No. 25-_____

IN THE

Supreme Court of the United States

ERIC SEAN ROLOSON,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

On Petition for a Writ of Certiorari
to the Court of Appeals of Washington

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

The State charged Petitioner with four sex offenses, and Petitioner engaged in plea negotiation with the prosecutor. The prosecutor repeatedly told Petitioner that the victims and their mother would endorse a treatment-based sentence, i.e., a sex offender sentencing alternative sentence ("SSOSA"), if he pleaded guilty to the two top counts. Petitioner pleaded guilty based on those repeated assurances. But at sentencing, neither the victims nor their mother endorsed a SSOSA. Instead, they requested a life in prison sentence. Petitioner immediately moved to withdraw his plea, arguing the prosecutor's misrepresentations induced his plea and rendered it involuntary. The trial court denied his motion and sentenced Petitioner to life in prison. The question presented is:

Whether the State's misrepresentation that the victims would support a SSOSA rendered Petitioner's plea involuntary, in violation of the Due Process Clause.

PARTIES TO THE PROCEEDING AND RULE 29.6 STATEMENT

Petitioner, the defendant and appellant below, is Eric S. Roloson. Respondent, the plaintiff and respondent below, is the State of Washington. No corporate parties are involved in this case.

STATEMENT OF RELATED PROCEEDINGS

Superior Court for Cowlitz County, State of Washington: *State of Washington v. Eric Sean Roloson*, No. 20-1-00372-08 (January 31, 2022 – initial sentencing hearing) (February 14, 2022 – denial of motion to withdraw guilty plea and sentencing hearing).

Court of Appeals of the State of Washington, Division II: *State of Washington v. Eric Sean Roloson*, No. 56823-3-II (October 8, 2024 – opinion affirming judgment and sentence) (December 19, 2024 – denial of reconsideration).

Supreme Court of the State of Washington: *State of Washington v. Eric Sean Roloson*, No. 102772-9 (April 30, 2025 – order denying petition for review).

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Eric Roloson respectfully petitions this Court for a writ of certiorari to review the decision of the Washington Court of Appeals.

OPINIONS AND ORDERS BELOW

The Washington Court of Appeals' opinion is reproduced at App. 1–14. The Court of Appeals' order denying reconsideration is reproduced at App. 88. The Washington Supreme Court's order denying Mr. Roloson's petition for review is reproduced at App. 15.

JURISDICTION

The Washington Court of Appeals issued its judgment on October 8, 2024, and it denied reconsideration on December 19, 2024. The Washington Supreme Court denied Mr. Roloson's timely petition for review on April 30, 2025. This Court has jurisdiction under 28 U.S.C. § 1257(a).

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

The Fourteenth Amendment to the United States Constitution, section 1, provides as relevant:

[N]or shall any State deprive any person of life, liberty, or property, without due process of law.

Washington Revised Code § 9.94A.670(4) provides as relevant:

After receipt of the reports, the court shall consider whether the offender and the community will benefit from use of this alternative, consider whether the

alternative is too lenient in light of the extent and circumstances of the offense, consider whether the offender has victims in addition to the victim of the offense, consider whether the offender is amenable to treatment, consider the risk the offender would present to the community, to the victim, or to persons of similar age and circumstances as the victim, and consider the victim's opinion whether the offender should receive a treatment disposition under this section. The court shall give great weight to the victim's opinion whether the offender should receive a treatment disposition under this section. . . . If the court determines that this alternative is appropriate, the court shall then impose a sentence or, pursuant to RCW 9.94A.507, a minimum term of sentence, within the standard sentence range. If the sentence imposed is less than eleven years of confinement, the court may suspend the execution of the sentence as provided in this section.

Other relevant sources of Washington statutory and constitutional law are reproduced at App. 124–55.

INTRODUCTION

This Court should grant, vacate, and remand (GVR) this case because the prosecution's misrepresentations induced Mr. Roloson's guilty plea, rendering his plea involuntary under *Brady v. United States*, 397 U.S. 742 (1970). A GVR is appropriate because the lower courts failed to consider Mr. Roloson's *Brady*-based voluntariness argument.

