serious grade.

INTRODUCTION

As it currently stands, the scope of a district court's authority to revoke a defendant's term of supervised release differs greatly depending upon in which circuit that defendant on supervised release finds himself. The Third, Fourth, Sixth, and Eleventh Circuits apply an unconventional meaning of the word "revoke"—one that is wholly obsolete in light of the 1994 amendments to § 3583—to hold that revocation of a term of supervised release merely recalls, or calls or summons back the release, such that something about that revoked term of supervised release continues on past

its revocation. In the Third, Fourth, Sixth, and Eleventh Circuits, the same term of supervised release can be revoked numerous times, because a defendant is considered to be on one universal term of supervised release regardless of whether he is imprisoned or out in the community. There is no limit to the amount of times a district court can revoke a single term of supervised release, nor any limit on when such revocation may occur.

Meanwhile, defendants in the Ninth Circuit face a different supervised release scheme—one that hues closely to the plain and ordinary meaning of the word "revoke," and therefore operates in a much more orderly, organized, and predictable fashion. In the Ninth Circuit, once a term of supervised release has been revoked, it has been cancelled, annulled, withdrawn, rescinded. That supervised release term no longer exists, and if the court wishes for the defendant to serve more time on supervised release post revocation and imprisonment, it may impose a new term of supervised release. Such a practice closely tracks the statutory language of §§ 3583(e)(3) and (h).

Much of the confusion over the meaning of "revoke" stems from this Court's opinion in *Johnson*, wherein this Court interpreted a since-amended version of § 3583(e)(3). Given the confusion that continues to ensue, this Court's intervention is required to once again interpret § 3583(e)(3)—the amended version—and give its words their plain, ordinary, and intended meaning. Failure to intervene will continue to result in district courts acting without jurisdiction.

STATEMENT OF THE CASE

Petitioner was a college student at Florida State University when a federal grand jury sitting in the Northern District of Florida returned a 26-count indictment against him and others, charging them with conspiracy to commit bank and wire fraud, in violation of 18 U.S.C. § 1349; bank fraud, in violation of 18 U.S.C. § 1344; and aggravated identity theft, in violation of 18 U.S.C. § 1028A. *See United States v. Murat*, 20-cr-19-RH-MAF, DE 1 (N.D. Fla.). He proceeded to trial, was found guilty of all charges involving him, and, on August 5, 2021, was sentenced to a term of imprisonment of 24 months and one day, followed by three years' of supervised release. *See Murat*, 20-cr-19-RH-MAF, DE 219.

After Petitioner was released from prison on January 17, 2023, he commenced his term of supervised release. His supervision was transferred to the Southern District of Florida. *See United States v. Murat*, 23-tp-20072-KMW (S.D. Fla.). On October 19, 2023, United States Probation filed a petition to revoke Petitioner's supervised release, alleging seven violations:

1. Failing to submit true and complete monthly reports from March through June 2023.
2. Traveling to California without authorization.
3. Associating with people engaging in criminal activity.
4. Failing to truthfully answer Probation's questions.

5. New violation of state law: possessing ammunition as a conviction felon, contrary to Fla. Stat. § 790.23(1)(a).
6. New law violation of federal law: possessing ammunition as a convicted felon, contrary to 18 U.S.C. § 922(g)(1).
7. New law violation of federal law: possession of 15 or more counterfeit or unauthorized access devices, contrary to 18 U.S.C. § 1029(a)(3).

(Dist. Ct. Dkt. No. 2.) The district court ordered that a warrant be issued, and Petitioner be detained and held no bond. (Dist. Ct. Dkt. No. 4.) A final revocation hearing was set for February 21, 2024 (Dist. Ct. Dkt. No. 10), and, in advance of that hearing, Petitioner filed a notice of admission as to violations 1, 2, and 4 (Dist. Ct. Dkt. No. 13).

