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In the
Supreme Court of the United States

BRIAN LEE CORBETT, *Petitioner,*

v.

UNITED STATES OF AMERICA, *Respondent.*

**ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

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I. QUESTION PRESENTED FOR REVIEW

In this case, the district court held a hearing at which it revoked Corbett's term of supervised release and imposed a term of imprisonment as a result. It did not, at the hearing, impose any future term of supervised release. A day later, the district court *sua sponte* convened a second hearing, explaining that its failure to impose a new term of supervised release had been a mistake and adding a two-year term of supervised release to Corbett's sentence. The question presented in this Petition is whether Rule 35(a) of the Rules of Criminal Procedure allowed the district court to reopen its final, imposed sentence in such a manner.

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IV. LIST OF ALL DIRECTLY RELATED PROCEEDINGS

- *United States v. Corbett*, No. 2:10-cr-00015, U.S. District Court for the Southern District of West Virginia. Judgment entered April 3, 2024.
- *United States v. Corbett*, Appeal No. 24-4200, U.S. Court of Appeals for the Fourth Circuit. Judgment entered on April 14, 2025.

V. OPINIONS BELOW

The opinion of the United States Court of Appeals for the Fourth Circuit is unpublished and attached to this Petition as Appendix A. The issue raised in this Petition was not ruled upon by the district court. The judgment order is unpublished and is attached to this Petition as Appendix B.

VI. JURISDICTION

This Petition seeks review of a judgment of the United States Court of Appeals for the Fourth Circuit entered on April 14, 2025. No petition for rehearing was filed. This Petition is filed within 90 days of the date of the court's entry of that judgment. Jurisdiction is conferred upon this Court by 28 U.S.C. § 1254 and Rules 13.1 and 13.3 of this Court.

VII. STATUTES AND REGULATIONS INVOLVED

The issue in this Petition requires interpretation and application 18 U.S.C. § 3582, which provides, in pertinent part:

(b) Effect of finality of judgment.--Notwithstanding the fact that a sentence to imprisonment can subsequently be—

(1) modified pursuant to the provisions of subsection (c);

(2) corrected pursuant to the provisions of rule 35 of the Federal Rules of Criminal Procedure and section 3742; or

(3) appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742;

As well as Rule 35 of the Rules of Criminal Procedure, which provides, in pertinent part:

(a) Correcting Clear Error. Within 14 days after sentencing, the court may correct a sentence that resulted from arithmetical, technical, or other clear error.

VIII. STATEMENT OF THE CASE

A. Federal Jurisdiction

This Petition arises from the final judgment and sentence imposed upon the district court's revocation of the term of supervised release of Brian Lee Corbett. Corbett was originally convicted of aggravated bank robbery, in violation of 18 U.S.C. §§ 2113(a) and (b), and sentenced in the Southern District of West Virginia on November 1, 2010. JA28-33.¹ Original jurisdiction over offenses against the United States is given to the district courts by 18 U.S.C. § 3231. The authority to impose and revoke a term of supervised release is conferred by 18 U.S.C. § 3583. The district court entered an order revoking Corbett's supervised release on April 3, 2024. JA87-94. Corbett timely filed a notice of appeal on April 8, 2024. JA95. The United States Court of Appeals for the Fourth Circuit had jurisdiction pursuant to 18 U.S.C. § 3742 and 28 U.S.C. § 1291.

¹ "JA" refers to the Joint Appendix prepared for the appeal in this case.

B. Facts Pertinent to the Issue Presented

This case arises from the revocation of Corbett's term of supervised release. The district court adjourned the revocation hearing without imposing a new term of supervised release, then convened a second hearing to do so. At issue in this Petition is whether the district court had the authority to convene the second hearing.