In Washington, individuals charged with certain sex offenses may receive a treatment-based sentence under SSOSA. A SSOSA entails a suspended prison sentence, up to five years of sex offender treatment, and up to 12 months of confinement. Wash. Rev. Code § 9.94A.670(5). In considering a SSOSA, a sentencing court must give "great weight to the victim's opinion whether the offender should receive a treatment disposition." Wash. Rev. Code § 9.94A.670(4). If the victim is a minor, the minor's parent can speak at sentencing to help exercise their child's rights. Wash. Const. art. I, § 35.

Initially, the State offered Mr. Roloson a deal where he would only plead guilty to two child molestation charges. That plea would carry a significantly lower sentencing range than the other two first-degree child rape charges. *See* Wash. Rev. Code §§ 9.94A.510, 9.94A.515. However, the State also told Mr. Roloson that, if he pleaded guilty to two counts of first-degree child rape, the State would recommend a SSOSA at the sentencing hearing. In addition, the State repeatedly told Mr. Roloson that the victims and their mother—Mr. Roloson's two minor stepdaughters and his ex-wife—would also recommend a SSOSA.

The prosecutor's repeated assurances that the victims and their mother would support a SSOSA convinced Mr. Roloson to plead guilty to first-degree child rape. But, at sentencing, the victims and their mother only explained why the court should not impose a SSOSA, and they all asked the court to imprison Mr. Roloson

for life. The prosecutor stood silent during their statements. After the court rejected Mr. Roloson's motion to withdraw his plea, the court did exactly as the victims requested—it sentenced Mr. Roloson to life in prison.

Under this Court's decision in *Brady*, if a defendant is induced by a misrepresentation to plead guilty, the guilty plea is involuntary. Even a misrepresentation made in good faith can render a plea involuntary. Here, the prosecution's repeated misrepresentation that the victims and their mother would support a SSOSA induced Mr. Roloson's plea and rendered it involuntary. He should have been allowed to withdraw his guilty plea as a result.

Yet, on appeal, the Court of Appeals only held Mr. Roloson's plea was voluntary because the victim statements did not breach the plea agreement. It failed to consider Mr. Roloson's argument that the prosecutor's misrepresentation induced his plea and rendered it involuntary. The Washington Supreme Court denied review.

This Court should GVR this case because the facts plainly demonstrate the involuntariness of Mr. Roloson's guilty plea, but no court has properly considered his voluntariness argument. Alternatively, the Court should grant plenary review to consider the continued validity of the *Brady* standard.

STATEMENT OF THE CASE

The State charged Mr. Roloson with two counts of first-degree rape of a child and two counts of first-degree child molestation. App. 2. Mr. Roloson and the State resolved this case with a plea agreement. App. 2. Mr. Roloson pleaded guilty to two counts of first-degree rape of a child against a family member in exchange for the State's recommendation of a SSOSA under Wash. Rev. Code § 9.94A.670. App. 2. The State also promised Mr. Roloson that the victims and their mother would recommend a SSOSA. App. 90–91.

Specifically, the State informed Mr. Roloson that the victims and their mother would endorse a SSOSA and explain why the court should impose that treatment disposition. App. 18, 47, 51. He rejected an offer to plead to child molestation because he thought the victims and their mother would support a SSOSA if he pleaded to child rape, and he realized their opinion would be given "great weight" under Wash. Rev. Code § 9.94A.670(4). App. 46–48, 90, 92. A plea to child molestation would have carried a significantly lower sentence. Wash. Rev. Code §§ 9.94A.510, 9.94A.515. Mr. Roloson later testified that he would not have pleaded to the child rape charges if the victims "were not on board." App. 55–56.

The trial court accepted Mr. Roloson's guilty plea. App. 20. During the plea hearing, the court noted that the plea was made with a "joint recommendation for SSOSA [and] the victims have endorsed SSOSA for this individual." App. 18.