At the final revocation hearing on February 21, 2024, the court calculated Petitioner's advisory guidelines range as to the three technical violations to which he was prepared to admit—all Grade C violations—at 3 to 9 months' imprisonment. (DE 39:4.) The government indicated that it was still investigating the new law violations and asked the court to hold the new law violations in abeyance, which the court agreed to do, over Petitioner's objection. (Dist. Ct. Dkt. No. 39:4–6.) The government also dismissed violation number 3. (Dist. Ct. Dkt. No. 39:12.)

With that, the district court proceeded to sentencing. It heard from the parties regarding the § 3553(a) factors, and Petitioner was given an opportunity to allocute. (Dist. Ct. Dkt. No. 39:6–12.) The district court then pronounced sentence—it revoked

Petitioner's supervised release and sentenced him to 5 months' imprisonment, followed by a term of supervised release of 54 months. (Dist. Ct. Dkt. No. 39:13.) It further ordered that Petitioner be on GPS monitoring for the first 60 days of his new term of supervised release. (Dist. Ct. Dkt. No. 39:13.) After imposing sentence, the district court asked if Petitioner objected to the court's findings of facts or the manner in which sentence was pronounced, and thereafter, advised Petitioner that he had the right to appeal the sentence imposed. (Dist. Ct. Dkt. No. 39:13.) Finally, the district court signed (on February 24, 2024) and entered (on February 27, 2024) a revocation order and judgment, reaffirming its sentence of 5 months' imprisonment followed by a new term of supervised release of 54 months. (Dist. Ct. Dkt. No. 16.)

The district court then held a status conference on March 25, 2024, wherein the government indicated that its "investigation has not concluded." (Dist. Ct. Dkt. No. 38:3.) The district court then set the remaining new law violations alleged in the same violation petition—violations 5, 6, and 7—for another final revocation hearing on April 26, 2024. At that second final revocation hearing, Petitioner raised questions about the district court's authority to revoke, for a second time, a term of supervised release that it had already revoked. (Dist. Ct. Dkt. No. 30:4–5.) In light of Petitioner's challenge to the district court's jurisdiction, the district court ordered briefing on the issue, and reset the final revocation hearing for Monday, April 29, 2024—the very same day Petitioner was to be released from custody after having served his first revocation sentence. (Dist. Ct. Dkt. No. 30:6, 13–14.)

At the hearing on April 29, 2024, the government indicated that it was dismissing violations 6 and 7, and only proceeding on violation 5—the new state law violation for being a felon in possession of ammunition. (Dist. Ct. Dkt. No. 31:4.) The district court accepted the government's dismissal of violations 6 and 7 and proceeded to a contested hearing as to violation 5.

The government presented the testimony of a supervisor for United States Probation to prove the alleged violation. After hearing testimony, the district court addressed Petitioner's challenge to the court's jurisdiction to revoke his already-revoked original term of supervised release. Citing to a number of out-of-circuit published and unpublished cases, the district court found that it did have jurisdiction to revoke for a second time Petitioner's already-revoked original term of supervised release. (Dist. Ct. Dkt. No. 31:31.) The district court then proceeded to address the alleged new-law violation—constructive possession of ammunition—and found that the government had met its burden of proving the violation by a preponderance of the evidence. (Dist. Ct. Dkt. No. 31:37.)

The district court then once again proceeded to sentencing—it heard from the parties, considered the § 3553(a) factors, and heard from Petitioner. (Dist. Ct. Dkt. No. 31:38–42.) It then pronounced its sentence, revoking—for a second time—Petitioner's original term of supervised release and ordering that Petitioner be imprisoned for 4 months, followed by a term of supervised release of 48 months, with the first 60 days of supervision on a GPS monitor. (Dist. Ct. Dkt. No. 31:43.)

Petitioner once again objected to the district court's jurisdiction. (Dist. Ct. Dkt. No. 31:43–44.) The district court then advised Petitioner of his right to appeal. (Dist. Ct. Dkt. No. 31:44.) Sometime thereafter, on May 7, 2024, the district court entered its second revocation order and judgment, revoking Petitioner's original term of supervised release for a second time and sentencing him once again. (Dist. Ct. Dkt. No. 29.) Petitioner timely filed a notice of appeal. (Dist. Ct. Dkt. No. 32.)

