

No. _____

IN THE
Supreme Court of the United States

MICHAEL W. MCBRIDE,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether claim and issue preclusion require a court, when adjudicating a certification for civil commitment, to give preclusive effect to “the determination of a question directly involved” in a prior civil-commitment judgment.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Michael W. McBride respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit.

OPINIONS BELOW

The Fourth Circuit's opinion is unreported, but is available at 715 F. App'x 285. Pet. App. 1a. The District Court's order is available at Pet. App. 7a, and its judgment is available at Pet. App. 29a.

JURISDICTION

The Fourth Circuit issued its opinion on March 16, 2018. Pet. App.1a. This Court's jurisdiction rests on 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

18 U.S.C. § 4248 provides, in relevant part:

(a) Institution of Proceedings.—

In relation to a person who is in the custody of the Bureau of Prisons * * * the Attorney General or any individual authorized by the Attorney General or the Director of the Bureau of Prisons may certify that the person is a sexually

dangerous person, and transmit the certificate to the clerk of the court for the district in which the person is confined. * * *

The court shall order a hearing to determine whether the person is a sexually dangerous person. A certificate filed under this subsection shall stay the release of the person pending completion of procedures contained in this section.

* * *

(c) Hearing.—

The hearing shall be conducted pursuant to the provisions of section 4247(d).

(d) Determination and Disposition.—If, after the hearing, the court finds by clear and convincing evidence that the person is a sexually dangerous person, the court shall commit the person to the custody of the Attorney General.

* * *

18 U.S.C. § 4247(a)(5) provides:

“sexually dangerous person” means a person who has engaged or attempted to engage in sexually violent conduct or child molestation and who is sexually dangerous to others;

18 U.S.C. § 4247(a)(6) provides:

“sexually dangerous to others” with respect to a person, means that the person suffers from a serious mental illness, abnormality, or disorder as a result of which he would have serious difficulty in refraining from sexually violent conduct or child molestation if released.

18 U.S.C. § 4247(d) provides:

At a hearing ordered pursuant to this chapter the person whose mental condition is the subject of the hearing shall be represented by counsel and, if he is financially unable to obtain adequate representation, counsel shall be appointed for him pursuant to section 3006A. The person shall be afforded an opportunity to testify, to present evidence, to subpoena witnesses on his behalf, and to confront and cross-examine witnesses who appear at the hearing.

INTRODUCTION

The Government tried and failed to civilly commit Michael McBride twice, first in 2011 and then again in 2012, before it finally succeeded in 2016. Its 2011 attempt ended in voluntary dismissal because two forensic psychologists agreed

that Mr. McBride did not meet the criteria for civil commitment under the Adam Walsh Act. Pet. App. 52a-56a. Its 2012 attempt went to a hearing before the District Court, but the District Court concluded that Mr. McBride could not be committed because the Government did not prove by clear and convincing evidence that he would have serious difficulty refraining from sexually violent conduct or child molestation if released. Pet. App. 30a-48a. The Government did not appeal that decision.

Finally, at the end of 2016, the Government got what it had been seeking for five years: A civil-commitment judgment against Mr. McBride. Pet. App. 7a-29a. This despite the fact that two of four forensic psychologists opined that he still did not meet criteria for civil commitment. A third initially agreed in a 52-page report until she reversed course four days later, authoring an 11-page report reaching the opposite conclusion. And a fourth, although holding fast to her prior opinion that Mr. McBride met criteria, noted that “his risk had not significantly increased or decreased since he was found not sexually dangerous by the court in May 2013.” CAJA278-CAJA279.

In civilly committing Mr. McBride, the District Court failed to give preclusive effect to its prior judgments and relied on two experts who testified to their “belief” that an unproven allegation of sexual abuse, which was dismissed in 2010 and known to the Government and District Court in both of the prior civil-commitment proceedings, actually occurred. The Fourth Circuit blessed the District Court’s decision in an unpublished per curiam opinion, concluding that the lower court

“correctly considered these allegations in analyzing whether the events that occurred after the previous hearing warranted committing McBride.” Pet. App. 3a.

The Fourth Circuit’s decision flies in the face of this Court’s precedents, and paves the way for serial civil-commitment proceedings that relitigate stale issues the Government already had a full and fair opportunity to present, a result that is particularly offensive in a context where it is liberty, not money, that is at stake.

