

No.

IN THE SUPREME COURT OF THE UNITED STATES

MANUEL VEGA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE NINTH CIRCUIT COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

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July 23, 2025

QUESTION PRESENTED

A court, in imposing sentence upon a criminal defendant, may include as part of the sentence a term of supervised release. If the defendant violates the conditions of supervised release, the court may revoke 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).

If a defendant has multiple violations of supervised release, can the court require the defendant to serve in prison a cumulative total that exceeds the term of supervised release imposed for his offense?

PARTIES TO THE PROCEEDINGS BELOW

The names of all parties to the proceedings appear on the cover of this petition.

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IN THE UNITED STATES SUPREME COURT

MANUEL VEGA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR WRIT OF CERTIORARI

In 2014 police stopped petitioner's car for a traffic violation and found a pistol in his car. He was convicted of being a felon with a firearm, in violation of 18 U.S.C. § 922(g)(1), and he was sentenced to 57 months imprisonment, to be followed by a period of 3 years of supervised release, for a total sentence of 93 months.

After he was released from prison, he violated the conditions of supervised release five times, and was sentenced to additional terms of imprisonment on four of those occasions, for a total of 55 months. This meant he was sentenced to 112 months in prison on a sentence that totaled only 93 months.

He respectfully petitions for a writ of certiorari to review the judgment of the Ninth Circuit Court of Appeals, which affirmed his sentence.

OPINIONS BELOW

The memorandum decision of the Ninth Circuit Court of Appeals in this case appears herein as Appendix A, and is unreported. It is available at 2025 U.S. App. LEXIS 6637, 2025 WL 880147.

The order of the Ninth Circuit Court of Appeals denying petitioner's Petition for Rehearing and Rehearing en Banc appears herein as Appendix B, and is unreported.

JURISDICTION

The district court had original subject matter jurisdiction over this criminal proceeding pursuant to 18 U. S. C. § 3231, to adjudicate offenses against the United States.

The Court of Appeals had jurisdiction pursuant to 28 U. S. C. § 1291 as an appeal from a final decision of the district court, and pursuant to 18 U.S.C. § 3742(a)(1) and (2) as an appeal from a sentence imposed in violation of law

The memorandum decision of the Ninth Circuit Court of Appeals was entered on March 21, 2025. A timely petition for rehearing was denied on July 10, 2025. This petition is filed within 90 days of the denial of rehearing, and is timely pursuant to Rule 13.3 of this Court.

The jurisdiction of this court is invoked pursuant to 28 U.S.C. §1254(1) as a petition to review a decision by a court of appeals.

THE STATUTE INVOLVED: 18 U.S.C. § 3583(e)(3)

Upon a defendant's violation of a condition of supervised release, 18 U.S.C. § 3583 authorizes a sentencing court to revoke the term of supervised release and impose a term of imprisonment, a term of supervised release, or both. However, the aggregated terms of imprisonment are limited to "all or part of the term of supervised release" imposed, which in petitioner's case was three years, the statutory maximum for a Class C felony. See 18 U.S.C. § 3583(b)(2). The law also

says that each individual term of imprisonment for a Class C felony may not exceed 2 years, but petitioner makes no claim under that limitation.

The statute provides, in pertinent part:

(e) Modification of conditions or revocation.—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) [18 USCS § 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 it 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;

(Italics added.)

STATEMENT OF THE CASE

Petitioner was arrested on July 23, 2014 when a pistol was found under his car seat after a traffic stop by San Pablo (California) police. See Presentence Investigation Report (PSR), Docket No. 24, p. 3-4. On August 11, 2014 a complaint in federal court was filed against petitioner, charging him with being a felon with a firearm, in violation of §18 U.S.C. § 922(g)(1). See Excerpts of Record (ER)-268-272. He was placed in federal custody on August 13, 2014. PSR, p. 1.

[Petitioner's Sentence—57 Months Custody] On November 5, 2014 petitioner pled guilty to the charge, a Class C felony. ER-6, 262. On January 28, 2015 he was sentenced to 57 months in prison plus three years of supervised release. ER-220.

[The First Violation—21 Months Incarceration] Following petitioner's release from prison, an amended "Form 12" Petition for Warrant was filed July 28, 2020, alleging six violations of conditions of supervised release. ER-157-162. Petitioner was taken into custody that day, ER-162, and the Petition states he was in continuous custody since "July of 2020." ER-183.

The Government's Sentencing Memorandum stated that Mr. Vega had served approximately 8 months in state custody before being transferred to federal custody, and recommended that he be sentenced to an additional 13 months, split between 6 months in custody of the BOP and 7 months to be served at a Residential Reentry Center. ER-176. At the sentencing hearing on May 20, 2021, the prosecutor stated to the court "in the end it would be 21 months total." ER-56.

The Defendant's Sentencing Memorandum recited the Government's recommended split sentence of 13 months' custody, consisting of 6 months in prison and 7 months in a residential reentry center ("RRC" or "halfway house"), "after giving credit against the low-end Guidelines sentence of 21 months for the approximately 8 months Mr. Vega spent in state custody on the underlying charges." ER-164-165.