On appeal, Petitioner once again challenged the district court's jurisdiction to revoke his original term of supervised release for a second time. (Pet. C.A. Br. at 13–23.) More specifically, he argued that the plain and ordinary meaning of "revoke" in the amended § 3583(e)(3)—to annul by recalling or taking back; reverse; cancel; void; withdraw; rescind—means that no part of a revoked term of supervised release survives post-revocation. This is especially so because Congress amended § 3583 to explicitly allow for the imposition of a new term of supervised release after imprisonment. *See* 18 U.S.C. § 3583(h). As such, he argued that the district court was without jurisdiction to revoke his supervised release for a second time.

Following oral argument, the Eleventh Circuit disagreed, in a published opinion.

The court of appeals determined that the district court retained jurisdiction to revoke the same term of supervised release multiple times, applying this Court's unconventional definition of "revoke" from *Johnson*. "[R]evoking a term of supervised release allows it to continue to have some effect." (App. A at 4a.) That is, "[w]hen a

defendant is reincarcerated for violating his supervised release, he is *still serving that term of supervised release*—albeit in prison—and the sentencing court still has jurisdiction over that term." (App. A at 5a (emphasis in original).) In so holding, the court of appeals joined the Fourth and Sixth Circuits. (*See* App. A at 5a–6a.) Both the Fourth and Sixth Circuits applied *Johnson*'s unconventional definition of revoke to hold that "a revocation of a term of supervised release is not equivalent to a termination of the release, and thus the revoked term remains in effect." (App. A at 5a.)

This petition follows.

REASONS FOR GRANTING THE PETITION

The circuits have intractably split on the meaning of "revoke" in the amended § 3583(e)(3). The question presented is important and recurring given the number of individuals on supervised release at any given time and the volume of revocation hearings conducted every day by district courts nationwide. This case presents the perfect vehicle to decide it.

I. The Decision Below Directly Contravenes the Plain and Ordinary Meaning of "Revoke," Deepening a Circuit Split, and Leading to Absurd Results

A district court's power to modify or revoke supervised release derives from 18 U.S.C. § 3583(e). This statutory scheme provides the court with four enumerated options when adjudicating issues arising from a defendant's conduct while on supervised release. Three of the statute's subsections provide that a court may (1)

terminate supervision altogether, (2) extend supervision with modified conditions, or (3) order home confinement in lieu of incarceration. *See* 18 U.S.C. §§ 3583(e)(1), (2), and (4).

The remaining option—at issue here—permits the court to "revoke a term of supervised release, and require the defendant to serve in prison *all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release* . . . ." 18 U.S.C. § 3583(e)(3) (emphasis added). When a term of supervised release is revoked, per the plain and ordinary meaning of "revoke," it has been annulled, recalled, cancelled, voided, withdrawn, or rescinded. *See* Webster's Third New International Dictionary 1944 (1981); *see also* American Heritage Dictionary 1545 (3d ed. 1992). It no longer exists. The defendant has lost the privilege of being out on supervised release and will instead be required to serve additional prison time. The amount of time in prison he may be required to serve is bounded only "by the statute for the offense that resulted in such term of supervised release."[1] 18 U.S.C. § 3583(e)(3). That is, the length of the originally imposed term

[1] This is a significant change from the pre-amendment version of § 3583(e)(3) that this Court analyzed in *Johnson*. Prior to the 1994 amendments to § 3583, subsection (e)(3) simply read: "revoke a term of supervised release and require the person to serve in prison *all or part of the term of supervised release* . . . ." *Johnson*, 529 U.S. at 704 (emphasis added). That is, pre-amendment, most district courts understood the maximum term of imprisonment that could be imposed upon revocation to be defined by the term of supervised release originally imposed by the court at the time the defendant was sentenced for the underlying criminal conviction—and not by the express terms of the statute. Post-amendment, however, Congress changed the maximum term of imprisonment that could be imposed post-

of supervised release no longer matters. Additionally, after requiring a defendant to serve additional time in prison, "the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment." 18 U.S.C. § 3583(h). That is, the court may impose a *new* term of supervised release to follow the imprisonment that resulted from the revocation of the initial term of supervised release, but does not have to. And, if the conditions of that second term of supervised release are later violated, the court may again, subject to certain limitations, impose a term of imprisonment and yet another new term of supervised release to follow. But the court may not revoke for a second time a term of supervised release that it has already revoked.

