No. 25-____

In The
Supreme Court of the United States

Jackson Daniel Bowers,

Petitioner,

v.

United States of America,

Respondent.

Petition for a Writ of Certiorari

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Question Presented

In *United States v. Haymond*, 139 S. Ct. 2369 (2019), a 4-1-4 decision, this Court left undecided the question of how the Sixth Amendment's jury-trial right applied in federal supervised-release proceedings. Justice Gorsuch, writing for the plurality, recognized that traditional parole and probations systems (where a defendant owes time remaining on a sentence) was fundamentally different from supervised release (where a defendant owes no time)—and that "structural difference bears constitutional consequences." In dissent, Justice Alito highlighted the unresolved question left in *Haymond*'s wake: whether "the Sixth Amendment right to a jury trial applies to *any* supervised release revocation proceeding."

That is the issue presented here.

Related Proceedings

This case arises from the following proceedings in the United States District Court for the Eastern District of Washington and in the United States Court of Appeals for the Ninth Circuit:

United States v. Bowers, No. 23-902, (9th Cir. March 4, 2025) (reported at 130 F.4th 672).

United States v. Bowers, No. 2:19-CR-51-TOR-1 (E.D. Wash. May 10, 2023) (unreported).

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Petition for Writ of Certiorari

Petitioner Jackson Bowers respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in No. 23-902.

Opinions Below

The Ninth Circuit issued an opinion related to Mr. Bowers' jury trial right on March 4, 2025, published at *United States v. Jackson Bowers*, 130. F.4th 672 (9th Cir. 2025) and attached as Appendix A.[1] A memorandum disposition was concurrently filed by the Ninth Circuit that same date disposing of Mr. Bowers' other claims.[2] The judgment and sentence of the United States District Court for the Eastern District of Washington is unpublished.[3] Relevant excerpts of the record from the revocation hearing, including the district court issuing the revocation sentence, can be found attached as Appendix C.[4]

Jurisdiction

This Court holds jurisdiction under 28 U.S.C. § 1254(1). This petition is timely. The Ninth Circuit entered judgment on March 4, 2025.[5] Neither side petitioned for rehearing. Mr. Bowers submitted a request for extension of time to file a petition for writ of certiorari on May 21, 2025, which this Court (specifically Justice Kagan) granted on May 30, 2025, extending Mr. Bowers' deadline until August 1, 2025.[6]

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[1] App. 1a–9a.
[2] App. 10a–15a.
[3] App. 47a–51a.
[4] App. 16a–42a.
[5] App. 1a–9a.
[6] *See* Application No. 24A1169.

Constitutional and Statutory Provisions

The Sixth Amendment to the Constitution states:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Title 18 U.S.C. § 3583(e) provides in relevant part:

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

Introduction

Every year, tens of thousands of people are sentenced for violating supervised-release terms—all of them without a jury. That was never an issue under the traditional probation and parole systems that existed in both the state and federal criminal systems for 150 years. When a prisoner was released early, they owed time remaining on their sentence, and thus, returning them to prison for violating release rules presented no constitutional problem. That changed in 1987 when supervised release was implemented. Today, when a prisoner is released early, they owe no time. As Justice Gorsuch wrote in *United States v. Haymond*, 139 S. Ct. 2369 (2019), "that structural difference bears constitutional consequences." That recognition opened a 4-1-4 divide in *Haymond*, which left unresolved a question highlighted by Justice Alito: whether "the Sixth Amendment right to a jury trial applies to *any* supervised release revocation proceeding."[7]

This is the case to resolve that lingering question. Jackson Bowers was charged with two state crimes while on federal supervised release. After reviewing the evidence, the state prosecutor issued a deferral, and the federal prosecutor agreed to dismiss the parallel supervised-release petition—both effectively walking away from the charges. (As discussed below, with good reason.) Despite both sovereigns reversing course and despite Mr. Bowers requesting a jury, the district court called its own witness, presented its own evidence to itself, and convicted Mr. Bowers—

[7] *Haymond*, 139 S. Ct. at 2387 (Alito, J., dissenting).

without a single first-hand witness, without ever seeing the state evidence, and without a jury.

To answer whether the Constitution guarantees Mr. Bowers a jury, we look to the original understanding of the Sixth Amendment, as this Court did in *Haymond*, addressing whether a person facing a mandatory-minimum supervised-release sentence was guaranteed a jury. Staying faithful to the Framers' original understanding, Justice Alito sought a historical analogue to supervised release and found it easily: recognizances. Much like a bond, Founding-era courts released "convicted criminals" on recognizances and imposed conditions—keep the peace; be of good behavior.[8] If a person violated the conditions, courts could forfeit the bond or jail them. Justice Alito dismissed recognizances because, at the time, he saw "no evidence that there was a right to a jury trial" for recognizances[9] and argued no one "even attempt[ed] to prove otherwise."[10] One professor did more than attempt.

Enter Professor Jacob Schuman. Through review of Founding-era documents, Professor Shuman definitively produced that evidence: "yes, at the time the Constitution was ratified, punishing recognizance violations required a jury trial."[11] The gravity of Professor Schuman's work cannot be overstated: the Framers understood the jury-trial right applied in circumstances indistinguishable in any meaningful way from supervised release. Put another way, the Founders would have understood the Sixth Amendment to guarantee Mr. Bowers a jury.

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[8] *Haymond*, 139 S. Ct. at 2396 (Alito, J., dissenting).
[9] *Id.* at 2397.
[10] *Id.*
[11] Jacob Schuman, *Revocation at the Founding*, 122 Mich. L. Rev. 1381, 1381 (2024).