However, it developed that the anticipated remaining 3 months of federal custody would have to be increased to 4 months, because the Probation Officer informed the court that "there was a two to four-week wait for the halfway house in Oakland," ER-157, so the judge imposed "an

additional 30 days in custody, while Ms. Norton tries to find a residential re-entry center placement for you.” ER-159. This would be “followed by nine months in the Residential Re-entry Center.” ER-160. Thus the result would still be a 21-month sentence, with 8 months of prior state custody, 4 months of federal custody, and 9 months in the halfway house.

We submit that the judge correctly recognized that the cumulative incarceration for supervised release violations was limited to a maximum of 36 months (which she termed the “statutory max”):

THE COURT: So four months' custody with credit for any time that you've done -- and everyone seems to think it's close to 90 days. You are looking at whatever is left. It looks to me it's about 30 to 32 days -- followed by nine months in the Residential Re-entry Center.

* * *

THE COURT: Okay. So the 13 months would come from the 36 months statutory max, right?

PROBATION OFFICER: Yes, it is.

ER-160.

However, the minute order for the supervised release disposition did not clearly reflect the total sentence of 21 months actually pronounced by the judge. Rather, it says, “The defendant is committed to the custody of the Bureau of Prisons for a term of 4 months with credit for time served,” but without specifying how much time had been served, and then 18 months supervised release during which appellant would reside at a Residential Reentry Center for 9 months. ER-141. The Judgment for Revocation of Supervised Release simply says “Four (4) Months with credit for time served.”

It is clear from the reporter’s transcript, however, that the four months reflected in the written order was only the time attributable to

federal custody—three months already served and an additional month to await an opening at the RRC. The *total* term of imprisonment pronounced by the judge was 21 months.

The law is clear that the court’s actual pronouncement controls. “The only sentence that is legally cognizable is the actual oral pronouncement in the presence of the defendant.” *United States v. Hicks*, 997 F.2d 594, 597 (9th Cir. 1993, quoting *United States v. Munoz-Dela Rosa*, 495 F.2d 253, 256 (9th Cir. 1974) [noting that double jeopardy protections would preclude increasing the defendant’s sentence beyond the one pronounced]; *United States v. Bates*, 213 F.3d 1336 (11th Cir. 2000); *United States v. Rosado*, 109 F.4th 120, 124 (2d Cir. 2024 [In the event of a variation between the court’s oral pronouncement and the subsequent written judgment, “the oral pronouncement controls”]).

Petitioner’s actual sentence, then, was an additional 21 months.

[The Second Violation—2 Months Incarceration] Thereafter, a “Form 12” Petition for Warrant was filed July 22, 2021 alleging two violations of supervised release. ER-133-134. Petitioner was arrested on the warrant on July 23, 2021. ER-131. On September 16, 2021 petitioner admitted the violations and the court committed him to the custody of the BOP for the term served as of 9/23/21 [i.e., 2 months]. ER-130.

[The Third Violation—No Discipline] Thereafter, a “Form 12” Petition for Summons was filed on April 6, 2022 alleging two violations of supervised release. ER-120-122. On May 19, 2022 petitioner admitted the violations but the court did not impose any additional discipline. ER-118.

[The Fourth Violation—8 Months Incarceration] Thereafter, a “Form 12” Petition for Warrant was filed on July 1, 2022 alleging three violations of supervised release. ER-113-116. On November 3, 2022

petitioner admitted the violations and the court committed petitioner to 8 months in the custody of BOP. ER-104-105, 109.

[The Fifth Violation—24 Months Incarceration] An amended “Form 12” Petition was filed January 9, 2024, alleging seven violations of supervised release. ER-91-96. On February 29, 2024 appellant admitted violations one, two, three, and six, and admitted violation four with the firearm and ammunition allegations deleted and admitted charge seven with the firearm allegations deleted. ER-74. On March 28, 2024 the district court committed appellant to the custody of BOP for 24 months, with no further supervised release. ER-6.

The Total Imprisonment Imposed on Petitioner’s 93-Month Sentence Was 112 Months.

Petitioner’s incarcerations and supervised release revocations are summarized as follows:

Date of Order	Term of Imprisonment
Jan. 28, 2015 (Original sentence)	57 Months
May 20, 2021	21 Months
Sept. 16, 2021	2 Months
May 19, 2022	No Additional Time
Nov. 3, 2022	8 Months
Mar. 28, 2024	24 Months

Total Prison Time

112 Months

REASONS FOR GRANTING THE PETITION

In this case a United States Court of Appeals has decided an important federal question in a way that conflicts with relevant decisions of this Court. See Supreme Court Rule 10 (c). The decision also so far departed from the acceptable and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power. Supreme Court Rule 10 (a).