That is how Congress intended for revocations of supervised release to function. But, that is not how it works everywhere. Because of differences in how circuits have defined "revoke," whether a term of supervised release survives revocation to continue to have some effect post-revocation depends on where an individual is being supervised. The Third, Fourth, Sixth, and Eleventh Circuits all apply an unconventional definition of "revoke" to find that revocation does not end a term of supervised release; some part of that revoked term of supervised release

---

revocation, tethering it to the statute authorizing the supervised-release term instead of the court-imposed term of supervised release that the defendant was serving at the time of revocation. The term of supervised release originally imposed no longer mattered. By its newly amended terms, there is nothing in (e)(3) that calls back to the originally-imposed term of supervised release; nothing of that originally-imposed term of supervised release survives revocation.

survives. This allows district courts to adjudicate multiple violations alleged in a single violation petition piecemeal and revoke the same term of supervised release numerous times, or to revoke an already-revoked term of supervised release again for later-discovered violations, even where an individual is already serving a new term of supervised release. In contrast, the Ninth Circuit, applying the plain and ordinary meaning of "revoke," has held that once a term of supervised release has been revoked, it ceases to exist. If a district court wishes to impose a term of supervised release post-imprisonment, the court must impose a new term of supervised release.

A. Four Circuits—the Third, Fourth, Sixth, and Eleventh Circuits—Apply an Unconventional Definition of "Revoke" to Find That Some Portion of a Revoked Term of Supervised Release Somehow Survives Revocation

1. In *United States v. Johnson*, 243 F. App'x 666 (3d Cir. 2007), the Third Circuit affirmed the district court's double revocation of the same term of supervised release. In so holding, the Third Circuit adopted this Court's unconventional definition of revoke from *Johnson*, wherein upon revocation, "'something about the term of supervised release survives the preceding order of revocation . . . unlike a terminated order of supervised release, one that is revoked continues to have some effect.'" *Johnson*, 243 F. App'x at 668 (quoting *Johnson*, 529 U.S. at 705–06). Though this Court in *Johnson* interpreted a prior version of § 3583(e)(3) that has since been significantly amended, the Third Circuit adopted this Court's neither plain nor ordinary definition of "revoke" to affirm the district court's revocation of a term of supervised release two separate times based upon a single violation petition, allowing

for revocations to proceed in a piecemeal fashion that is neither contemplated by the plain language of § 3583(e)(3) nor by U.S.S.G. § 7B1.1. The Third Circuit justified this practice by noting that a district court's jurisdiction over a defendant's supervised release "does not end with the first revocation"; in fact, the court may "continue to alter and extend the defendant's punishment while he serves prison time" and beyond. *Id.* at 668.

2. The Fourth Circuit followed in the Third Circuit's footsteps in *United States v. Winfield*, 665 F.3d 107 (4th Cir. 2012). In an almost identical set of circumstances, it affirmed the district court's double revocation of a single term of supervised release based upon its application of an unconventional definition of "revoke"—one that applied to a different version of the statute, and that was carefully selected by this Court in *Johnson* to effectuate what it believed to be Congress's intent before Congress amended the statutory language to explicitly effectuate its intent. Per the Fourth Circuit, "a revoked term of supervised release does not terminate that release, but instead 'recall[s],' 'call[s] or summon[s] back' the release during the defendant's imprisonment for violations of the release"; "re-incarceration 'is not a term of imprisonment that is being served, but all or part of the term of supervised release." *Winfield*, 665 F.3d at 110–11 (quoting *Johnson*, 529 U.S. at 705–06). That is, per the Fourth Circuit's definition of "revoke," an individual's term of supervised release remains in effect, even after it has been revoked and the individual has been reincarcerated; that individual is still considered to be on supervised release while

serving his revocation sentence. *See id.* at 111. Like the Third Circuit, the Fourth Circuit reads the word "revoke" completely out of the context of its amended sentence structure and blindly gives it an unconventional definition that is not supported by subsection (e)(3) itself nor the entire statutory scheme of § 3583.