Statement of the Case

A. Mr. Bowers was convicted and punished for a state criminal charge in federal court without a jury trial.

As part of Mr. Bowers' sentence for possession with intent to distribute heroin in violation of 21 U.S.C. § 841(a)(1), (b)(C), he was sentenced to 36 months in prison followed by a three-year term of supervised release.[12] He was released from his 36-month sentence on February 25, 2022, owing not a single day more for his crime.[13]

1. U.S. Probation alleges two supervised release violations against Mr. Bowers.

In 2023, Mr. Bowers' probation officer filed a petition alleging a single supervised-release violation: that he committed fourth-degree domestic violence assault against his partner, a state misdemeanor.[14]

The supervised-release condition—mandatory in all supervised-release cases[15]—categorizes all federal, state, and local law violations as supervised release violations: "[y]ou must not commit another federal, state or local crime."[16] Thus, any alleged violation of any law, even jaywalking, exposes the supervisee to prison. Because Mr. Bowers's maximum sentence for revocation punishment was 2 years,

[12] App. 4a.
[13] App. 43a.
[14] App. 43a.
[15] 18 U.S.C. § 3583(d).
[16] App. 43a.

he faced more punishment in federal court than the maximum penalty in state court for the same conduct.[17]

The petition contains a summary of the allegations. On February 8, 2023, local deputies responded to a domestic-violence report at Mr. Bowers' apartment. According to the petition, deputies interviewed Ms. Mendoza who claimed that she and Mr. Bowers were arguing, he "slammed her" to the ground, and "struck her an unknown number of times on her head."[18] She then claimed Mr. Bowers had "struck her in the head again before leaving the apartment with some of his belongings."[19]

The petition contains no police reports, no photos, no sworn statements, and no other evidence—it is just a half-page recital. And, as would be important later, the petition contains no reference to any other adult witness beyond Ms. Mendoza.

Now in custody following the issuance of a federal supervised release warrant, Mr. Bowers faced a two-year federal sentence for a state misdemeanor carrying a maximum penalty of less than a year in state court.[20]

Probation then filed a second petition alleging Mr. Bowers violated a state no-contact order by calling Ms. Mendoza from the Spokane County jail,[21] a state crime which, if proven, would in turn trigger the no-crime supervision condition.[22]

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[17] *See* 18 U.S.C. § 3583(e)(3).
[18] App. 44a.
[19] App. 44a.
[20] *See* 18 U.S.C. § 3582(e)(3) (maximum two-year sentence if original offense is Class C felony); *see* Wash. Rev. Code § 9.92.020 (gross misdemeanor maximum is 364 days).
[21] App. 45a.
[22] App. 45a.

The second petition contains few details. It alleges Mr. Bowers received a state protection order while in custody[23] and that Ms. Mendoza filed a harassment report claiming "she received a call" on February 22, 2023, from Mr. Bowers.[24] She apparently showed an unnamed deputy her phone, which contained a call from a number associated with the jail, and later, an unnamed detective reported that Mr. Bowers' PIN had been matched with a call to Ms. Mendoza.[25] The petition provides no detail regarding the contents of the call.

The charge was, like the first allegation, a state misdemeanor offense.[26] As is typical of supervised-release petitions, it contained no police reports, no sworn testimony, no recording of the alleged call, or any other evidence.

2. Prosecutors walk away from the charges.

Both the state and federal prosecutors quickly realized the charges were questionable. Mr. Bowers was transferred from federal custody to state custody to resolve the state charges. The state prosecutor and Mr. Bowers agreed ***not*** to proceed to trial and instead enter a deferral agreement in which he did not admit guilt.[27]

The federal prosecutor saw the same problems with the charges and agreed to dismiss the supervised-release violations.[28]

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[23] App. 45a.
[24] App. 45a.
[25] *See* App. 45a–46a.
[26] *See* RCW 7.105.450.
[27] *See* App. 45a.
[28] *See* App. 18a.

3. At Mr. Bowers' revocation hearing, the district court overrides the parties' joint recommendation for dismissal and revokes supervised release without a jury trial.

Mr. Bowers' revocation hearing illustrates the importance of jury trials to protect an individual's liberty. Given the federal prosecutor's position, prior to the revocation hearing set for early May 2023, defense counsel filed a memorandum seeking joint dismissal of the supervised release violations.[29]

a. The district court refuses to dismiss the petition—despite the parties' joint request.

Rather than addressing the parties' joint dismissal recommendation at the beginning of the hearing, the district court assumed the role of both prosecutor and fact finder by calling its own witness to the stand. The district court called U.S. Probation Officer Hanson sua sponte as a witness.[30] As the district court started questioning Officer Hanson, defense counsel interrupted to ask about the jointly-recommended dismissal: the parties' "position going into this hearing was a joint recommendation to dismiss the violations."[31] The district judge responded that dismissal was "not up to the U.S. Attorney's Office or the defense attorney," it was "up to the Court."[32]

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[29] App. 18a.
[30] App. 17a ("All right. Ms. Hanson, could I have you come forward and take the witness stand, please.").
[31] App. 18a.
[32] App. 18a.

The district court offered no reasoning for proceeding against the parties' recommendation for dismissal. It asked no questions about why the state prosecutor agreed to a deferral. The court failed to even ask why the federal prosecutor sought dismissal.

Instead, the district court briefly questioned Officer Hanson on the hearsay allegations in the supervised release violation petitions, taking their veracity at face value. With Officer Hanson on the witness stand, the district court avoided rehashing the reports and only asked if there was anything to correct: "[i]nstead of going through the entire report, . . . [a]re there any corrections that you'd like to make [to the first petition]?"[33] There were not. The district court asked the same question of the second petition and got the same answer.[34] Every signal from the court communicated it had pre-decided the result of the hearing before it began and that it intended to punish Mr. Bowers for his alleged state crimes.

b. Mr. Bowers invokes his right to a jury.

During Officer Hanson's testimony, it occurred to Mr. Bowers' attorney that the district court intended to convict Mr. Bowers of two state crimes in federal court on the basis of a few paragraphs written by the probation officer, so he formally objected and invoked Mr. Bowers' right to a jury trial: "Mr. Bowers wishes to formally invoke his Sixth Amendment right to a jury trial."[35] The district court

[33] App. 19a. The district court clarified it was referring to the February 9th petition, which was initially sealed and has a different docket number for the court. App. 19a. (noting "that's violation No. 1, a report dated February 9th, 2023").
[34] App. 19a–20a.
[35] App 20a. Defense counsel later renewed this objection: "we would again maintain our procedural objection to Mr. Bowers' lack of a jury trial") App. 36a.

denied the request.[36] Mr. Bowers later objected again and invoked his jury right: "he has a right to a jury trial."[37]

Mr. Bowers also objected that he was denied cross examination of Ms. Mendoza: "Mr. Bowers has not had the opportunity to confront the primary witness against him, Ms. Katia Mendoza."[38] The district court failed to respond to the objection at all.