This Court has clearly stated that a criminal defendant's "sentence" is composed of a term of imprisonment plus any term of supervised release imposed. *United States v. Haymond*, 588 U.S. 634, 648 (2019) (plurality opn.) ["Today, we merely acknowledge that an accused's final sentence includes any supervised release sentence he may receive. . . and whether that release is later revoked or sustained, it constitutes a part of the final sentence for his crime"]. As Justice Alito explained in what is perhaps a more easily remembered way in his dissenting opinion in *United States v. Haymond*, *supra* 588 U.S. at 666, "a defendant sentenced to x years of imprisonment followed by y years of supervised release is really sentenced to a maximum punishment of $x + y$ years of confinement, with the proviso that any time beyond x years will be excused if the defendant abides by the terms of supervised release.

In the case at bar, however, the defendant was sentenced to x years plus y years plus z years of confinement, with no jury waiver or jury verdict applicable to the sentence of z years.

This Court has also clearly stated that punishment for supervised release violations may not exceed the term of supervised release imposed at the defendant's original sentencing. *Johnson v. United States*, 529 U.S. 694, 712 (2000) [In a proceeding following a violation of conditions of

supervised release, “Section 3583(e)(3) limits the possible prison term to the duration of the term of supervised release originally imposed”].

How petitioner get sentenced to 19 months more than the law permits? The words of the statute are clear [a defendant can be required to serve in prison only “all or part of the term of supervised release” for his offense] and the words of this Court are just as clear.

We submit the error was the result first, of cursory paperwork after the judge pronounced the sentence on petitioner’s first revocation sentence, and second, the fact that two very different limitations were inserted in the same paragraph, instead separate paragraphs that might make the distinction more discernible.

We have seen that on May 20, 2021 the district court imposed a sentence of 21 months for petitioner’s first violation of conditions of supervision, consisting of eight months of prior state custody and four months in federal custody (three months already served plus another month to await an opening at the halfway house), “followed by nine months in the Residential Re-entry Center.” ER-62.

But later references in the record to that sentence describe it in less precise terms. In the Petition for Warrant for petitioner’s second violation of supervised release the Probation Officer describes the earlier revocation sentence in a way that the reader might think the sentence was only for four months: “Your Honor revoked Mr. Vega’s term of supervised release and sentenced him to four months in custody followed by 18 months of supervised release with the special condition that he reside at a Residential Reentry Center for 270 days and complete a domestic violence program.” Appx. 4. That language was repeated verbatim in later similar petitions, see Docket Nos. 104, p. 1 & 112, p. 1, including the most recent

petition that resulted in the excessive sentence. Appx. 8. The court and counsel at the most recent revocation hearing may well have relied on that statement, and overlooked or mis-recollected the actual proceedings that took place nearly three years earlier.

Second, statutes often place separate remedies in separate paragraphs, which makes it easier for courts and counsel to refer to the remedy as the one “in paragraph (a).” Here the statute limiting the terms of incarceration for supervised release violations, 18 U.S.C. § 3583(e)(3), contains *two* limitations, both contained in the same paragraph. In addition to the overall limitation on total prison time of a sentence for a supervised release violation (the “statutory max” of 36 months in our case), the statute contains a second limitation on the prison term imposed for a violation of supervised release (sometimes called the “gravity of the offense” limitation) applicable to each *individual* revocation [“on any such revocation”], which for a Class C felony is 24 months.

Both provisions describe what could be termed a “statutory maximum term of imprisonment,” but case decisions addressing the statute do not always make clear which of the two limitations the court is speaking of. In *United States v. Knight*, 580 F.3d 933 (9th Cir. 2009), for example, the defendant was charged with possession of stolen firearms, an offense that carries the same penalty as the penalty in the case at bar. See *United States v. Knight*, *supra* 580 F.3d at 935, n. 1. In *Knight* the district court sentenced the defendant to 24 months’ imprisonment for a third revocation of supervised release, which Knight argued should have been reduced by his two previous 9-month revocation commitments. *Knight* at 936. However, the opinion in *Knight* makes clear that Knight was addressing only the 24-month “gravity of the offense” limitation

applicable to each *individual* revocation, not the 36-month term “authorized by statute for the offense” limitation:

Knight argues that when calculating the maximum term of *imprisonment* to be imposed as a result of his Third Revocation, the district court was required to reduce the twenty-four month statutory maximum term imprisonment by eighteen months (a nine month term of imprisonment for the First Revocation and a nine month term of imprisonment for the Second Revocation).

Knight at 936 [italics by the court].

“[T]he twenty-four month statutory maximum.”

Knight did not even mention the cumulative 36-month limitation.

Indeed, Knight might have at least partially prevailed on his appeal if he had, because his cumulative total imprisonment for the three violations was 9 months plus 9 months plus 24 months, for a cumulative total of 42 months, whereas the cumulative “statutory maximum term of imprisonment” was only 36 months. After all, the Court of Appeals in *Knight* held that the cumulative limitation on imposition of terms of supervised release found in subdivision (h) of the statute (which says it must be reduced by any term of imprisonment imposed upon revocation of supervised release) exceeded the 36-month maximum term of supervised release, and remanded for re sentencing. *United States v. Knight, supra* 580 F.3d at 935. But subdivision (h) applies to the imposition of terms of supervised release, not imprisonment.