a. The Fourth Circuit dug in further on the meaning of "revoke" in *United States v. Harris*, 878 F.3d 111 (4th Cir. 2017). There, the Fourth Circuit unambiguously held that "a revocation does not end a term of supervised release" because "[r]evocation merely 'recall[s],' 'call[s] or summon[s] back' the release." *Harris*, 878 F.3d at 115 (quoting *Johnson*, 529 U.S. at 706). That is, a term of supervised release continues on past revocation because, per the statute's language, a court may "require the defendant to serve in prison all or part of the term of supervised release . . . ." *Id.* (internal quotation marks omitted). As a result, the Fourth Circuit affirmed the district court's double revocation of the same original term of supervised release, even where a violation petition was filed *after* the first revocation had occurred and while the defendant was serving his revocation sentence of one month imprisonment. This made no difference to the Fourth Circuit, which relied on this Court's unconventional definition of "revoke" in *Johnson* to reason that because some part of a supervised release term continues to exist after revocation, the government was free to bring further violations to the court's attention, even post-revocation. *Id.* at 116. Under the Fourth Circuit's view of "revoke," infinite revocations of the same term of supervised release are allowed so long as any violation

petition is filed before expiration of the originally imposed supervised release term. *Id.* at 117. The Fourth Circuit essentially ignores Congress's amendments to the language of § 3583(e)(3) and grasps onto this Court's unconventional reading of "revoke" from a wholly different statutory scheme.

3. The Sixth Circuit also entered the fray, in *United States v. Cross*, 846 F.3d 188 (6th Cir. 2017). Expanding upon the holdings of the Third and Fourth Circuits, the Sixth Circuit affirmed a district court's second revocation of the originally imposed term of supervised release even after the defendant had completed his revocation imprisonment and was serving his newly imposed, post-revocation, second term of supervised release. The defendant had served his entire revocation sentence of eight months in prison and had completed 15 months of his new 24-month term of supervised release, when the district court revoked his supervised release for violations that had occurred during his first, original term of supervised release that had been revoked two years earlier. *Cross*, 848 F.3d at 189–90. Relying on the same unconventional definition of "revoke" adopted by this Court in *Johnson* when interpreting a different version of § 3583(e)(3), the Sixth Circuit held that revocation does not terminate a defendant's supervised release, it "revokes only the release part of supervised release; the district court's supervisory authority continues until the defendant's supervised release terminates or expires." *Id.* at 190. Per the Sixth Circuit, supervised release exists as a whole, not as separate terms, and revocation does nothing to change that. *Id.* In the Sixth Circuit's view, the district court

maintains some sort of universal supervisory authority over a defendant during the course of his supervised release. But such a holding is antithetical to the well-established fact that federal courts are courts of limited jurisdiction and can only act when authorized by statute. No statute or constitutional provision allows a district court to adjust a defendant's sentence whenever; such action is strictly proscribed and circumscribed. It cannot be, as the Sixth Circuit reasons, that a defendant continues to be on supervised release while in prison. *See id.* at 191 ("A more straightforward reading of the statute is that term of imprisonment . . . simply refers to the period of supervised release that a defendant serves in prison.").

4. Finally, the Eleventh Circuit here deepened the circuit split by joining the Third, Fourth, and Sixth Circuits. Petitioner's original term of supervised release was revoked two times, resulting in two separate sentences and two separate judgments. In affirming such a practice, the Eleventh Circuit, for the first time, adopted a definition of "revoke" that strayed far away from its plain and ordinary meaning. Like the Third, Fourth, and Sixth Circuits, the Eleventh Circuit held that "revoking a term of supervised release allows it to continue to have some effect," such that "something about the term of supervised release survives the preceding order of revocation." (App. A at 4a.) That is, "[w]hen a defendant is reincarcerated for violating his supervised release, he is *still serving that term of supervised release*—albeit in prison—and the sentencing court still has jurisdiction over that term." (App. A. at 5a (emphasis in original).) Such a holding is completely antithetical to the

supervised release process Congress envisioned, and out of line with the words (in context) Congress employed to convey its purpose.