1. Corbett, after having his initial sentence reduced, is alleged to have violated his conditions of supervised release.

In 2010, Corbett pleaded guilty to one count of aggravated bank robbery. At sentencing, Corbett was designated as a career offender, producing an advisory Guideline range of 188 to 235 months in prison. He was sentenced to 235 months in prison, followed by a five-year term of supervised release. JA35-37. On June 30, 2022, the district court granted Corbett's motion under 18 U.S.C. § 3582(c)(1)(A)(i) and *United States v. McCoy*, 981 F.3d 271 (4th Cir. 2020), reducing his term of imprisonment to time served, approximately 150 months, partly because Corbett no longer qualified as a career offender. JA34-48; *see also United States v. Norman*, 935 F.3d 232 (4th Cir. 2019). Corbett was released and began his term of supervised release on July 14, 2022. JA49.

On May 2, 2023, Corbett's probation officer filed a Petition for Warrant or Summons for Offender Under Supervision, seeking the revocation of Corbett's term of supervised release. JA49-51. The Petition was based on two things. The first was Corbett's use of cocaine, as evidenced by positive urine screens on several occasions, and the associated possession of controlled substances. JA50-51; *United States v.*

Clark, 30 F.3d 23 (4th Cir. 1994). The other was that Corbett had committed a new offense based on the evidence recovered from a traffic stop, specifically that Corbett had possessed with intent to deliver fentanyl, crack cocaine, marijuana, and cocaine powder. JA49-50. New substantive charges were brought against Corbett, but were dismissed following a successful motion to suppress the drugs found during the stop. See *United States v. Corbett*, 2:23-cr-00128 (S.D. W. Va. 2023), Dkt. Nos. 1, 55, 58.

2. The district court revokes Corbett’s term of supervised release and imposes a prison sentence, but does not impose a new term of supervised release until a second hearing convened *sua sponte* the next day.

A revocation hearing for Corbett was held on February 27, 2024, the day after the district court granted Corbett’s motion to suppress. JA55-79. Corbett did not contest the allegations in the Petition, agreeing “that the government can prove those charges by a preponderance of the evidence.” JA57. Nor did Corbett object to the total amount of controlled substances recovered during the traffic stop. JA57-58.² The district court concluded that Corbett had violated the conditions of his supervised release and that his term of supervised release should be revoked. JA59-61.

After argument as to how the reduction in Corbett’s sentence and the dismissal of the new criminal case could affect his revocation, the district court held that “the Grade of violation remains A, and the Criminal History Category remains VI,” but that “it doesn’t matter” because “the Court expects to come to the same sentence,

² According to prior testimony, officers recovered 55.3 grams of fentanyl, 15.4 grams of crack cocaine, 16.1 grams of cocaine, and 15 grams of marijuana. JA57.

regardless.” JA71. The district court did specifically state, however, that “one of the things that the Court does take into account is that had you been sentenced at the lower level of criminal history, you would have served far less time than you did.” JA71-72. Noting that it “seems as though nothing deters you from committing criminal acts of significance” and Corbett had “been a recidivist to the end that almost all of your life has been spent in prison,” the district court imposed a sentence of 36 months in prison.” JA72-74. The district court did not order Corbett to serve an additional term of supervised release, although it did discuss potential conditions of supervised release. JA74-76.

The next day, February 28, 2024, the district court convened another hearing. JA80-86. The district court explained that “I neglected to state the number of years of supervised release in rendering sentence.” JA81. The district court then reimposed the 36-month term of imprisonment “for the reasons noted at the hearing yesterday,” as well as an additional term of supervised release of two years. JA83.

On April 3, 2024, the district court entered a written order memorializing the revocation of Corbett’s term of supervised release. JA87-94. That order enshrined the sentence imposed over both revocation hearings, including both the 36-month term of imprisonment and the two-year term of supervised release announced at the second hearing.

3. The Fourth Circuit affirms.

The Fourth Circuit affirmed Corbett’s revocation sentence in an unpublished opinion. *United States v. Corbett*, 2025 WL 1098854 (4th Cir. 2025). As relevant to

this Petition, Corbett argued that the district court lacked the authority to “correct his sentence” by adding a term of supervised release during the second hearing. *Id.* at *1. The court concluded that while 18 U.S.C. § 3582 generally does not allow the modification of final sentences, Rule 35(a) of the Rules of Criminal Procedure provided an exception for correcting a “clear error.” *Ibid.* In this case, the court concluded, there was “no doubt that the sentence originally imposed here, an indeterminate term of supervised release, was clear error” and, therefore, “the district court had the authority to correct that issue under Rule 35(a).” *Ibid.* The court rejected Corbett’s contention that the issue was “jurisdictional,” noting that it was unclear whether § 3582 was a jurisdictional rule, but concluded that “we need not resolve that question today” because Rule 35(a) applied. *Id.* at *1, n.*.