In the appeal in the case at bar the Government argued in its Appellee’s brief that petitioner’s claim was foreclosed by *Knight*. Appellee’s Brief, p. 10-18. Petitioner responded to the Government’s argument in his Reply Brief, pointing out that there are two separate

limitations in the statute, and pointing out further that *Knight* did not address the limitation petitioner was making on his appeal. Reply Brief, p. 3-5. This distinction is decisive to the resolution of petitioner's appeal, but the court's Memorandum Decision does not address it. Rather, the Memorandum Decision simply says (at p. 2) that appellant's claim "is foreclosed by our decision in *United States v. Knight*, 580 F.3d 933 (9th Cir. 2009)," and states—correctly—that "the maximum term of imprisonment" does not require aggregation of prior prison terms. But the decision in our case completely overlooked the fact that this legal principle is true only as to the 24-month "gravity of the offense" limitation.¹

Knight has nothing to do with the claim made by petitioner that the cumulative revocations exceeded the 36-month "term of supervised release" limitation. Petitioner has never contended that the district court violated the 24-month "gravity of the offense" limitation applicable to each *individual* revocation. He has consistently asserted that the district court violated the overall 36-month limitation on incarceration for supervised release violations. We tried to make this clear in our Reply Brief and later in our Petition for Rehearing.

However, the Court of Appeals decision ended up addressing a contention that petitioner never made, and it did not even mention petitioner's actual claim.

¹ We confess that the first few times we read the *Knight* decision over (while we were trying to resolve this case by agreement of the parties), we, like the panel in it's decision, overlooked that the "statutory maximum" term addressed in *Knight* was the 24-month "gravity of the offense" limitation. It was only after an inmate with a similar issue pointed out the distinction that we correctly interpreted the statute.

Our Petition for Rehearing fared no better. The Ninth Circuit's order recites that the full court was advised of the petition for rehearing en banc (Appx. 3), but not one of the 29 judges on the Ninth Circuit expressed any interest in correcting what we interpret to be an obvious error.

CONCLUSION

This Court has made clear that in a proceeding following a violation of conditions of supervised release, "Section 3583(e)(3) limits the possible prison term to the duration of the term of supervised release originally imposed"]. *Johnson v. United States*, *supra* 529 U.S. 694. The term or supervised release originally imposed in our case was 36 months.

Petitioner received terms of imprisonment for four of his violations of conditions of supervised release. When his final term of imprisonment came on for hearing on March 28, 2024, he had been sentenced to terms of 21 months, 2 months, and 8 months, for a total of 31 months. The 36-month term of supervised release (the "statutory max," as the judge termed it) limited the court's power to impose any further imprisonment to no more than 5 months. Instead the court imposed 24 months. ER-6.

Petitioner should have been released 11 months ago. But he is still incarcerated at the time this petition is filed.

We do not dispute that the record, which contains numerous violations of conditions of supervised release and back-and-forth references to time served and time to be served, is sometimes difficult to interpret.

The law announced by this Court in cases such as *Johnson v. United States* is clear, and the appellate court did not follow it. The memorandum

decision here illustrates that there is a need for this Court to exercise its supervisory power in this context. The failure of the Government and three judges on the panel to recognize that 18 U.S.C. § 3583(e)(3) has *two* limitations on the imposition of terms of imprisonment for supervised release violations is, we suggest, strong evidence that this Court should emphasize the existence of this distinction by granting the petition. This need is emphasized further by the absence of an interest by even one of the judges on the Ninth Circuit to address a decision which is depriving a defendant of his liberty in clear violation of the law.

We further suggest that the conflict between the decision in this case and decisions of this court is sufficiently patent to justify a summary disposition on the merits. See Supreme Court Rule 16.1. We invite the Court to direct the Court of Appeals to consider petitioner's claim in light of this Court's pronouncement in *Johnson v. United States*, *supra* 529 U.S. 694, 712 that in a proceeding following a violation of the conditions of supervised release, "Section 3583(e)(3) limits the possible prison term to the duration of the term of supervised release originally imposed."

Respectfully submitted,

/s/ Walter K. Pyle

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Appendix A

**Memorandum Decision
of the Ninth Circuit Court of Appeals**

**No. 24-2300
March 21, 2025**

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 21 2025

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MANUEL VEGA,

Defendant - Appellant.

No. 24-2300

D.C. No.

4:14-cr-00484-PJH-1

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Phyllis J. Hamilton, District Judge, Presiding

Submitted March 17, 2025**

Before: CANBY, R. NELSON, and FORREST, Circuit Judges.

Manuel Vega appeals from the district court's judgement and challenges the 24-month statutory maximum sentence imposed upon the fifth revocation of his supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Vega contends that his sentence exceeds the maximum allowable sentence

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

because, together with the sentences he received for his previous revocations, his total incarceration time of 112 months¹ exceeds by 19 months his original cumulative sentence of 57 months' imprisonment and 36 months' supervised release. This argument is foreclosed by our decision in *United States v. Knight*, 580 F.3d 933 (9th Cir. 2009). As we explained, Congress' 2003 amendment to 18 U.S.C. § 3583(e)(3) was "intended to ensure that a district court is no longer required to reduce the maximum term of imprisonment to be imposed upon revocation by the aggregate length of prior revocation imprisonment terms." *Id.* at 937. Thus, the district court may impose the statutory maximum sentence without regard for any prior revocation sentences. *See id.* at 937-38. The district court here imposed a legal sentence, and we affirm.