Mr. Bowers then called Mr. Drake, the only available witness with personal knowledge of what happened at the scene of the incident, who testified that he observed Mr. Bowers' bloody lip upon arriving to the house and heard Mr. Bowers ask Ms. Mendoza to stop hitting him.[39] After hearing the only direct witness of the events in question, and disregarding Mr. Bowers's claim of self-defense, the district court sentenced him to nine months incarceration, with a new 36-month term of supervised release to follow.[40]

B. How we got here: the evolution of recognizances, parole, and supervised release.

Mr. Bowers' hearing is emblematic of a larger constitutional problem. To understand this constitutional problem, it is best to start with the original understanding of recognizances at the Founding and trace its evolution to modern-day federal supervised release proceedings.

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[36] App. 20a.
[37] App. 21a.
[38] App. 37a. Defense counsel entered this objection later in the hearing, but for clarity of briefing, grouping the objections together seems sensible.
[39] *See* App. 34a.
[40] App. 38a.

1. The Founders understood the jury-trial right applied to recognizances.

Founding-era courts used recognizances, also called "peace bonds" or a "surety for the peace,"[41] to impose conditions on criminal defendants, including the same condition imposed on Mr. Bowers—to refrain from breaking the law. Precisely that condition was central in William Blackstone's definition of recognizances in his *Commentaries*: a recognizance is "an obligation of record" entered in "some court of record" that requires a person "to do some particular act; as to appear at the assizes, to keep the peace, to pay a debt, or the like."[42]

Founding-era judges used recognizances widely—so often that legal treatises contained stock forms.[43] One of "the most published and widely circulated"[44] treatises in early-American legal use, *New Virginia Justice*, can still be readily found online with it's fill-in-the-blank form recognizances.[45]

Founding-era courts "made extensive use" of recognizances, an "integral" part of colonial law.[46] Given the widespread use, recognizances were surely known to the Framers. Indeed, *New Virginia Justice* counted both James Madison and Thomas Jefferson among its subscribers.[47]

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[41] Schuman, supra note 7, at 4 (citing Lawrence M. Friedman, Crime & Punishment in Am. History at 38 (1993); 4 William Blackstone, Commentaries on the Laws of England at 251 (1st ed. 1769) (emphasis added)).
[42] Schuman, supra note 7, at 21 (citing 2 Blackstone, *Commentaries* at 9) (emphasis added).
[43] Schuman, supra note 7, at 22–23 ("Early American courts 'made extensive use' of the recognizance to keep the peace or for good behavior, which was an 'integral and indisseverable incident' of colonial law."); Goebel & Naughton, Law Enforcement in Colonial New York: A Study in Criminal Procedure (1664–1776) at 552 (1944)).
[44] Schuman, supra note 7, at 22 (quoting Nathaniel J. Berry, *Justice of the Peace Manuals in Virginia Before 1800*, 26 J.S. Legal Hist. 315, 328 (2018)).
[45] *See* William Hening, New Virginia Justice at 25, 438 (1795) (available at: https://bit.ly/3sNicUI).
[46] Schuman, supra note 7, at 22 (citations omitted).
[47] William Hening, *New Virgina Justice* (1795) (listing subscribers at front of treatise, unpaginated) (available at: https://bit.ly/3sNicUI).

Founding-era newspapers matter-of-factly discussed recognizances in criminal news of the day. For example, one Philadelphia paper, the Aurora General Advertiser,[48] published a petition by the defendants in *Respublica v. Cobbett*, 3 U.S. 467, 475 (Penn. 1798), discussing their jury trial for breach of recognizances and complaining about jury-instruction error.[49] Newspapers reported on Aaron Burr "appear[ing] on the day mentioned in his recognizance" when he ran into legal trouble in 1807 (unrelated to shooting Hamilton).[50] The term "recognizance" was everyday fare understood by the public at large.

At the time the Constitution was ratified, recognizance forfeitures required a jury trial.[51] The evidence of this is ample. Professor Shuman found numerous cases from 1804 to 1862 discussing recognizance juries.[52] Beyond judicial opinions, long-preserved court records show defendants received recognizance juries as far back as the 15th century.[53] Treatises show that English courts in the 1600s and 1700s

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[48] The paper prominently advertised that it was run by the "successor of Benjamin Franklin Bache," the grandson of Benjamin Franklin. Aurora Gen. Advertiser at 1 (Feb. 7, 1805) (No. 4401) (available at: https://bit.ly/3Z64Q1Q).

[49] Aurora Gen. Advertiser at 2 (Feb. 7, 1805) (No. 4401) (available at: https://bit.ly/3Z64Q1Q). A publisher, William Cobbett, had fled the country in breach of his recognizance, and his sureties, Richard North and Benjamin Davies "were prosecuted for the forfeiture of their sureties." *Id.* The "jury gave a verdict for the commonwealth" against North and Davies, who then protested that the judge had made a "mistake upon the point of law in their charge of the jury," i.e., a jury-instruction error. *Id.*

[50] *See* The Centinel No. 43 at 339 (Mar. 25, 1807) (available at: https://bit.ly/3ENh2eN) ("Col. Burr demanded a release from his recognizance"); *see also* Norfolk Gazette & Publick Ledger No. 136 at 3 (May 29, 1807) ("col. Burr should be relieved of his recognizance").

[51] Schuman, supra note 7, at 34.

[52] Schuman, supra note 7, at 34; *see also Mix v. People*, 29 Ill. 196, 197–98 (1862); *Sans v. People*, 3 Gilman 327, 329 (Ill. 1846); *Rex v. Wiblin*, 2 Car. & P. 9 n. 2 (1825); *Commonwealth v. Emery*, 2 Binn. 431, 433–35 (Pa. 1810); *Commonwealth v. Davies*, 1 Binn. 97, 99–100 (Penn. 1804).