Between the time of the plea and the sentencing hearing, however, the victims' indicated they did not support a SSOSA. Elizabeth Roloson, the victims' mother and Mr. Roloson's ex-wife, explained in the pre-sentence investigation report, "The girls have a life sentence dealing with what happened to them. [Mr. Roloson] should have a life sentence in prison because you can't take it back." App. 2.

Alarmed, Mr. Roloson's attorney spoke with the prosecutor, who assured Mr. Roloson's attorney that the victim statements in the sentencing report were inaccurate and "that [Ms. Roloson] and the victims are still supportive of SSOSA." App. 91. A few days later, the prosecutor reiterated that the victims supported a SSOSA. App. 91. However, the victims also told the prosecutor they were conflicted about recommending a SSOSA. App. 101. The prosecutor did not convey this to Mr. Roloson. App. 91, 98, 101.

Despite the prosecutor's repeated assurances, neither the victims nor their mother endorsed a SSOSA at the sentencing hearing.

At that hearing, Ms. Roloson referred to Mr. Roloson as "truly an evil man who does not have remorse. . . . The devastation that has been caused cannot be reversed. The time [Mr. Roloson] has spent in jail does not compare to the lifetime of sorrow and scars he has left on my daughters." App. 31.

In discussing a SSOSA, Ms. Roloson explained, "It was certainly a hard choice to know that he may be getting what he wants after all the years of him manipulating and holding his evil way so well, but I chose to put him in your hands, Your Honor, and ultimately in God's hands where true justice will take place." App. 32. She further intimated why Mr. Roloson should not receive a SSOSA: "I do have fears that if he is released into the community, he will recommit these horrendous crimes. Repeating the same actions of molesting, raping, physically and mentally abusing my family show that he is very unstable and has no remorse for his actions." App. 32.

Ms. Roloson concluded by asking the court to sentence Mr. Roloson to life in prison: "I do not believe Eric Roloson is sorry for his actions. He has shown that by running from police for eight months and trying to take the easy way out with the SSOSA deal. . . . He is an evil man who deserves the same life sentence he gave my daughters when he decided to rape them for nine years." App. 33.

One of the victims, G.B., reiterated her mother's request to imprison Mr. Roloson for life: "I don't want Eric to be able to hurt other children the way he hurt my family. I think that he is evil and does not deserve any freedom, happiness, or a new life." App. 34.

The other victim, T.B., never endorsed a SSOSA, and she only outlined why Mr. Roloson should not be released to the community. She said Mr. Roloson "makes

me fear for my safety, my family's and our community's." App. 37–38. Like G.B. and her mother, T.B. effectively asked the court to imprison Mr. Roloson for life: "Eric cannot be trusted as a contributing and safe member of society, and he has proven that time and time again. He should not be trusted in any regard. I would like to state that this is no longer just about the safety and justice of my family, it is now about the safety of our community. I fear that if proper action isn't taken, that others may be hurt and abused by Eric. I cannot live with that. I ask that you consider the safety of all involved." App. 38.

Immediately after the victims finished speaking, defense counsel moved to "stop the sentencing so I can file a motion to withdraw our plea." App. 38. Counsel argued that the prosecutor's misrepresentation that the victims and mother would support a SSOSA induced Mr. Roloson's plea and rendered it involuntary. App. 92–96. The court noted the victim statements "are certainly not in line with the Court imposing a SSOSA sentence," but ultimately denied Mr. Roloson's motion to withdraw his plea. App. 41–42, 66–67. The court then denied a SSOSA and sentenced Mr. Roloson to 120 months to life on both counts, to be served concurrently. App. 69, 74–75.

On appeal, Mr. Roloson argued his plea should have been withdrawn because the prosecutor's misrepresentations induced his plea and rendered it involuntary. App. 103–06. The Court of Appeals held the plea was voluntary and affirmed. App.

1. It reasoned the victim statements "did not result in a breach of the plea agreement between [Mr.] Roloson and the State." App. 10–12. It did not consider whether the prosecutor's misrepresentations induced Mr. Roloson's guilty plea. *See* App. 10–12. Mr. Roloson moved for reconsideration, arguing the prosecutor's misrepresentations rendered his plea involuntary, in violation of the federal constitutional right to due process. App. 107–16. The Court of Appeals summarily denied his motion. App. 88. Mr. Roloson made the same federal due process argument to the Washington Supreme Court, which summarily denied review. App. 15, 117–23.