AFFIRMED.

¹ The parties disagree as to the total length of Vega's prior revocation sentences, some of which overlapped with state sentences. We need not resolve this issue because, even assuming 112 months is correct, Vega's argument fails.

Appendix B

**Order of the Ninth Circuit Court of Appeals
Denying Petition for Rehearing and Rehearing en Banc**

**No. 24-2300
July 10, 2025**

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUL 10 2025

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MANUEL VEGA,

Defendant - Appellant.

No. 24-2300

D.C. No.

4:14-cr-00484-PJH-1

Northern District of California,
Oakland

ORDER

Before: CANBY, R. NELSON, and FORREST, Circuit Judges.

The panel has voted to deny the petition for panel rehearing.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R.

App. P. 40.

The petition for panel rehearing and petition for rehearing en banc (Docket Entry No. 42) are denied.

Appendix C

Petition for Warrant [Second Supervised Release Violation] Describing the Sentence on Petitioner's First Supervised Release Violation

**Docket No. 94
Filed July 22, 2021**

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
Oakland Venue

FILED

Jul 22 2021

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

Petition for Warrant for Person Under Supervision

Person Under Supervision

Manuel Vega

Docket Number

0971 4:14CR00484-001 PJH

Name of Sentencing Judge: The Honorable Phyllis J. Hamilton
Senior United States District Judge

Date of Original Sentence: January 28, 2015

Original Offense

Count One: Felon in Possession of a Firearm, 18 U.S.C. § 922(g)(1), a Class C Felony.

Original Sentence: 57 months custody; three years supervised release

Special Conditions: Drug testing and treatment; mental health treatment; no alcohol; \$100 special assessment; search by any law enforcement officer at any time with or without suspicion; register as a drug offender pursuant to state law; not own or possess any firearms, ammunition, destructive devices, or other dangerous weapons; DNA collection.

Prior Form(s) 12: On March 4, 2020, a Petition for Summons was filed alleging three charges. On May 5, 2020, Mr. Vega made his initial appearance before Magistrate Judge Tse, and the matter was set before Your Honor for a Revocation Supervised Release Hearing on July 22, 2020.

On May 18, 2020, a Petition for Warrant was filed alleging two additional violations including new criminal conduct. On July 27, 2020, an Amended Petition for Warrant was filed alleging an additional violation. On April 15, 2021, Mr. Vega admitted to Charges One, Three, Four and Six of the Amended Petition for Warrant. On May 20, 2021, Your Honor revoked Mr. Vega's term of supervised release and sentenced him to four months in custody followed by 18 months of supervised release with the special condition that he reside at a Residential Reentry Center for 270 days and complete a domestic violence program.

Type of Supervision

Supervised Release

Assistant U.S. Attorney

Anna Nguyen

Date Supervision Commenced

June 27, 2021

Defense Counsel

Albert Boro (Appointed)

RE: Vega, Manuel
0971 4:14CR00484-001 PJH

2

Petitioning the Court for the issuance of a no bail warrant for the arrest of the person under supervision.

I, Alex Gerstel, a Probation Officer employed in the United States District Court for the Northern District of California, solemnly affirm and declare, under penalty of perjury, that to the best of my information and belief, the facts set forth in this affidavit are true and correct. The factual affirmations made below are based on my personal knowledge, on official records or documents generated and maintained by my agency in the course of performing its functions, on official records or documents generated and maintained by other government agents or agencies in the course of performing their functions, or on information provided to me orally or electronically by employees or agents of other public agencies (information developed or acquired in the course of performing official agency functions).

Charge Number

Violation

One

There is probable cause to believe that the person under supervision violated special condition number nine that states, in part, you must reside for a period of 270 days, to commence immediately following your release from custody, in a residential reentry center and you must observed the rules of that facility.

On July 20, 2021, Mr. Vega was discharged from the San Francisco Residential Reentry Center (RRC).

Specifically, on or about June 28, 2021, Mr. Vega was released from custody and arrived at the San Francisco RRC. Upon his arrival, a urinalysis drug screening was collected which tested positive for marijuana. No incident report was generated based on his positive urinalysis test because it appeared his marijuana usage occurred prior to his arrival at the RRC.

On July 20, 2021, Mr. Vega returned to the RRC carrying a backpack. Upon a search of his backpack, the RRC staff discovered a plastic bag with a green leafy substance, rolling papers and a marijuana grinder. Mr. Vega was issued a Federal Bureau of Prisons (BOP) Incident Report in violation of Code 111- Introduction or making of any narcotics, marijuana, drugs, alcohol, intoxicants, or related paraphernalia not prescribed for the individual by the medical staff. Upon review from the RRC Director and BOP, Mr. Vega was terminated from the RRC on July 21, 2021.

Evidence in support of this charge includes the Federal BOP Incident Report dated July 21, 2021.