[53] Schuman, supra note 7, at 35 (citing The Year Books: Report #1494.073, Legal History: The Year Books, Boston University School of Law) (available at: https://bit.ly/3ErE8Y7) ("Defendant was obliged to the king on a recognizance to keep the peace," but when the king's counsel "saw that the jurors intended . . . to give their verdict . . . against the king (whether defendant recognisor had breached the peace and forfeited his recognisance)," he dismissed the case.).

would empanel a "jury" to decide whether a defendant "forfeited his recognizance by breach of the peace."[54] American courts were the same: Professor Schuman highlights sample cases in 1725, 1771, 1798, 1800, and 1801.[55]

There was one exception to the jury-trial right: where a defendant failed to appear in court. If that was the case, then the judge could find the defendant's absence without a jury and hold it a breach.[56] But out-of-court breaches, like assault, required juries. The in-court exception is common sense. When a defendant fails to appear, the judge sees it and the court record reflects it—the violation is already established in the court record. (Notably, if the judge failed to properly record a defendant's failure to appear, the court would "still require[] juries for forfeiture" of a recognizance.[57])

This rule survives today in a few forms. As is now blackletter law, "any fact that increases" the statutory maximum for a crime "must be submitted to a jury"—except one.[58] That is "the fact of a prior conviction," an in-court record.[59] Apart from prior convictions, we follow the same rule in contempt-of-court proceedings. When prosecuted for criminal contempt, defendants are "entitled to a jury"—with one exception.[60] A judge may "summarily punish" a defendant without a jury if the

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[54] Schuman, supra note 7, at 35 (citations omitted).
[55] *See* Schuman, supra note 7, at 36–37 (citations omitted).
[56] Schuman, supra note 7, at 38 ("usually . . . failures to appear could be found by a judge, whereas breaches of the peace and other misbehavior had to be proved to a jury") (citations omitted).
[57] Schuman, supra note 7 at 38 (citing, as example, *Dillingham v. United States*, 7 F. Cas. 708 (D. Pa. 1810); 6 Matthew Bacon, A New Abridgment of the Law, at 635 (5th ed. 1798)); Professor Schuman also notes *Whitley v. Gaylord*, 3 Jones (NC) 286, 288 (1856): "any 'issue of fact' that was 'known to the Court as a matter of record' could be 'tried by the Court,' but if 'the issue be taken" on 'any other matter *in pais* [outside the record],' then 'the trial' had to be 'by jury.'" *Id.* at 38 n.301.
[58] *Apprendi v. New Jersey*, 530 U.S. 466, 490 (2000).
[59] *Id.*
[60] *See* Fed. R. Crim. P. 42(a)(3).

offender "commits criminal contempt in [the court's] presence if the judge saw or heard the contemptuous conduct and so certifies."[61]

In short, Founding-era courts and the Framers understood that the ancient jury-trial right passed down through English law for hundreds of years guaranteed juries to anyone accused of breaching their recognizance conditions, including the "keep-peace" condition.

2. States create parole and probation—balance-owed systems—that do not run afoul of the jury-trial right.

Recognizances faded from use over time and evolved through various systems to arrive at supervised release. But supervised release differs in one constitutional aspect. To see how, it is helpful to trace the lineage from recognizances.

Beginning in the 1830s, judges who had long relied on recognizances began slowly adopting a new practice called "laying a case on file," which was simply to postpone sentencing indefinitely.[62] Effectively, probation. These practices evolved by the mid-1800s into formal probation and parole systems sanctioned by state legislatures and blessed by statute.[63] Those systems functioned steadily in the federal courts until 1984, when Congress passed the Sentencing Reform Act, abolishing parole and creating a new animal: supervised release.[64]

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[61] Fed. R. Crim. P. 42(b); *see also Young v. U.S. ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 798 (1987) (distinguishing "between in-court and out-of-court contempts," and noting courts "dispense[] with" formal hearings where contempt occurs "within the view of the court") (citations omitted).
[62] *See* Schuman, supra note 7, at 41–42 (citations omitted); *see also Ex Parte U.S.*, 242 U.S. 27, 50 (1916) (discussing "a system styled 'laying the case on file'").
[63] *See generally* Schuman, supra note 7, at 42–45.
[64] *See* 18 U.S.C. § 3583 ("Inclusion of a term of supervised release after imprisonment").

Each scheme—parole, probation, and supervised release—works differently. In a traditional parole system, a court imposes a sentence, say 10 years, for a crime. The defendant owes that time and can be forced to serve it all, but parole "allow[ed] judges or parole boards to suspend part" of the sentence and allow the defendant out early.[65] Once that 10 years is served, a defendant cannot be further imprisoned—his sentence is over. The "essence of parole" is early release on condition that prisoners abide certain rules "during the ***balance*** of the sentence."[66] That element—a balance owed—is critical.

Under a probation scheme, a court may defer "all . . . of a defendant's prescribed prison term" and grant "conditional liberty as an 'act of grace'"—grace that is "subject to revocation."[67] At sentencing, courts may grant "leniency," and a defendant promises to comply with conditions so that failures "at least arguably breach the 'trust' placed . . . by the sentencing judge."[68]

But again, a defined balance of imprisonment time is owed.

3. Congress originally creates a constitutional version of supervised release.

From the middle of the 19th century, parole and probation reigned in America. Everything changed in 1984 when Congress passed the Sentencing Reform Act (SRA), ending parole and creating supervised release.[69] Supervised release was something entirely new: "unlike parole," it was never meant "to replace a portion of

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[65] *Haymond*, 139 S. Ct. at 2377 (citing *Escoe v. Zerbst*, 295 U.S. 490 492 (1935) (additional citation omitted).
[66] *Morrissey v. Brewer*, 408 U.S. 471, 477 (1972) (emphasis added).
[67] *Haymond*, 139 S. Ct. at 2377 (citing *Escoe*, 295 U.S. at 492).
[68] *United States v. Peguero*, 34 F.4th 143 (2022) (Underhill, D.J., dissenting) (citations omitted).
[69] *See Haymond*, 139 S. Ct. at 2382; *see also* Doherty, supra note 10 at 959.

the defendant's prison term."[70] Indeed, the Senate Judiciary Committee detailed the reasoning behind the SRA and definitively stated that supervised release "may ***not*** be imposed for purposes of punishment or incapacitation" because "those purposes" were already served "by the term of imprisonment."[71]

Supervised release differed from the traditional systems in a major respect: no balance is owed. In a modern federal sentencing, a court sentences a defendant to incarceration, and the defendant serves every day of it. Put another way, when a defendant starts their first day of supervised release, he does so only "*after* the completion of his prison term," owing not a single day in prison for their original offense.[72] Justice Gorsuch highlighted that distinction in *Haymond*: "unlike parole, supervised release wasn't introduced to replace a portion of defendant's prison term."[73] In that respect, supervised release shares more in common with recognizances than parole—both being zero-balance systems.