Although there is no circuit split on the application of preclusion doctrines to civil-commitment proceedings, that should not discourage this Court from granting review in this case. The Government sends everyone it seeks to certify to FCI Butner, which is placed by statute within the Eastern District of North Carolina. All appeals from that court are heard by the Court of Appeals for the Fourth Circuit. This Court’s intervention is needed now, to ensure that these critical cases, which can result in indefinite civil commitment in a federal prison, are not permitted to slide out from under the fundamental protections of claim and issue preclusion.

The Court should grant certiorari.

STATEMENT

Mr. McBride grew up in Vermont with his parents and two older half-sisters. CAJA660. Those half-sisters sexually abused him when he was six years old. CAJA459-CAJA460. His parents later divorced, and his mother remarried an alcoholic; they regularly had physical and verbal fights, and both were physically and emotionally abusive to Mr. McBride. *Id.* When he was eleven years old, Mr.

McBride went to live with his father but ultimately returned to his mother's home because his father did not want him to stay. CAJA660. Two years later, he ran away from home to flee the physical and emotional abuse; he was placed in the custody of the New Hampshire Department of Health and Human Services, Division of Children, Youth, and Families. *Id.*

Mr. McBride has long suffered from a speech impediment and was bullied in school. *Id.* He also has suffered from non-epileptic seizures, some of which have caused him to lose control of one side of his body. *Id.*

Shortly after graduating high school, in 1991, he enlisted in the United States Navy. CAJA661. While serving, he voluntarily revealed to a chaplain that he had sexually molested children, and subsequently went to the authorities. CAJA245. This confession resulted in his dishonorable discharge from the Navy in 1993, as well as twelve years in federal custody. *Id.* During his imprisonment, Mr. McBride completed the two-year Sex-Offender Treatment Program at FCI Butner, where he was "motivated in treatment and took responsibility for his sexual offending." *Id.* He was released in June 2005. *Id.*

The next year, Mr. McBride began a relationship with a woman with two young children. *Id.* He moved into her home, and her children were removed months later due to Mr. McBride's history. *Id.* Two years later, they had a child of their own, who was also removed as a result of Mr. McBride's history. *Id.*

In January 2009, Mr. McBride was charged with aggravated sexual assault of his girlfriend's four-year-old daughter. CAJA246. Before the arrest warrant was

executed, Mr. McBride and his girlfriend moved to New Hampshire, and later traveled to Florida. *Id.*

In March of that year, Mr. McBride was arrested on a federal criminal complaint charging flight to avoid prosecution. *Id.* He was later indicted in the District of New Hampshire for failure to register under the Sex Offender Registration and Notification Act when he traveled from State to State. *Id.* He pleaded guilty, and was sentenced to three years of imprisonment and lifetime supervision. *Id.* The aggravated sexual assault charge that precipitated this chain of events was dismissed in May 2010; Mr. McBride has always maintained his innocence of that charge. CAJA246-CAJA247.

The Government Tries To Civilly Commit Mr. McBride And Voluntarily Dismisses Its Certificate. While Mr. McBride was imprisoned for failing to register, the Government filed a certificate seeking to civilly commit him. In order to succeed, the Government had to prove, by clear and convincing evidence, that Mr. McBride “(1) has previously ‘engaged or attempted to engage in sexually violent conduct or child molestation,’ (2) currently ‘suffers from a serious mental illness, abnormality, or disorder,’ and (3) ‘as a result of that mental illness, abnormality, or disorder is ‘sexually dangerous to others,’ in that ‘he would have serious difficulty in refraining from sexually violent conduct or child molestation if released.’” *United States v. Comstock*, 560 U.S. 126, 129 (2010) (quoting 18 U.S.C. §§ 4247(a)(5)-(6)).

Ultimately, the Government voluntarily dismissed its certificate because two experts agreed that Mr. McBride was not sexually dangerous. Pet. App. 50a-56a.

In exchange for the dismissal, Mr. McBride agreed not to collaterally attack his lifetime term of supervised release. Pet. App. 54a.