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<u>Charge Number</u>	<u>Violation</u>
Two	There is probable cause to believe that the person under supervision violated the mandatory condition that states, in part, you shall not unlawfully possess a controlled substance.

On July 20, 2021, Mr. Vega was in possession of marijuana.

Specifically, on July 20, 2021, Mr. Vega returned to the RRC carrying a backpack. Upon a search of his backpack, the RRC staff discovered a plastic bag with green leafy substance, rolling papers and a marijuana grinder.

Evidence in support of this charge includes the Federal BOP Incident Report dated July 21, 2021.

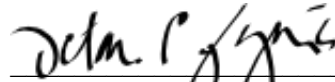
Based on the foregoing, there is probable cause to believe that Manuel Vega violated the conditions of his Supervised Release. Therefore, I ask the Court to issue a no bail warrant for his arrest.

Respectfully submitted,

Reviewed by:



Alex Gerstel
U.S. Probation Officer
Date Signed: July 21, 2021



Octavio E. Magaña
Supervisory U.S. Probation Officer

Having considered the information set forth above, the court finds there is probable cause to believe there has been a violation of the conditions of supervision and orders:

☒ The issuance of a no bail warrant AND ORDER THAT THIS FORM BE FILED UNDER SEAL, AND NO PUBLIC RECORD OF WARRANT ISSUANCE BE MADE. THE FORM SHALL BE UNSEALED AND BE PART OF THE PUBLIC RECORD UPON ITS EXECUTION.

☐ Other:

July 22, 2021
Date

/s/ Phyllis J. Hamilton
Phyllis J. Hamilton
Senior United States District Judge

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APPENDIX

Grade of Violations: C [USSG §7B1.1(a)(3), p.s.]

Criminal History at time of sentencing: VI

	Statutory Provisions	Guideline Provisions
Custody:	Two years 18 U.S.C. § 3583(e)(3)	8-14 months USSG §7B1.4(a), p.s.
Supervised Release:	Three years less any term of imprisonment imposed upon revocation of supervised release 18 U.S.C. § 3583(h)	Three years less any term of imprisonment imposed upon revocation of supervised release USSG §7B1.3(g)(2), p.s.
Probation:	Not Applicable	Not Applicable

Appendix D

Petition for Warrant [Fifth Supervised Release Violation] Describing the Sentence on Petitioner's First Supervised Release Violation

**Docket No. 137
Filed January 9, 2024**

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
Oakland Venue

Amended Petition for Warrant for Person Under Supervision

Person Under Supervision
Manuel Vega

Docket Number
0971 4:14CR00484-001 PJH

Name of Sentencing Judge: The Honorable Phyllis J. Hamilton
Senior United States District Judge

Date of Original Sentence: January 28, 2015

Original Offense: Count One: Felon in Possession of a Firearm, 18 U.S.C. § 922(g)(1), a Class C felony.

Original Sentence: 57 months custody; three years supervised release

Special Conditions: Drug testing and treatment; mental health treatment; no alcohol; \$100 special assessment; search by any law enforcement officer at any time with or without suspicion; register as a drug offender pursuant to state law; not own or possess any firearms, ammunition, destructive devices, or other dangerous weapons; and DNA collection.

Prior Form(s) 12: On March 4, 2020, a Petition for Summons for Person Under Supervision was filed alleging three violations. On May 5, 2020, Mr. Vega made his initial appearance before Magistrate Judge Tse, and the matter was set before Your Honor for a revocation hearing on July 22, 2020.

On May 18, 2020, a Petition for Arrest Warrant for Person Under Supervision was filed alleging two additional violations including new criminal conduct. On July 27, 2020, an Amended Petition for an Arrest Warrant for a Person Under Supervision was filed alleging an additional violation. On April 15, 2021, Mr. Vega admitted to Charges One, Three, Four, and Six of the Amended Petition for Arrest Warrant. **On May 20, 2021, Your Honor revoked Mr. Vega's term of supervised release and sentenced him to four months in custody followed by 18 months of supervised release** with the special condition that he reside at a Residential Reentry Center for 270 days and complete a domestic violence program.

On July 22, 2021, a Petition for Arrest Warrant for Person Under Supervision was filed alleging two violations. On July 26, 2021, Mr. Vega made his initial appearance before Magistrate Judge van Keulen. Mr. Vega was arraigned on the two charges and the matter was set before Your Honor on August 5, 2021. On August 5, 2021, Mr. Vega appeared before Your Honor. The matter was continued to September 16, 2021, for a revocation

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hearing. On September 16, 2021, Mr. Vega appeared before Your Honor and admitted to Charges One and Two of the petition. Your Honor revoked his term of supervised release and sentenced him to time served effective September 23, 2021, and 18 months of supervised release with the special condition that he resides at a Residential Reentry Center for 240 days.

On April 6, 2022, a Petition for Summons for Person Under Supervision was filed alleging two violations. On April 14, 2022, Mr. Vega appeared before Magistrate Judge Westmore and was arraigned on the violations. The matter was set before Your Honor on April 28, 2022. On April 28, 2022, Mr. Vega appeared before Your Honor for a status hearing. The matter was continued until May 19, 2022. On May 19, 2022, Mr. Vega appeared before Your Honor and made admissions on both violations. Your Honor took judicial notice of the violations and continued Mr. Vega's term of supervised release unchanged.