REASONS FOR GRANTING THE PETITION

I. The Court should grant, vacate, and remand for further consideration under *Brady*.

A GVR is warranted because the lower courts failed to apply this Court's articulation of the voluntariness standard in *Brady*. That standard demonstrates Mr. Roloson's plea was involuntary because it was induced by the prosecutor's repeated misrepresentations that the victims would endorse a SSOSA.

1. To be receive a SSOSA, an individual must be statutorily eligible. An individual is eligible if they are charged with a sex offense other than a serious violent offense or second-degree rape. Wash. Rev. Code § 9.94A.670(2)(a). The individual cannot have any prior sex convictions, and no prior violent convictions within the last five years. Wash. Rev. Code § 9.94A.670(2)(b), (2)(c). The individual

must also have an established connection with the victim "such that the sole connection with the victim was not the commission of the crime." Wash. Rev. Code § 9.94A.670(2)(e). Mr. Roloson was statutorily eligible for a SSOSA.

But just because an individual is eligible for a SSOSA does not mean they will actually receive that sentence. "The decision to employ SSOSA is entirely within the trial court's discretion." *State v. Onefrey*, 835 P.2d 213, 214 (Wash. 1992). In determining whether to grant a SSOSA, the court must "consider the victim's opinion whether the offender should receive a treatment disposition." Wash. Rev. Code § 9.94A.670(4). The court must give "great weight" to the victim's opinion. Wash. Rev. Code § 9.94A.670(4). If the victim is a minor, the minor's parent can speak at sentencing to help exercise their child's rights. Wash. Const. art. I, § 35.

SSOSA offers immense benefits for an offender. Usually, individuals convicted of sex offenses receive a mandatory indeterminate life sentence. Wash. Rev. Code § 9.94A.507; *e.g.*, Wash. Rev. Code §§ 9A.20.021(1)(a), 9A.44.073(2). In contrast, a SSOSA includes comprehensive treatment options, while significantly reducing the otherwise required length of incarceration. Wash. Rev. Code § 9.94A.670(5). Assuming an individual complies with treatment, they will only serve up to 12 months of confinement. Wash. Rev. Code § 9.94A.670(4), (5).

The prosecutor's repeated assurances that the victims and their mother would endorse a SSOSA induced Mr. Roloson to plead guilty. Indeed, he turned

down a more lenient offer to plead to child molestation because he thought he would receive victim support. App. 99–100. As he later testified, he would not have pleaded guilty to these offenses if he knew the mother and victims would not support his SSOSA request. App. 46–47. But at sentencing, neither the victims nor their mother endorsed a SSOSA; instead, they asked the court to impose a life sentence. Thus, the prosecution's repeated assurances that the victims and their mother would support a SSOSA were misrepresentations, and these misrepresentations rendered Mr. Roloson's plea involuntary.

2. "[A] guilty plea is a grave and solemn act to be accepted only with care and discernment[.]" *Brady*, 397 U.S. at 748. "A defendant who enters such a plea simultaneously waives several constitutional rights, including his privilege against compulsory self-incrimination, his right to trial by jury, and his right to confront his accusers." *McCarthy v. United States*, 394 U.S. 459, 466 (1969).

Because a defendant gives up constitutional rights by agreeing to a plea agreement, and, because fundamental rights of the accused are at issue, due process considerations come into play. "For this waiver to be valid under the Due Process Clause," it must be voluntary. *Id*. The waiver must also be knowingly and intelligently done "with sufficient awareness of the relevant circumstances and likely consequences." *Brady*, 397 U.S. at 748. If not, the plea "has been obtained in violation of due process and is therefore void." *McCarthy*, 394 U.S. at 466.