IX. REASON FOR GRANTING THE WRIT

The writ should be granted to determine whether Rule 35(a) of the Rules of Criminal Procedure allows a district court to reopen its final, imposed sentence and hold a second hearing at which it imposes a new term of supervised release.

A “sentence is imposed . . . when it is orally pronounced by the district court.” *United States v. Layman*, 116 F.3d 105, 108 (4th Cir. 1997); *see also United States v. Mireles*, 471 F.3d 551, 557 (5th Cir. 2006)(where “there is an actual conflict between the district court's oral pronouncement of sentence and the written judgment, the oral pronouncement controls”). Such a rule “better promotes the goal of finality at sentencing.” *Ibid.* To that end, “a court generally may not modify a sentence once it has been imposed.” *United States v. Melvin*, 105 F.4th 620, 623 (4th Cir. 2024)

(cleaned up). Thus, “courts cannot modify a sentence after the sentencing hearing has concluded” unless some exception applies, because “defendants, courts, and the public have a strong interest in the transparency and finality of criminal proceedings.” *Id.* at 624; *see also* 18 U.S.C. § 3582(b). The question of whether a district court can impose a sentence, then *sua sponte* convene a second hearing to correct its own “neglect” and impose an additional term of supervised release is an important question of federal law that this Court should resolve. *See* Rules of the Supreme Court 10(c).

In this case, the district court imposed a sentence upon Corbett for violations of his conditions of supervised release – a sentence that did not include a further term of supervised release.³ It lacked the authority to convene a second revocation hearing to add such a term.

The Fourth Circuit recently addressed what it means for a sentence to be “imposed” in *Melvin*. There, the defendant appeared for a revocation hearing for his term of supervised release where the defendant, the Government, and the probation officer all “recommended terminating supervision and issuing a time-served sentence.” *Melvin*, 105 F.4th at 622. While the district court “initially stated that it would agree to this proposal,” the defendant “moments later” addressed the court in a self-described “stream-of-consciousness outburst.” *Ibid.* When the defendant had

³ The Fourth Circuit erroneously concluded that the district court imposed an “indeterminate” term of supervised release at the first hearing. *Corbett*, 2025 WL 1098854 at *1. No term of supervised release was imposed at all, although potential conditions of supervised release were discussed. JA74-76.

finished, the district court stated that it “would withdraw his previous rulings,” remanded the defendant to custody, and adjourned the hearing. *Ibid.* (cleaned up). Upon reconvening the hearing five hours later, the district court extended the defendant’s term of supervised release (and ordered him civilly committed). *Id.* at 623. The defendant appealed, arguing that the district court was bound to impose the sentence it had originally agreed to and “that the court had no authority to withdraw the time-served sentence it had initially accepted.” *Ibid.*

The Fourth Circuit disagreed. The argument settled on when the sentence was “imposed,” given the finality implications that arise once that occurs. The court recognized that once a sentence is imposed 18 U.S.C. § 3582 creates a “narrow exception,” allowing the modification of a sentence under Rule 35 of the Rules of Criminal Procedure. *Melvin*, 105 F.4th at 623. Specifically, Rule 35(a) allows a court, within 14 days of the imposition of a sentence, to “correct a sentence that resulted from arithmetical, technical, or other clear error.” *Ibid.* Returning to the question of when a sentence is imposed, this Court recognized that “the line between a preliminary and final sentence remains somewhat murky,” but adopted the rule from several other circuits that a court retains the ability to modify a sentence during the sentencing hearing itself. *Id.* at 624, 62-626 (cleaned up). Ultimately, the court held that “a sentence is not imposed until it has been unequivocally pronounced during the sentencing hearing, and there has been a formal break in the proceedings from which to logically and reasonably conclude that sentencing had finished.” *Id.* at 626 (cleaned up).