On July 1, 2022, a Petition for Arrest Warrant was filed alleging Charges One through Three. On July 25, 2022, Mr. Vega made his initial appearance before Magistrate Judge Ryu and was arraigned on the violations. The matter was set for a detention hearing on July 26, 2022. On July 26, 2022, Mr. Vega appeared before Judge Ryu for a detention hearing and was remanded to custody. The matter was set before Your Honor on August 11, 2022. On August 11, 2022, Mr. Vega appeared before Your Honor. The matter was continued until November 3, 2022.

On November 3, 2022, Mr. Vega was sentenced by Your Honor for violating his supervised release; violations included committing another federal, state, or local crime; failure to notify probation ten days prior to a change in residence; and knowingly leaving the judicial district without permission. Mr. Vega was sentenced to eight months of custody and twelve months of supervised release. Additionally, all previously imposed conditions were imposed as well as the additional condition that he complete a 90-day dual diagnosis residential treatment program.

On May 11, 2023, a Petition for Warrant for Person Under Supervision was filed which alleged Mr. Vega committed another federal, state, or local crime; left the federal judicial district where he was authorized to reside without getting permission from the Court or the probation officer; and failed to notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer. On January 3, 2024, Mr. Vega appeared before the Honorable Donna M. Ryu, Chief U.S. Magistrate Judge, was arraigned on the form 12 and ordered detained. An arraignment/status on preliminary hearing on this amended petition is scheduled for January 10, 2024. A status hearing is scheduled for January 18, 2024, before Judge Hamilton.

Type of Supervision
Supervised Release
Assistant U.S. Attorney
Adam Barkl

Date Supervision Commenced
March 4, 2023
Defense Counsel
Albert Boro (Appointed)

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Petitioning the Court to take judicial notice of the addition of Charges Four through Seven. This petition supersedes the petition for warrant filed on May 11, 2023. The person under supervision is to appear in court before Chief Magistrate Judge Ryu for arraignment on the amended petition on January 10, 2024, at 10:30 am.

I, Xitlalli Bobadilla, a Probation Officer employed in the United States District Court for the Northern District of California, solemnly affirm and declare, under penalty of perjury, that to the best of my information and belief, the facts set forth in this affidavit are true and correct. The factual affirmations made below are based on my personal knowledge, on official records or documents generated and maintained by my agency in the course of performing its functions, on official records or documents generated and maintained by other government agents or agencies in the course of performing their functions, or on information provided to me orally or electronically by employees or agents of other public agencies (information developed or acquired in the course of performing official agency functions).

Charge Number

Violation

One

There is probable cause to believe that the person under supervision violated mandatory condition number one that states, in part, that you must not commit another Federal, state, or local crime.

On May 11, 2023, contact was made with Lodi Police Department who confirmed Mr. Vega was arrested on April 26, 2023, for violating California Penal Code 273.5(a) Inflict Corporal Injury: Spouse/Cohab/Date, a felony; California Penal Code, 148(a)(1), Obstruct/Etc Public Officer/Tec, a misdemeanor; and California Penal Code 273.6(a), Violate Court Order to Prevent Domestic Violation, a misdemeanor.

The Lodi Police Department's arrest report has been requested.

Evidence to support this charge is contained in the Probation Office's chronological case notes dated May 11, 2023, at 0824 hours and Lodi Police Department's arrest report number CR23-002634.

Two

There is probable cause to believe that the person under supervision violated standard condition number three which states, in part, you must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.

On April 26, 2023, Mr. Vega traveled to Lodi, California without the permission of the Court or probation officer.

On April 26, 2023, Mr. Vega was arrested by Lodi Police Department at 1116 South Fairmont Avenue, apartment B, Lodi California, for violating California Penal Code 273.5(a) Inflict Corporal Injury: Spouse/Cohab/Date, a felony; California Penal Code, 148(a)(1),

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Obstruct/Etc Public Officer/Tec, a misdemeanor; and California Penal Code 273.6(a), Violate Court Order to Prevent Domestic Violation, a misdemeanor.

Evidence in support of this charge can be obtained in Lodi Police Department's arrest report number CR23-002634.

Three

There is probable cause to believe that the person under supervision violated standard condition number ten that states, in part, if you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.

On April 26, 2023, Mr. Vega was arrested by the Lodi Police Department for violating California Penal Code 273.5(a) Inflict Corporal Injury Spouse/Cohab/Date, a felony; California Penal Code, 148(a)(1), Obstruct/Etc. Public Officer/Tec, a misdemeanor; and California Penal Code 273.6(a), Violate Court Order to Prevent Domestic Violation, a misdemeanor.

According to Lodi Police Department, as of this date, Mr. Vega is not currently in custody for the above charges. Therefore, Mr. Vega failed to notify the Probation Office within 72 hours of his arrest.