The Government Tries, And Fails, To Commit Mr. McBride. After the dismissal, Mr. McBride was released to a halfway house in Boston. CAJA246. When he arrived, the staff had not verified his seizure medication and would not administer it. *Id.* He had no access to his medication for three days, had a seizure, fell down the stairs, and had to be taken by ambulance to a hospital. *Id.* Mr. McBride suffered three seizures while he was living at the halfway house. *Id.* He also was not permitted to attend church services or to seek employment. *Id.* Frustrated with these restrictions and the issues with his medication, Mr. McBride yelled profanity at the staff, went to his room, slammed the door, and began to pack his things. *Id.* The police were called, and Mr. McBride was taken to the probation office. *Id.* His probation officer directed him to take a bus to New Hampshire and report to the probation office there when he arrived. CAJA248.

In New Hampshire, Mr. McBride began looking for a job and entered sex-offender treatment. *Id.* He had a good relationship with his treatment providers and called them when he encountered anger management issues. He was again denied permission to attend religious services until he could complete a safety plan. *Id.* He suffered four seizures at the New Hampshire halfway house, and was nonetheless placed in a room on the third floor. *Id.* Because he feared that he would have another seizure and fall down the stairs, Mr. McBride argued with staff members and tried to call his probation officer. *Id.* Because of this conflict, Mr.

McBride was discharged from the halfway house and then arrested for violating his supervised release, which required him to remain there. CAJA249. The District of New Hampshire revoked his supervised release in November 2012 and sentenced him to five months in prison and lifetime supervision. *Id.*

The Government certified Mr. McBride a second time. After a hearing, the District Court held that, although the 2012 voluntary dismissal with prejudice “‘prevents the government from attempting to commit [respondent] based on nothing more than the same evidence originally found inadequate by the district court,’” *United States v. Springer*, 715 F.3d 535, 544 (4th Cir. 2013), it “is no bar to the court’s consideration of McBride’s history in determining his *present* level of sexual dangerousness.” CAJA252 (citing *United States v. Wooden*, 693 F.3d 440, 458 (4th Cir. 2012)).

The District Court declined to commit Mr. McBride. It found that he met the first prong for civil commitment—that he has previously engaged in child molestation—because of his 1993 conviction. Pet. App. 39a. It found that he met the second prong—that he suffers from a serious mental illness, abnormality, or disorder—namely, pedophilia. Pet. App. 40a. However, it concluded that Mr. McBride would not have serious difficulty refraining from sexually violent conduct or child molestation, Pet. App. 48a, explaining that “even considering Mr. McBride’s anger management issues, there is no evidence that his anger interfered with his ability to control his pedophilia during his most recent time in the community.” Pet. App. 45a.

Although the court found “deeply troubling” Mr. McBride’s relationship with a woman with children, their family showers, and his befriending a couple at a hotel and playing with their young daughter in a pool, it noted that “this conduct was known in May 2012, when the government dismissed McBride I, and since then there have been no new allegations of sexual misconduct against McBride.” Pet. App. 47a. The court noted that Mr. McBride remained under the significant restraint of lifetime supervision, and that he was “punished for and appears to have learned from his recent misstep.” Pet. App. 47a-48a. The court found “credible his desire to conform his conduct in order to avoid further criminal sanctions and to move on with his life.” Pet. App. 48a.

The Government Certifies Mr. McBride For The Third Time. Mr. McBride was released in May 2013 to a rooming house in New Hampshire. CAJA272. He secured and maintained employment, and he attended sex offender treatment. *Id.* However, in January 2015, nearly two years after his release, Mr. McBride’s supervision was revoked for creating a Facebook account, in violation of the terms of supervision. CAJA227-CAJA242. He was sentenced to nine months of imprisonment. CAJA239. While he was serving that sentence, the Government certified Mr. McBride a third time for civil commitment. CAJA10-CAJA14. In light of the District Court’s 2012 dismissal and 2013 order releasing him, Mr. McBride filed a motion seeking exclusion of all evidence relating to claims already litigated and issues necessarily determined in those prior judgments. CAJA7.

The District Court held a civil-commitment hearing on September 15, 2016. CAJA22. The Government presented testimony that, in August 2014, fifty-five images of child pornography were uploaded to Google drive by a Gmail user at freedougathertonjr@gmail.com, and that the user “might have a first name of Mike and might have initials of his last name of McB.” CAJA49; CAJA57. More than fifty images of child pornography or child erotica were attached to emails to or from the email account. CAJA86. And two emails from that account included “Pass is Lizzie 0523.” A Homeland Security agent testified as to his belief that this password was connected to the dismissed charge of aggravated assault against Mr. McBride, in which the alleged victim’s name was Lizzie and her birth date was May 23rd. CAJA100.