Applying the holding in *Melvin*, it is clear that Corbett’s sentence was imposed on February 27, 2024, at the initial revocation hearing. During that hearing, the district court “unequivocally pronounced” its sentence, which did not include a further term of supervised release. JA72-74. Afterward, there was a “formal break in proceedings from which to logically conclude that sentencing had finished.” This was not a situation, as in *Melvin*, where the district court paused the hearing and resumed it later that day. Corbett’s revocation was over when the parties left after the February 27 hearing, as the district court’s closing statements make clear. After asking counsel if there was anything further, the district court told Corbett that “I’ve had stern words for you, but I do wish you well” and “hope that you’ll be able to redirect your life.” JA78. Then, before leaving the bench, the district court added, “[g]ood luck to you, sir.” *Ibid.* Those are the words of a court that is done with its business, not one that is merely taking a recess. By convening an additional hearing the next day, the district court was modifying a sentence already imposed and final.

Rule 35(a) does not provide authority for the district court to convene a second revocation hearing as it did in this case. The “scope of ‘clear error’ correctable under Rule 35(a) is extremely narrow” and “requires some reversible error” at sentencing. *United States v. Fields*, 552 F.3d 401, 404 (4th Cir. 2009); *see also United States v. Fraley*, 988 F.2d 4, 7 (4th Cir. 1993)(clear error in these circumstances is one that “would almost certainly result in a remand of the case”). In *Fields*, the district court had originally imposed a fine as a part of the defendant’s sentence. After that sentence was vacated by this Court and the case remanded, the district court imposed

the same sentence of imprisonment, but omitted the fine. Four days later, the district court convened a second hearing, at which the Government argued that the failure to impose a fine constituted clear error and “the district court responded that it knew ‘exactly what [it] had in mind’ at the first resentencing hearing and that it ‘intended to impose a fine’ at that time.” *Id.* at 403. The district court imposed the fine and the defendant appealed. *Ibid.* This Court concluded that the district court lacked the authority to impose the fine. The failure to impose a fine at the initial resentencing hearing was not clear error because “[n]either the Guidelines nor any statute requires imposition of fine”⁴ and “had the district court never reconvened to impose a fine, the Government would have had no basis for appealing the failure to impose a fine at the initial resentencing.” *Id.* at 404. Noting that “Congress limited the reach of Rule 35(a) because it wanted to promote openness and finality in sentencing,” this Court rejected the Government’s argument that “the district court’s *intent* to impose a fine remained static throughout,” as “we refuse to search for intent that was not obvious to anyone at the time.” *Id.* at 405. That is consistent with how the Fourth Circuit has resolved situations similar to this one. *See, e.g., United States v. Williams*, 664 F. App’x 316 (4th Cir. 2016)(district court lacked authority to reduce sentence day after it was imposed); *United States v. Bentil*, 677 F. App’x 877 (4th Cir. 2017)(district court lacked authority to impose longer sentence two weeks after revocation hearing);

⁴ 18 U.S.C. § 3583(h), similarly, does not **require** an additional term of supervised release be imposed upon revocation, only provides the authority to impose such a term. Nor do the Guidelines “require” the imposition of such a term. U.S.S.G. § 7B1.3(g)(2).

United States v. Hall, 644 F. App'x 274 (4th Cir. 2016)(the district court lacked jurisdiction to correct sentence after learning of defendant's presentation of fraudulent support letter that supported initial probation sentence).

In this case, the district court imposed a sentence upon Corbett that did not include a further term of supervised release. That sentence is not clearly erroneous, given that there is no requirement that the district court impose such a term. Once imposed, the district court lacked jurisdiction to convene a second hearing to impose such a sentence. Whether the district court's actions fell within the parameters of Rule 35(a) is an important question of law this Court should answer.

X. CONCLUSION

Therefore, for the reasons stated, the Supreme Court should grant certiorari in this case.

Respectfully submitted,

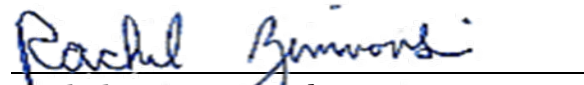
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