B. One Circuit—the Ninth Circuit—Applies the Plain and Ordinary Meaning of "Revoke" to Find that Once a Term of Supervised Release Has Been Revoked, it Ceases to Exist

Only the Ninth Circuit, in *United States v. Wing*, 682 F.3d 861 (9th Cir. 2012), has properly interpreted the current version of § 3583 to hold that "[u]nder the ordinary meaning of revoke, when a term of supervised release is revoked, the term is canceled" such that "it has been annulled, and the conditions of that term do not remain in effect." *Wing*, 682 F.3d at 868. In the Ninth Circuit then, a term of supervised release cannot be revoked based on a violation of a condition of a previously revoked term of supervised release. That is, defendants on supervision in the Ninth Circuit face a vastly different supervised release scheme than those in the Third, Fourth, Sixth, and Eleventh Circuits.

In so holding, the Ninth Circuit explicitly notes that this Court's unconventional definition of "revoke" adopted in *Johnson* does not apply to the amended statutory language of § 3583(e)(3) because "there is no reason to believe that Congress used the term 'revoke' in anything other than its ordinary sense." *Id.* at 868. The Ninth Circuit went further, reasoning that the "unconventional sense of revoke is now obsolete in light of the 1994 amendments" because with the amendments to the language of subsection (e)(3) and the addition of subsection (h), "a term of supervised release after imprisonment is not the balance or remainder of

the original term of supervised release, but, rather, is a new and separate term." *Id.* at 870.

The Ninth Circuit's definition of "revoke" gives the word its ordinary meaning and reads the word "revoke" in the broader context of subsection (e)(3) and § 3583 as a whole. It is wholly incongruous with how the Third, Fourth, Sixth, and Eleventh Circuits read the word "revoke."

* * * *

It cannot be that a revoked term of supervised release both ceases to exist and also survives beyond the revocation to continue to have some effect. But that is the current state of § 3583(e)(3) depending upon which circuit a defendant on supervised release finds himself. This Court's intervention is required to clarify the meaning of "revoke" in § 3583(e)(3).

II. The Question Presented Is Important, Recurring, and Unresolved

How the Court defines "revoke" as it is used in the current version of the supervised release statute will have widespread and reverberating consequences throughout every district court in the country. This is because every district court is supervising individuals on supervised release, and almost every court will be presented with a situation where said supervised release has been violated. What a court has the jurisdiction to do with such violations—especially where numerous violations are alleged in one violation report or in several separate reports—is an important question that this Court should resolve so that there is uniformity amongst

the courts nationwide, as well as fealty to the plain and ordinary meaning of the words of § 3583.

1. As of March 31, 2024, there were 122,461 people under post-conviction supervision nationwide. *See* United States Courts, *Federal Judicial Caseload Statistics*, https://www.uscourts.gov/data-news/reports/statistical-reports/federal-judicial-caseload-statistics/federal-judicial-caseload-statistics-2024. And, of that, ninety percent were serving terms of supervised release—or approximately 110,000 individuals. *See id.* In another report tracking the lower courts for five years—from 2013 through 2017—the United States Sentencing Commission received 108,115 reports of violation decisions from the courts. *See* United States Sentencing Commission, *Federal Probation and Supervised Release Violations* (July 2020), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2020/20200728_Violations.pdf. That amounted to an average of about 21,600 violations per year over 94 districts nationwide. *Id.* at 14. Courts primarily imposed prison terms at these violation hearings after revoking supervised release. *Id.* at 34.

That is, it is no exaggeration to say that what it means to "revoke" a term of supervised release is a question faced by almost every court in the country on a regular basis. That some circuits allow for an almost unlimited cycle of revocations of the same term of supervised release—in direct contravention of the plain and ordinary meaning of the word "revoke"—means that individuals on supervised

release will be treated vastly differently based upon their geographic location. For example, in the Sixth Circuit, as it presently stands, there is no limit on the number of times a court may revoke a particular term of supervised release, no matter if that term has been revoked and the individual is on a new term of supervised release. That cannot be, and would not be for an individual in a different location, such as the Ninth Circuit. The stakes are too high for this disparity and confusion to persist.