Government witnesses confirmed that no federal or state charges were ever brought against Mr. McBride for anything related to child pornography, nor were any charges recommended; there was never any effort to revoke his supervision on the basis of child pornography allegations. CAJA65-CAJA66; CAJA82; CAJA107. No computer was recovered from Mr. McBride, even though his arrest was a surprise, and the investigation never revealed who sent any of the emails on the freedougathertonjr@gmail.com email account. CAJA66. Although four cell phones were seized from Mr. McBride in connection with this investigation, none of them contained child pornography or email information. CAJA82; CAJA110. The Homeland Security agent acknowledged that he did not know whether Mr. McBride had alibis for the times that the emails were sent, and he acknowledged that

someone else could save things to the Google drive on Mr. McBride's Gmail account if he left the account open on someone else's computer. CAJA110.

Mr. McBride admitted creating a Gmail account and Facebook page using the name "Free Doug Atherton Junior." CAJA32; CAJA34. But he denied having a personal computer while on supervised release, and he testified that he never accessed, saved, sent, or received child pornography while he was on supervised release. CAJA36.

Four experts testified, two of whom—Joseph J. Plaud, Ph.D. and Harry M. Hoberman, Ph.D., L.P.—agreed that the Government had not proven that Mr. McBride possessed or traded child pornography, and thus could not prove that Mr. McBride would have serious difficulty refraining from sexually violent conduct or child molestation if released. Dr. Plaud testified that, even if the Government could prove its child pornography allegations, Mr. McBride still would not meet the criteria for civil commitment. CAJA202-CAJA203.

A third expert, Amy Phenix, Ph.D., initially agreed with Drs. Plaud and Hoberman in a 52-page report, explaining that, with respect to the years-old allegation of sexual assault, "there was no adjudication of this offense so it is unknown if this allegation is true or not." CAJA496. Four days later, Dr. Phenix amended her report in an 11-page supplement and concluded that Mr. McBride did meet criteria. CAJA278. She did so, in part, based on "her own investigation into the molestation allegations of 2006." *Id.* Dr. Phenix took it upon herself to address several "unknowns" from her initial analysis, reportedly calling Mr. McBride's ex-

girlfriend and the forensic social worker who interviewed the alleged victim of the aggravated sexual assault allegation. CAJA507. As a result of these conversations, Dr. Phenix reversed herself, concluding that “Mr. McBride established a relationship with the mother of his victim, E.S., for the purpose of molesting her children.” CAJA507.

Dawn Graney, Psy. D., also concluded that Mr. McBride met criteria for commitment, in part based on her belief that “there’s sufficient information to suggest that [Mr. McBride] sexually molested [his ex-girlfriend’s] daughter.” CAJA189-CAJA190. She stated: “I *believe* that there’s information to suggest that he did sexually molest Lizzie when in the community.” CAJA191 (emphasis added); CAJA441.

The District Court civilly committed Mr. McBride. It acknowledged that two of four experts testified that Mr. McBride did not meet criteria for commitment and that one of them would find he did not meet criteria even if the child pornography allegations against him were proven. Pet. App. 20a-21a. And it noted that Dr. Phenix initially drafted a 52-page report finding Mr. McBride did not meet criteria before changing her mind four days later in an 11-page supplemental report, based on her own investigation into the years-old molestation allegation and the child pornography allegation. *Id.* The court noted the fourth expert, who opined that Mr. McBride did meet criteria, acknowledged that “his risk had not significantly increased or decreased since he was found not sexually dangerous by the court in May 2013.” Pet. App. 21a-22a.