Over fifty years ago, this Court established the standard for determining the voluntariness of a guilty plea: "'A plea of guilty entered by one fully aware of the direct consequences must stand *unless* induced by misrepresentation (including unfulfilled or unfulfillable promises).'"[1] *Brady*, 397 U.S. at 755 (cleaned up & emphasis added) (quoting *Shelton v. United States*, 246 F.2d 571, 572 (5th Cir. 1957)). The Court more recently reiterated this standard in *Bousley v. United States*, 523 U.S. 614, 619 (1998). Indeed, "By 1992, this standard was deeply entrenched in federal law." *Ferrara v. United States*, 456 F.3d 278, 290 (1st Cir. 2006) (collecting cases).

3. While *Brady* clearly sets the standard for determining the voluntariness of a plea, the Washington Court of Appeals failed to apply it. In fact, the Court of Appeals only held the plea was not involuntary because the victim statements "did not result in a breach of the plea agreement between [Mr.] Roloson and the State." App. 10–12. But Mr. Roloson did not claim his plea was involuntary because the victim statements breached the agreement. And the court's holding does not resolve whether the prosecutor's misrepresentation induced Mr. Roloson's plea and rendered it involuntary under the *Brady* standard.

[1] The *Brady* standard "does not limit unfulfillable promises to those made knowingly, but merely states that the defendant's plea is involuntary when the misrepresentation for which the defendant based his agreement on could not be fulfilled." *Sawyer v. United States*, 279 F. Supp. 3d 883, 888 (D. Ariz. 2017); *accord United States v. Fisher*, 711 F.3d 460, 467 (4th Cir. 2013); *Correale v. United States*, 479 F.2d 944, 947 (1st Cir. 1973).

Several federal appellate courts have considered analogous situations and found an involuntary plea.

In *United States v. Fisher*, 711 F.3d 460, 466 (4th Cir. 2013), the defendant pleaded guilty in reliance on the prosecutor's statement that certain inculpatory evidence would be admitted at trial. However, the officer that gathered the evidence lied in order to secure the warrant, indicating the evidence would likely have been suppressed. *Id*. The defendant moved to withdraw the plea once he discovered the falsity of the officer's testimony. *Id*. at 463. The Fourth Circuit held the plea was involuntary and reversed. *Id*. at 470. It reasoned the defendant's plea was based on a misrepresentation about the admissibility of evidence. *Id*. at 466–67. That misrepresentation induced the plea, "thereby rendering" the defendant's "plea involuntary." *Id*. at 465.

Similarly, in *United States v. Hammerman*, 528 F.2d 326, 330 (4th Cir. 1975), the prosecutor expressed his "firm belief" to the defendant that the court would follow his sentencing recommendation. The defendant pleaded guilty based on that assurance. *Id*. at 329–30. The trial court ultimately departed from the recommendation and imposed a prison sentence. *Id*. at 330. The Fourth Circuit found the plea was involuntary and reversed. *Id*. at 330–31. Because the prosecutor "lacked the power to implement the prediction," the court found the prosecutor's assurance was an "'unfulfillable' promise condemned by" *Brady*. *Id*.; *see United*

States v. Amaya, 111 F.3d 386, 388–87 (5th Cir. 1997) (holding similarly and reversing where a trial court's misrepresentation about its ability to sua sponte impose a reduced sentence induced the defendant's guilty plea); *Chizen v. Hunter*, 809 F.2d 560, 562–63 (9th Cir. 1986) (holding defense counsel's misrepresentation that the court would adopt the sentencing recommendation induced the defendant's guilty plea and rendered it involuntary).

Here, Mr. Roloson was repeatedly misinformed that the victims and their mother would support a SSOSA. Like the defendants in *Fisher*, *Hammerman*, *Amaya*, and *Chizen*, Mr. Roloson pleaded guilty in reliance on that misrepresentation. That promise was "unfulfilled" as neither the victims nor their mother supported a SSOSA.

The Washington Court of Appeals did not consider this issue and failed to apply this Court's binding precedent in *Brady*. But applying that precedent demonstrates Mr. Roloson's plea was involuntary. This Court should vacate the Court of Appeals' decision and remand for further consideration in light of *Brady*. *See Lawrence on Behalf of Lawrence v. Chater*, 516 U.S. 163, 167 (1996) (recognizing a GVR may be appropriate if the lower court did not "fully consider[]" a particular issue).