2. The Court should take up the question presented here, because its prior analysis of a since-amended § 3583 has driven a lot of the confusion that currently exists amongst the district and circuit courts. When the Court addressed § 3583 in *Johnson*, it did so in explicit recognition that the statute's language had been amended and its provisions meaningfully changed. *See*, *e.g.*, *Johnson*, 529 U.S. at 705 ("As it was written before the 1994 amendments, subsection (3) did not provide (as it now does) that the court could revoke the release term and require service of a prison term equal to the maximum authorized length of a term of supervised release. It provided, rather . . . ."). This recognition of the change in the statute's language should have signaled to the lower courts that this Court's analysis was inapplicable to the statute's amended terms, but that has not been the case. Unfortunately, the Third, Fourth, Sixth, and Eleventh Circuits—along with numerous district courts—have adopted this Court's unconventional definition of "revoke" and applied it to a since-amended version of § 3583(e)(3), for which no such unconventional definition is required. The statute's language has been meaningfully changed, and with it, the

meaning of the word "revoke" itself, especially when considered in context. In so holding, these circuits are in direct conflict with the holding of the Ninth Circuit; and the Eleventh Circuit here only deepened the split.

The time has come for the Court to once again address the meaning of revoke as used in the amended § 3583(e)(3), which is one of the most commonly used statutory provisions in the federal courts.

III. This Case Is an Ideal Vehicle

This case provides an ideal vehicle to directly resolve this question of statutory interpretation. The question presented was preserved at every level below; was squarely addressed by the Eleventh Circuit; and is dispositive of this case.

1. There is no dispute that Petitioner fully preserved his argument below. In the district court, he argued that the court lacked jurisdiction to revoke his supervised release for a second time. (Dist. Ct. Dkt. No. 30:4–5; 31:31.) On appeal, he reiterated that position. He elaborated that the plain and ordinary meaning of "revoke" means that when a term of supervised release has been revoked, it has been annulled or cancelled; no part of it lives on. (Pet. C.A. Br. at 16–17; Pet. C.A. Reply Br. at 9–11.) He noted the circuit split on the issue and the circuit courts' mistaken reliance on an inapplicable decision from this Court. (Pet. C.A. Reply Br. at 1–3.) Because Petitioner fully preserved his argument in the courts below, there is no risk that plain-error review would obstruct the Court's ability to decide the question

presented. And federal courts must always consider whether they have subject matter jurisdiction to act.

2. The Eleventh Circuit expressly resolved the statutory interpretation question involving the meaning of "revoke" in § 3583(e)(3), finding itself bound by this Court's unconventional definition of "revoke" in *Johnson*, which interpreted a since-amended version of § 3583(e)(3). (App. A at 4a ("[A]fter revocation, if the term of supervised release is being served, in whole or part, in prison, then something about the term of supervised release survives the preceding order of revocation.").)

3. The question of statutory interpretation regarding the meaning of "revoke" in § 3583(e)(3) is otherwise dispositive of this case. The district court here revoked the same term of supervised release twice. First, on the basis of technical violations, and then for a second time on the basis of an alleged new law violation that had previously been held in abeyance. The court did not have jurisdiction to revoke that same term of supervised release for a second time, because a single term of supervised release can only be revoked one time per the plain meaning of "revoke." If this Court disagrees with the Eleventh Circuit's unconventional definition of "revoke," then Petitioner's second revocation of supervised release must be vacated, and his case remanded for reimposition of the first revocation order and sentence.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

HECTOR A. DOPICO
FEDERAL PUBLIC DEFENDER

By: /s/ *Anshu Budhrani*
Anshu Budhrani
Assistant Federal Public Defender
Counsel of Record
150 West Flagler Street
Suite 1700
Miami, FL 33130
(305) 530-7000
Anshu_Budhrani@fd.org

Counsel for Petitioner

Miami, Florida
June 26, 2025