Consistent with its 2013 order, the District Court concluded the Government had proven, by clear and convincing evidence, the first two prongs, namely that Mr. McBride previously engaged in child molestation and suffers from pedophilia. Pet. App. 23a. With respect to the third prong, the District Court held that, although “the May 17, 2012 dismissal precludes this court from considering whether McBride was sexually dangerous prior to that time, it is no bar to the court’s consideration of McBride’s history in determining his *present* level of sexual dangerousness.” *Id.*¹ The court noted that, in its 2013 order, it had been “deeply troubled” by Mr. McBride’s initiation of a relationship with a woman with young children and bathing with the woman and her four-year-old daughter. Pet. App. 25a. But the court then recognized that the allegation was known to the Government when it agreed to dismiss its first civil-commitment certification against Mr. McBride in 2012, and had released Mr. McBride. *Id.*

In 2016, however, acknowledging Mr. McBride’s “excellent work history and * * * relapse prevention plan that one expert testified was one of the most thorough she had ever seen” the court nonetheless found that Mr. McBride *would* have serious difficulty refraining from sexually violent conduct or child molestation because “of the poor choices McBride has continued to make—the angry outburst and window smashing at Labor Ready, his continued contact with children, including one incident where he held the hand of a young girl in a store parking lot, his sexual

¹ The court did not specifically mention its 2013 release order, but appeared to treat both judgments according to this understanding of the law.

contact with adult women without disclosing his history to them, the creation of an email and Facebook account in the name of another civil committee, and the use of that email address to trade child pornography and child erotica.” Pet. App. 26a-27a. The District Court committed Mr. McBride.

Mr. McBride appealed, arguing first that the District Court failed to give preclusive effect to the Government’s 2012 dismissal of his first certification and its 2013 judgment concluding that Mr. McBride is not sexually dangerous and second that, in any event, the District Court clearly erred in determining that Mr. McBride would have serious difficulty refraining from sexually violent conduct or child molestation if released.

The Fourth Circuit affirmed in an unpublished per curiam opinion. Pet. App. 1a-5a. First, it concluded that there is no “statutory limitation on the number of times the government may certify an individual or requirement that successive commitment efforts rely on new or different facts or legal theories.” Pet. App. 2a (quoting *Springer*, 715 F.3d at 543). But the court acknowledged that the preclusive effect of a prior civil-commitment judgment “prevents the government from attempting to commit [an individual] based on nothing more than the same evidence originally found inadequate by the district court.” Pet. App. 2a-3a (quoting *Springer*, 715 F.3d at 544). Because the District Court “recognized that it had previously concluded that McBride did not meet the criteria for civil commitment,” and “then assessed whether the events that occurred after the previous hearing

warranted a different conclusion,” the Court of Appeals concluded that it “correctly applied our decision in *Springer*.” Pet. App. 3a.

As for Mr. McBride’s argument that the District Court improperly considered an allegation that he sexually abused his former girlfriend’s daughter—an allegation that predated both prior judgments—the Court of Appeals concluded that the District Court “did not previously rule that McBride did or did not commit the alleged abuse, and the district court correctly considered these allegations in analyzing whether the events that occurred after the previous hearing warranted committing Mr. McBride.” Pet. App. 3a. The court also held that the District Court did not clearly err in concluding Mr. McBride would have serious difficulty refraining from sexually violent conduct or child molestation if released. Pet. App.3a-5a. The court found that the Government established, by clear and convincing evidence that Mr. McBride possessed child pornography, and that, “in the context of his past offenses,” it is enough to establish that he “presents a serious risk of engaging in future acts of child molestation.” Pet. App. 4a.

This petition followed.

REASONS FOR GRANTING THE PETITION

THE COURT SHOULD GRANT THE PETITION TO ENSURE THAT CIVIL-COMMITMENT PROCEEDINGS ARE NOT DEPRIVED OF THE PROTECTION OF THIS COURT’S PRECLUSION PRECEDENTS

In case after case, this Court has reaffirmed that the doctrines of claim and issue preclusion are “central to the purpose for which civil courts have been established, the conclusive resolution of disputes within their jurisdictions.” *Montana v. United*

States, 440 U.S. 147, 153 (1979) (citing *Southern Pacific R. Co. v. United States*, 168 U.S. 1, 27 (1897); *Hart Steel Co. v. Railroad Supply Co.*, 244 U.S. 294, 299 (1917)).

These doctrines “preclude[] parties from contesting matters that they have had a full and fair opportunity to litigate” and thus “conserve[] judicial resources and foster[] reliance on judicial action by minimizing the possibility of inconsistent decisions.” *Montana*, 440 U.S. at 153-154. Perhaps most importantly, they protect targets of litigation “from the expense and vexation attending multiple lawsuits,” *id.* at 153, a safeguard that is uniquely necessary in the arena of civil-commitment judgments, where the interest at stake is not money, but liberty.