Justice Gorsuch recognized the shift from parole to supervised release was a distinction with a difference. This "structural difference"—the change from a balanced-owed to a no-balance system—bore "constitutional consequences."[74] The constitutional consequences of this shift are glaring, but supervised release as originally designed, would have still been constitutional.

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[70] *See id.* (Citing United States Sentencing Commission, Guidelines Manual ch. 7, pt. A(2)(b) (Nov. 2012)); *see also* Doherty, supra note 10 at 1024.
[71] Sen. Rep. 98-225, at *125, 1983 WL 25404 (Aug. 4, 1983) (emphasis added).
[72] *See Haymond*, 139 S. Ct. at 2382 (citing U.S. Sent. Comm'n, *Guidelines Manual*, ch. 7, pt. A(2)(b) (Nov. 2012); Fiona Doherty, *Indeterminate Sentencing Returns: The Invention of Supervised Release*, 88 N.Y.U. L. Rev. 958, 1024 (2013)).
[73] *Haymond*, 139 S. Ct. at 2382.
[74] *Id.*

Here's the rub: Congress originally designed supervised release to include jury trials.[75] Yes, jury trials. The SRA dispensed with the entire idea of "revocations"—they were dropped along with parole.[76] Abandoning revocations made sense: under the then-novel supervise-release system, there was no early release from prison, no concept of "trust," no "act of grace" to revoke. The very word "revocation" made no sense.[77]

Instead of revocation, the SRA authorized courts to sanction defendants using criminal contempt prosecutions—which required juries for any sentence involving more than six months.[78]

4. The error: a "miscellaneous technical amendment" in 1986 undermines supervised release.

The original design was constitutional. But the original design would never see the light of day. In 1985, a year after the SRA was passed, the Department of Justice apparently contacted Senator Strom Thurmond, then chair of the Senate

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[75] Doherty, supra note 10 at 1000 ("Criminal contempt required trial by jury (for all cases involving a sentence of more than six months.").

[76] Sen. Rep. 98-225, at *125, 1983 WL 25404 (Aug. 4, 1983) ("the term of supervised release is ***not*** subject to revocation for a violation") (emphasis added).

[77] Courts have periodically needed to employ creative and "unconventional" definitions to pretend that supervised release involves revoking anything. *See United States v. Wing*, 682 F.3d 861, 868 (9th Cir. 2012) (noting Supreme Court was forced to "appl[y] an unconventional definition of revoke" to supervised release, where this "less common definition" meant that a "revoked term can retain vitality after revocation") (citation and internal quotes omitted). Again, a defendant isn't released from prison because he has been granted anything. He is released because he served his entire term of imprisonment.

[78] Doherty, supra note 10 at 1000 ("Criminal contempt required trial by jury (for all cases involving a sentence of more than six months)."); *see also* Sen. Rep. 98-225, at *125, 1983 WL 25404 (Aug. 4, 1983) (SRA authorizes courts "to treat a violation of a condition of a term of supervised release as contempt of court pursuant to" 18 U.S.C. § 401(3), which allows contempt prosecution for "[d]isobedience or resistance to its lawful writ, process, order, rule, decree, or command").

Judiciary Committee, and requested a "streamlined procedure" to fix "what were characterized as small and technical problems" with supervised release.[79]

The fix wasn't small. The following year, 1986, Congress passed the Anti-Drug Abuse Act and tucked inside was a provision described "as one of several 'miscellaneous technical amendments.'"[80] That miscellaneous technical amendment was the entire revocation system—a monumental change. Contempt proceedings were gone. And for the first time in the history of English common law and American law, defendants who had served every day of their term of imprisonment could be sent back to prison for new crimes without a jury. More than 400 years of consistent trial rights quietly ended.

The constitutional consequences of this reworked supervised release are glaring, and courts have been forced to concoct legal fictions to support it.

[79] Doherty, supra note 10 at 1001 (citations omitted).
[80] Doherty, supra note 10 at 1001.

Reasons for Granting the Writ

A. The Ninth Circuit's decision is wrong.

The Ninth Circuit concludes that Mr. Bowers lacks a jury trial right because Article III's jury provision and the Sixth Amendment are equivalent in scope and Ninth Circuit precedent already holds that supervisees do not have a right to a jury trial on a supervised release proceedings under the Sixth Amendment.[81]

1. The Ninth Circuit relies on precedent applicable to probation and parole instead of the no-balance-owed system of supervised release.

Any "precedent" using pre-SRA logic, specifically *Morrissey v. Brewer*, 408 U.S. 471 (1972), and *Gagnon v. Scarpelli*, 411 U.S. 778 (1973), based on the balance-owed systems of parole and probation is misapplied to the no-balance-owed supervised release context.

The Ninth Circuit "has consistently held that a defendant facing revocation" has "no constitutional right to a jury trial."[82] Yet, the Ninth cites *Morrissey* to support that claim. *Morrissey* was decided in 1972, long before Congress created supervised release. That did not trouble the *Huerta-Pimental* court because it reasoned "parole, probation, and supervised release are constitutionally indistinguishable."[83] That is wrong.

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[81] App. 9a.

[82] *United States v. Huerta-Pimental*, 445 F.3d 1220, 1225 (9th Cir. 2006).

[83] *Id.* at 1225 (citing *United States v. Hall*, 419 F.3d 980, 985 n.4 (9th Cir. 2005)).*Huerta-Pimental* refers to this as a "holding" in *Hall*. It seems questionable as to whether a panel could broadly rule that parole, probation, and supervised release are "constitutionally indistinguishable" in all situations. More problematically, for that idea, *Hall* cites *United States v. Comito*, 177 F.3d 1166,

There is a critical distinction between balance-owed systems of parole and probation and supervised release. The "essence" of parole, as the Supreme Court said decades ago, is that a defendant leaves prison early, "***before*** the completion" of his prison sentence.[84] That is the central bargain—he is trusted to release early, and that trust can be revoked. In supervised release, the "essence" is precisely the opposite: a defendant like Mr. Bowers serves his entire prison term and is released only when no balance remains. The term "revocation" in the supervised release context is a misnomer: nothing is revoked.