Evidence to support his charge is contained in the Probation Office's chronological case notes dated May 11, 2023, at 0824 hours and Lodi Police Department's arrest report number CR23-002634.

Four

There is probable cause to believe that the person under supervision violated mandatory condition number one that states, in part, you must not commit another Federal, state, or local crime.

On June 16, 2023, Mr. Vega violated California Vehicle Code, 2800.2(a), Felony Reckless Evading, a felony; California Penal Code, 29800(a)(1), Felon in Possession of a Firearm, a felony; California Health and Safety Code, 11370.1(a), Possession of a Controlled Substance While Armed, a felony; California Penal Code, 258580 (C) (6) PC, Carrying a Loaded Firearm not the Registered Owner, a felony; California Penal Code, 25850 (C)(1), Carrying a Loaded Firearm by a Convicted Felon, a felony; California Penal Code, 30305(a)(1), Felon in Possession of Ammunition, a felony; California Health and Safety Code, 11377(a), Possession of Methamphetamine, a misdemeanor; California Health and Safety Code, 11364 (a) (1) HS; Possession of Drug Paraphernalia, a misdemeanor; California Penal Code, 148.9(a), Giving False Identification to a Peace Officer, a misdemeanor; and California Penal Code, 148(a)(1), Resisting Arrest, a misdemeanor.

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The Amador County Sheriff's Office arrest report has been requested.

Evidence to support this charge is contained in the Probation Office's chronological case note dated, January 8, 2024, at 0952 hours.

Five

There is probable cause to believe that the person under supervision violated a special condition that states, in part, that he must not own or possess any firearms, ammunition, destructive devices, or other dangerous weapons.

On June 16, 2023, Mr. Vega violated California Health and Safety Code, 11370.1(a), Possession of a Controlled Substance While Armed, a felony; California Penal Code, 258580 (C) (6) PC, Carrying a Loaded Firearm not the Registered Owner, a felony; California Penal Code, 25850 (C)(1), Carrying a Loaded Firearm by a Convicted Felon, a felony; and California Penal Code, 30305(a)(1), Felon in Possession of Ammunition, a felony.

The Amador County Sheriff's Office arrest report has been requested.

Evidence to support this charge is contained in the Probation Office's chronological case note dated, January 8, 2024, at 0952 hours.

Six

There is probable cause to believe that the person under supervision violated standard condition number three which states you must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.

On June 16, 2023, Mr. Vega traveled to Amador County without the permission of the Court or probation officer.

On June 16, 2023, Mr. Vega was arrested by the Amador County Sheriff's Office which is located in the Eastern District of California. He did not have permission to travel to the Eastern District of California.

The Amador County Sheriff's Office arrest report has been requested.

Evidence to support this charge is contained in the Probation Office's chronological case note dated, January 8, 2024, at 0952 hours.

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Seven

There is probable cause to believe that the person under supervision violated a mandatory condition that states, in part, that he must not unlawfully possess a controlled substance.

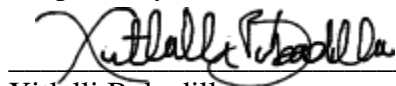
On June 16, 2023, Mr. Vega was violated California Health and Safety Code, 11370.1(a), Possession of a Controlled Substance While Armed, a felony; California Health and Safety Code, 11377(a), Possession of Methamphetamine, a misdemeanor; and California Health and Safety Code, 11364 (a) (1) HS; Possession of Drug Paraphernalia, a misdemeanor.

The Amador County Sheriff's Office arrest report has been requested.

Evidence to support this charge is contained in the Probation Office's chronological case note dated, January 8, 2024, at 0952 hours.

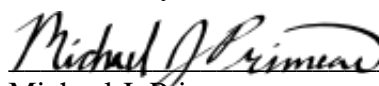
Based on the foregoing, there is probable cause to believe that Manuel Vega violated the conditions of his Supervised Release.

Respectfully submitted,



Xitlalli Bobadilla
U.S. Probation Officer Specialist
Date Signed: January 8, 2024

Reviewed by:



Michael J. Primeau
Supervisory U.S. Probation Officer

Having considered the information set forth above, the court finds there is probable cause to believe there has been a violation of the conditions of supervision and orders:

☒ **The Court takes judicial notice of the addition of Charges Four through Seven. This petition supersedes the petition for warrant filed on May 11, 2023. The person under supervision is to appear in court before Chief Magistrate Judge Ryu for arraignment on the amended petition on January 10, 2024, at 10:30 am.**

☐ Other:

January 9, 2024
Date

/s/ Phyllis J. Hamilton
Phyllis J. Hamilton
Senior United States District Judge

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APPENDIX

Grade of Violations: A [USSG §7B1.1(a)(1), p.s.]

Criminal History at time of sentencing: VI

	Statutory Provisions	Guideline Provisions
Custody:	Two years 18 U.S.C. § 3583(e)(3)	33-41 months USSG §7B1.4(a)
Supervised Release:	Three years, less any custody imposed 18 U.S.C. § 3583(h)	Three years, less any custody imposed USSG § §7B1.3(g)(2)
Probation:	Not Authorized	Not Authorized