Claim preclusion provides that “a final judgment forecloses ‘successive litigation of the very same claim, whether or not relitigation of the claim raises the same issues as the earlier suit.’” *Taylor v. Sturgell*, 553 U.S. 880, 892 (2008) (quoting *New Hampshire v. Maine*, 532 U.S. 742, 748 (2001)). And issue preclusion provides that “‘the determination of a question directly involved in one action is conclusive as to that question in a second suit.’” *B&B Hardware, Inc. v. Hargis Industries, Inc.*, 135 S. Ct. 1293, 1302 (2015) (quoting *Cromwell v. County of Sac*, 94 U.S. 351, 354 (1877)).

The Restatement (Second) of Judgments provides that “[w]hen an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim.”

Here, both the 2012 dismissal and the 2013 order are valid and final judgments. Therefore, the District Court was bound to begin from the premise, whether viewed from the perspective of claim- or issue-preclusion, that Mr. McBride was not sexually dangerous as of May 2013. What is more, the determination whether and how to weigh the allegation of aggravated sexual assault against Mr. McBride—which was *dismissed* in 2010—was essential to both judgments. The District Court noted in its 2013 opinion that “Mr. McBride denies the conduct, and the charge was dismissed in 2010, after he was charged federally with failure to register as a sex offender.” Pet. App. 33a-34a. And the court noted that the allegation was known to the Government and to the District Court in 2012. Pet. App. 25a. Without saying so explicitly, the court recognized the obvious: Determining the credibility of an aggravated sexual assault allegation by a child was essential to determining whether Mr. McBride would have serious difficulty refraining from child molestation.

Nonetheless, the District Court appeared to rely on the testimony of two Government experts, Drs. Phenix and Graney, who based their opinions on their own “beliefs” about the dismissed allegation that predated the Government’s 2012 dismissal and the District Court’s 2013 decision concluding that Mr. McBride was not sexually dangerous.² They did so despite the fact that this old allegation could

² We say “appeared to rely” because, although the District Court explained that it “carefully considered the reports and opinions of” the experts who testified at trial, Pet. App. 22a, it never explained which experts it found credible and for what reasons. However, the only two experts who concluded (in the end) that Mr. McBride met criteria were Drs. Phenix and Graney. Therefore, it is a reasonable

have been litigated during the Government's first certification attempt, and had already been presented and considered in the District Court's 2013 order.

The Fourth Circuit acknowledged that the District Court, in 2016, "considered allegations that McBride sexually abused his former girlfriend's daughter," but nonetheless affirmed because, in its view "the district court did not previously rule that McBride did or did not commit the alleged abuse" and, in its view, "the district court correctly considered these allegations in analyzing whether the events that occurred after the previous hearing warranted committing McBride." Pet. App. 3a.

As the Fourth Circuit has noted, "there is no statutory limitation on the number of times the government may certify an individual or requirement that successive commitment efforts rely on new or different facts or legal theories." *Springer*, 715 F.3d at 543. Absent such a limitation, and in light of the Fourth Circuit's contravention of this Court's preclusion precedents, the way is paved for successive civil-commitment actions that harass, embarrass, and persecute those who have previously prevailed against the Government. As the law now stands in the Fourth Circuit, a civil-commitment court may rehash and reweigh old allegations *ad infinitum*, based on nothing more than subjective belief and *ultra vires* investigations.

These cases will not be the subject of a circuit split. That is by design: The Government sends everyone it seeks to certify as sexually dangerous to FCI Butner,

inference that the District Court relied on their opinions and discredited those of Drs. Hoberman and Plaud.

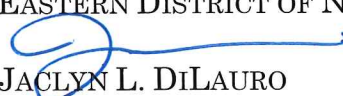
which, by statute, is within the Eastern District of North Carolina. *See* 28 U.S.C. § 113(a). That District hears all of the civil-commitment proceedings, and all of the subsequent appeals are heard by the Court of Appeals for the Fourth Circuit. This Court's guidance is needed to ensure that the essential protections provided by its preclusion precedents are meaningfully applied in the context of civil-commitment proceedings.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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