Justice Gorsuch explained in *Haymond*, that the idea that "supervised release revocation procedures" and "historic parole and probation" are "practically identical" rests on a faulty premise.[85] The faulty premise advanced by the government in *Haymond* and found in the Ninth Circuit's precedent is simple: there is no difference between a balance-owed and no-balance system. The premise is faulty because that is precisely the core distinguishing feature.

In recognition of this critical distinction, *Haymond* caused a stir. Four Supreme Court justices indicate that parole, probation, and supervised release are not merely constitutionally distinguishable but constitutionally incompatible.[86]

1170 (9th Cir. 1999), which says nothing nearly that broad. In *Comito*, the Ninth Circuit simply said that "certain minimum due process requirements" for parole revocations had been extended to probation, and those same due-process protections had been extended by Federal Rule 32.1 to supervised release. *Comito*, 177 F.3d at 1170. It does not say anything akin to "parole, probation, and supervised release are "constitutionally indistinguishable."

[84] *See Haymond*, 139 S. Ct. at 2382 (quoting *Morrissey*, 408 U.S. at 477 (noting inmates were "allowed to leave prison early")) (emphasis added).

[85] *Haymond*, 139 S. Ct. at 2381.

[86] *Haymond*, 139 S. Ct. at 2382 (the systems are "structural[ly] differen[t]" to such a degree that there are "constitutional consequences").

2. Ninth Circuit precedent relies on a shaky latticework of dubious legal fictions.

Courts have been forced to adopt a series of tortured legal fictions to deny jury trials for alleged supervised release violations. Without these legal fictions, the reasoning behind precedent denying jury trials collapses into self-evident unconstitutional territory. Addressing each legal fiction is essential.

a. Fiction No. 1: Defendants aren't imprisoned for new crimes; they are imprisoned for "breaching the court's trust."

Courts have adopted the legal fiction that defendants aren't being punished for violating the law; they are being reimprisoned for "breaching the court's trust." The Ninth Circuit itself could barely take this seriously: "[w]e recognize that the difference between sanctioning a supervised release violator for breach of trust and punishing him . . . is subtle indeed."[87] Very subtle. The theory has a basis in neither fact nor law.

Factually, inmates aren't released because anyone trusts them. Inmates are released because they served each day of incarceration owed for their crime. Indeed, courts impose supervision precisely because they don't trust offenders. The trust idea arises only in a balanced-owed system like parole.

Legally, the breach-of-trust theory is pure invention with no basis in statute.[88] As applied to supervised release, the idea was lifted from explanatory policy notes

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[87] *United States v. Miqbel*, 444 F.3d 1173, 1182 (9th Cir. 2006).
[88] *See* Fiona Doherty, "Breach of Trust" and *United States v. Haymond*, 34 Fed. Sent. R. 274, 274 (Vera Inst. Just.) ("The 'breach of trust' framework is not rooted in a statute.").

in the federal sentencing guideline manual.[89] And that wasn't until 1990, six years after Congress created supervised release.[90]

Any average American who wandered into a federal courtroom during a revocation hearing would see prosecution for a crime, not a breach of trust. As one judge put it, at any revocation hearing, "(1) the government (2) accuses the defendant (3) of violating a condition of supervised release and, (4) if that charge is proven, the defendant will be sentenced to a new term of imprisonment."[91] Judge Underhill's point: a revocation bears all the hallmarks of a criminal prosecution, and "[s]emantic gymnastics cannot change" that.[92] Put another way, if it walks like a duck and talks like a duck, it's likely a duck.

Mr. Bowers' revocation hearing looked like a jury-less trial for a state crime in federal court because that's what it was—it had nothing to do with breaching trust that never existed in the first place.

b. Fiction No. 2: Defendants aren't imprisoned for new crimes; revocations are just "part of the original punishment."

Courts have been forced to adopt the original-punishment idea—that defendants like Mr. Bowers aren't being punished with new sentences for new offenses. Instead, incarceration following revocation proceedings is just "part of the original sentence"—with nothing added after the fact.[93] That "legal fiction collapses," writes

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[89] *See* U.S. Sent. Comm'n, *Guidelines Manual*, Ch. 7, pt. A(3).
[90] *Id.* at 274.
[91] *United States v. Peguero*, 34 F.4th 143, 167 (2d Cir. 2022) (Underhill, D.J., dissenting).
[92] *See id.*
[93] *See United States v. Oliver*, 41 F.4th 1093, 1101 (9th Cir. 2022), cert. denied, 143 S. Ct. 503 (2022) (revocations are "part of the original sentence authorized by the fact of conviction and does not

Judge Underhill, when considering the Fifth and Sixth Amendment rights to indictment and trial by jury.[94]

It is also undercut, ironically, by the Sentencing Commission. As noted above, it adopted the breach-of-trust theory in 1990. The Commission felt compelled to do so because, "[u]nlike past practice"—parole—"the revocation sentence is ***not*** a sanction for the original offense," as the Commission's own training director, Sharon Henegan, wrote in a published article explaining the Commission's breach-of-trust rationale.[95] It made sense in a parole system—the person owed a specific amount of time. When returning parolees to prison, court were just calling in the previously-defined outstanding debt. But Congress killed that idea with supervised release: "sentencing reform rendered th[at] approach obsolete," Ms. Henegan wrote in 1994.[96] It isn't hard to see why. Congress adopted a truth-in-sentencing philosophy and required offenders to serve the entire sentence meant to punish their crime before starting supervision: "the original offense already received an appropriate sanction."[97]

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constitute additional punishment").

[94] *Peguero*, 34 F.4th at 167 (Underhill, J., dissenting).

[95] Sharon O. Henegan, 6 Fed. Sent. R. 199 (1994).

[96] *Id.*; *see also United States v. Granderson*, 511 U.S. 39, 50–51 (1994) ("[s]upervised release, in contrast to probation, is not a punishment in lieu of incarceration"); *Johnson v. U.S.*, 529 U.S. 694, 725 (2000) ("[u]nlike parole, which replaced a portion of a defendant's prison sentence, supervised release is a separate term") (Scalia, J., dissenting); *see also* Robert McClendon, *Supervising Supervised Release: Where the Courts Went Wrong on Revocation and How United States v. Haymond Finally Got It Right*, 54 Tulsa L. Rev. 175, 176 (2018) ("Herein lies the legal fiction underpinning supervised release: the law considers revocation to punish a defendant's original offense even though a defendant free on supervised has served his original prison sentence to completion.").