II. Alternatively, the Court should grant plenary review to address the continued validity of the *Brady* standard.

If the Court concludes that summary vacatur is not warranted, it should grant plenary review to consider the continued validity of the *Brady* standard.

Since *Brady*, federal and state appellate courts have reached disparate results regarding the voluntariness of a guilty plea. As explained above, various federal circuit courts apply *Brady* and have found several types of misrepresentations can render a plea involuntary. *E.g.*, *Fisher*, 711 F.3d at 465; *Chizen*, 809 F.2d at 563; *United States v. Garrett*, 141 F.4th 96, 107–08 (4th Cir. 2025); *Ferrara*, 456 F.3d at 291; *see Com. v. Scott*, 5 N.E.3d 530, 542 (Mass. 2014). But some courts remain hesitant about the reach of the *Brady* standard. *See, e.g.*, *Hasbajrami v. United States*, 11-CR-623, 2014 WL 4954596, at *3 (E.D.N.Y. Oct. 2, 2014); *Evans v. DeMatteis*, CV 16-818-LPS, 2019 WL 4757494, at *10 (D. Del. Sept. 30, 2019).

From *Brady*, the First and Fourth Circuits have adopted a two-part test to determine if a misrepresentation rendered a plea involuntary: "[T]o set aside a plea as involuntary, a defendant who was fully aware of the direct consequences of the plea must show that (1) 'some egregiously impermissible conduct (say, threats, blatant misrepresentations, or untoward blandishments by government agents) antedated the entry of his plea' and (2) 'the misconduct influenced his decision to plead guilty or, put another way, that it was material to that choice.'" *Fisher*, 711

F.3d at 465 (quoting *Ferrara*, 456 F.3d at 290). But other circuits have not adopted this test. Other circuits, such as the Fifth and the Ninth, continue to use their own derivation of the *Brady* standard. *Chizen*, 809 F.2d at 562–63; *Amaya*, 111 F.3d at 388–87; *United States v. Cortez*, 973 F.2d 764, 768–69 (9th Cir. 1992).

At the same time, states like Washington apply a narrow understanding of what can render a plea involuntary. In this case, the Washington Court of Appeals wrote, "a guilty plea is not involuntary if 'the defendant was correctly informed of all of the direct consequences of his guilty plea.'" App. 11 (quoting *State v. Mendoza*, 141 P.3d 49, 53 (Wash. 2006)); *accord State v. Jimenez*, 987 S.W.2d 886, 888 (Tex. Crim. App. 1999). This is not faithful to this Court's standard in *Brady*. As this Court established, even if a defendant was correctly informed of the direct consequences of the plea, the plea may still be involuntary if it was induced by a misrepresentation. *Brady*, 397 U.S. at 756.

The divergent treatment of this issue has spread since this Court decided *Brady* over fifty years ago. It should take review and provide clarity to this constitutionally significant area of law.

Providing such clarity is particularly warranted given the importance of plea bargaining in our legal system. "The disposition of criminal charges by agreement between the prosecutor and the accused, sometimes loosely called 'plea bargaining,' is an essential component of the administration of justice. Properly administered, it

is to be encouraged." *Santobello v. New York*, 404 U.S. 257, 260 (1971). "If every criminal charge were subjected to a full-scale trial, the States and the Federal Government would need to multiply by many times the number of judges and court facilities." *Id*.

Letting a prosecutor misrepresent the nature of the agreement while forcing a defendant to pay the price for that misrepresentation jeopardizes this system.

If this Court does not GVR this case, it should grant plenary review and confirm that the *Brady* standard remains the applicable standard for determining the voluntariness of a plea. *See* Sup. Ct. R. 10(b), (c).

CONCLUSION

The Court should grant the petition, vacate the decision below, and remand for further review in light of *Brady*. Alternatively, this Court should grant plenary review to consider the continued validity of the *Brady* voluntariness standard.

Respectfully submitted,

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