[97] *Id.*

Traditional parole and probation systems could honestly adopt the theory that revocations were not new sentences—defendants owed a previously-defined balance. With a debt outstanding, courts could rightly say that revocations were not "prosecutions" under the Sixth Amendment but rather the mere "administration of a sentence," as Judge Alito argued.[98] That distinction—administration versus prosecution—makes sense in parole and probation. Under supervised release, it is a fiction.[99] And because those theories collapse in the supervised-release setting, courts have been forced to rationalize revocations as "part of the original sentence" and thereby avoid the inconvenience of jury trials.

To describes Mr. Bowers' new 9-month sentence as "not constitut[ing] additional punishment" requires a logic that is subtle indeed.[100]

c. Fiction No. 3: Defendants aren't receiving new punishment; courts are just revoking previously-granted release.

The last faulty leg propping up supervised release is the idea of "revocation." There is nothing to revoke. Nothing was granted to Mr. Bowers. He was not released early by a parole board. His sentenced was never deferred. He served his prison sentence. Unlike parole and probation, there is no "act of grace" to rescind.[101]

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[98] *Haymond*, 139 S. Ct. at 2394.

[99] Stephen A. Simon, J.D., Ph.D., *Re-Imprisonment Without A Jury Trial: Supervised Release and the Problem of Second-Class Status*, 69 Clev. St. L. Rev. 569, 602 (2021) ("The Supreme Court's justification for upholding the current system of supervised release depends on a legal fiction: that when the government seeks to re-imprison defendants based on the commission of crimes, those defendants do not stand as the accused in a criminal prosecution.").

[100] *See Oliver*, 41 F.4th at 1101.

[101] *See Johnson*, 529 U.S. at 715 ("the ordinary meaning of revoke is to annul by recalling or taking back") (Scalia, J., dissenting) (cleaned up); *United States v. Trotter*, 321 F. Supp. 3d 337, 346–47 (E.D.N.Y. 2018) ("The term 'revoke' appears to be somewhat of a misnomer. . . . Supervised release is not being 'revoked'; rather, a supervisee is being punished for violating conditions."); *see also United*

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Judge Underhill labeled these fictions "The Constitutional Workaround." *Peguero*, 34 F.4th at 173 (Underhill, D.J., dissenting). And the impulse to adopt them is understandable. It is convenient. So are most unconstitutional practices.

B. Denying jury trials to supervisees facing significant sentences on revocation will have negative consequences.

Failing to protect the traditional jury-trial right risks enormous consequences. If the Sixth Amendment and Article III provide no "meaningful limiting principle" on stripping jury-trial rights after a conviction, then there isn't one to be found in the Constitution.[102] There are two primary consequences of denying the jury trials for new criminal conduct alleged as supervised release violations: 1) prosecutors will be more likely to opt to pursue federal supervised release violations over state criminal prosecutions; and 2) faith in the criminal justice system will decline.

1. Prosecutors should be deterred from using supervised release revocations to circumvent trial protections.

Over the years since 1986, federal prosecutors have used supervised release to circumvent jury trials, even convicting defendants after a jury acquittal.[103]

States v. Ka, 982 F.3d 219, 229 (4th Cir. 2020) (Gregory, J., dissenting) ("Unlike parole and probation revocations, supervised release revocation proceedings uniquely allow for the imposition of new prison sentences.").

[102] *See Haymond*, 139 S. Ct. at 2380 n.6 (noting it is unlikely the Eighth Amendment will substitute).

[103] *See United States v. Fredrickson*, 988 F.3d 76 (1st Cir. 2021); *see also United States v. Brown*, No. 21-3766, 2022 WL 2709431, at *1–2 (8th Cir. July 11, 2022) (jury acquitted defendant, but district court stated, "I have no reasonable doubt in my mind," and issued multi-year revocation sentence); *United States v. McCall*, No. 21-50201, 2021 WL 4933416, at *1 (5th Cir. Oct. 21, 2021); *United States v. Rentas-Felix*, 235 F. Supp. 3d 366, 369–70 (D.P.R. 2017) (revoking supervised release after a judge dismissed indictment for lack of probable cause).

Prosecutors use revocation hearings to circumvent the confrontation right in domestic violence cases (precisely what happened to Mr. Bowers, save the prosecutor's participation).[104]

Denying jury trials for supervised release violations that could otherwise be charged in state court incentivizes prosecutors to use the avenue to conviction where there is a lower bar, no jury, a lower burden, and (sometimes) greater incarceration exposure. Revocation and a new supervised release term can be imposed for the most minor of offenses, including misdemeanors.[105]

2. Denying jury trials for new crimes alleged as supervised release violations erodes faith in our justice system.

Sacrificing the jury trial risks broader consequences. The jury trial is the "'heart and lungs' . . . of our liberties," without which "the government must become arbitrary."[106] Consider the effects on perception of the courts. Mr. Bowers was convicted and imprisoned for committing two state crimes—hotly-disputed charges that two prosecutors declined to pursue—without a jury, without eye witnesses, based on third-level hearsay, without a right to *Brady* evidence, without cross-

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[104] *See United States v. Robinson*, 430 F. App'x 761, 762–63 (11th Cir. 2011) (per curiam) (court admitted wife's hearsay statements, discredited recantation, and imposed 46-month sentence); *see also United States v. Lillybridge*, 944 F.3d 990, 991–92 (8th Cir. 2019) (per curiam); *United States v. Dunlap*, 2012 WL 3656636, at *1, *3 (D. Neb. Aug. 24, 2012); *see also* Oral Argument at 10:21, *United States v. Peguero*, 34 F.4th 143 (2d Cir. 2022) (No. 20- 3798) (Judge Underhill: "The State here charged an assault, felony, and then dropped it because they couldn't prove it [once the victim refused to testify]. And then suddenly, the U.S. Attorney's Office picks it up and runs with it [by revoking supervised release].").

[105] *See* 18 U.S.C. § 3583(b)(3) (allowing imposition for any felony and misdemeanors).

[106] *Haymond*, 139 S. Ct. at 2375 (quoting Letter from Clarendon to W. Pym (Jan. 27, 1766), in 1 Papers of John Adams 169 (R. Taylor ed. 1977)).

examining his accuser. These types of proceedings undermine faith in the rule of law.

3. A federal supervisee can effectively lose their right to a jury trial indefinitely for any new crime.

Without a limit, extreme outcomes are possible. No constitutional limit bars Congress or a state legislature from imposing lifetime supervised release for minor offenses. For example, the most minor marijuana offenses. Under existing federal law, passing another person a single marijuana cigarette subjects the offender to lifetime supervised release.[107] Indeed, the defendant would be convicted under 21 U.S.C. § 841(b)(1)(C), the same statute Mr. Bowers was convicted under, which allows a life term.[108]

At that point, the person effectively loses their trial rights forever. They can be federally prosecuted without a jury even if the revocation penalty were death. This is not hyperbole—the Government conceded this at oral argument in *Haymond*.[109] A defendant could be federally prosecuted in the supervising district for the rest of their life for petty crimes occurring in far flung locales, where witnesses and evidence are distant and unavailable.

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[107] The Department of Justice is currently barred from spending federal funds on certain marijuana prosecutions, but the drug statutes remain in effect.

[108] Notably, Mr. Bowers' supervision term can be extended for any violation, no matter how minor. If his misses a single unexcused drug-treatment class or a single mental-health counseling session, the district court can revoke his supervision and extend the term to life.

[109] *See Haymond*, 139 S. Ct. at 2380 ("the government even conceded that, under its theory, a defendant on supervised release would have no Sixth Amendment right to a jury trial when charged with an infraction carrying the death penalty").

It is plainly inconceivable that district courts hold the power to sentence defendants to the loss of the right to a jury trial for *future* crimes. That is what the Ninth Circuit effectively condones. Mr. Bowers, like all other supervisees, has served the entirety of the sentence he owed for his original crime. He now exists in a quasi-constitutional state where any criminal allegation subjects him to a jury-free hearing where he could be incarcerated up to two years and his supervised release could be extended up to life.

C. The scope of the jury-trial right is an important federal question and it should be restored to the Framer's original intentions.

The Framers understood the jury right to apply to revocations of recognizances, and Mr. Bowers asks this Court to restore the right to its original vigor.[110] Recognizances match supervised release in form, function, and purpose and the two need not be identical—indeed, historical precursors rarely are.[111] Because the two are so similar, supervisees should receive the same constitutional protection their forebears possessed, nothing less.

Restoring the right is about more than just criminal defendants—it protects the authority the Framers rightly entrusted to the public. Indeed, in *Haymond*, Justice Gorsuch and the plurality raised not just the harm to Mr. Haymond, but the harm to the public: "the absence of a jury's finding" not only "infringe[s] the rights of the

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[110] *See Haymond*, 139 S. Ct. at 2376 ("the Constitution's guarantees cannot mean less today than they did the day they were adopted").

[111] *See New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 142 S. Ct. 2111, 2133 (2022) ("[A]nalogical reasoning requires only . . . a well-established and representative historical analogue, not a historical twin. So even if a modern-day regulation is not a dead ringer for historical precursors, it still may be analogous enough.").

accused; it also divested the 'people at large'"—the American public—"of their constitutional authority to set the metes and bounds of judicially administered criminal punishments."[112] This Court should restore the public to its rightful place.

D. This case is well-suited to remedy these regular unconstitutional practices in supervised release revocation hearings.

Mr. Bowers' case is a poster-worthy example of why the trial right should be restored. In spring 2023, Mr. Bowers was charged by Washington State with two misdemeanor crimes: assaulting his girlfriend and calling her from jail, violating a state no-contact order. The state prosecutor entered a deferral agreement. Mr. Bowers was then pulled into federal court on supervised-release petitions alleging the same two state crimes. The federal prosecutor and defense counsel looked at the case and agreed to dismissal—jointly.

The district court denied the parties joint recommendation for dismissal and the court itself called a probation officer to the stand, conducted direct examination, and found Mr. Bowers guilty—with zero participation from the prosecutor. Mr. Bowers demanded to confront his accuser—a request denied without comment. The record contains no firsthand testimony against Mr. Bowers, no sworn statements, no police reports, no photos, no recordings. On the assault charge, the hearing lacked any actual evidence beyond a few paragraphs in a petition drafted by a probation officer with no first-hand knowledge of what happened. As for breaching a protection order, the record contains nothing resembling actual evidence—no

[112] *Haymond*, 139 S. Ct. at 2378 (citation omitted).

recording, no police report, no firsthand testimony; just a probation officer again relaying what an unnamed detective told her on the phone. There was no one to cross-examine. And the defense's evidence suggests Mr. Bowers accidentally dialed his girlfriend's number and hung up as soon as she said "hi" and he realized what he had done. He immediately called his mother and said it was an accident.

Mr. Bowers has no history of assault allegations against him. The only first-hand witness, that could have been made available to testify at a trial, says it was Mr. Bowers being assaulted by his girlfriend, rather than the other way around.

Mr. Bowers was sentenced to nine months following a conviction on two state crimes in a federal courtroom with no jury, no prosecution witnesses, and no evidence. He was denied his right to confront a single witness (aside from the Probation officer who had no personal knowledge).[113] He never saw any records or evidence relating to the supposed protective-order violation.[114] And the district court presented the evidence to itself, violating the party-presentation principle.[115] Were that not enough, the evidence at the hearing was insufficient to convict Mr. Bowers and the district court failed to identify any elements of the offenses or jury instructions.

[113] Fed. R. Crim. P. 32.1(b)(2) (supervisee entitled to "question any adverse witness unless the court determines that the interest of justice does not require the witness to appear").
[114] *See* Fed. R. Crim. P. 32.1(b)(2)(B) (requiring disclosure of evidence).
[115] *See United States v. Sineneng-Smith*, 140 S. Ct. 1575, 1579 (2020).

Federal court is not the ideal venue to resolve state criminal charges; but if charges are brought by way of supervised release violations, Mr. Bowers' case illustrates why a jury trial is a required constitutional safeguard.

Conclusion

For the reasons above, the Court should grant the petition for a writ of certiorari.

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Respectfully submitted,

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