

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

IDRIS QUINTELL WILKES, Petitioner,

v.

UNITED STATES OF AMERICA, Respondent,

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

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

- I. Michigan defines cocaine to include its stereoisomers. Federal law defines cocaine to include its optical and geometric isomers. Does Michigan law sweep more broadly than federal law, so that Michigan cocaine convictions should not count to enhance a sentence under the Armed Career Criminal Act?
- II. Does due process require that terms used to define controlled substances be understandable to lay people?
- III. Should proffer-protected information appear in Presentence Investigation Reports?

STATEMENT OF RELATED PROCEEDINGS

This case arises from the following proceedings in the United States District Court for the Western District of Michigan (Southern Division) and the United States Court of Appeals for the Sixth Circuit:

- United States of America v. Idris Wilkes, W.D. Mich. Case No.1:21-cr-42, judgment of sentence entered May 12, 2022
- United States of America v. Idris Quintell Wilkes, 78 F.4th 272 (6th Cir. 2023)
- United States of America v. Idris Quintell Wilkes, Case No. 22-1436, 2025 U.S. App. LEXIS 7568 (6th Cir. April 1, 2025)

There are no other proceedings in state or federal trial or appellate courts, or in this Court, directly related to this case within the meaning of this Court's Rule 14.1(b)(iii).

TABLE OF CONTENTS

	Page No.
Question Presented.....	i
Statement of Related Proceedings.....	ii
Table of Authorities.	iv
Petition for Writ of Certiorari.	1
Opinion Below.....	1
Jurisdiction.	1
Constitutional and Statutory Provisions Involved.	1
Statement of the Case.....	2
Reasons for Granting the Writ.....	4
1. Stereoisomers of cocaine include more than optical and geometric isomers.....	5
2. Due process requires clarity when applying the ACCA.	10
3. Proffer protected information does not belong in a Presentence Investigation Report.....	11
4. This Case is a Good Vehicle for Review.....	13
Conclusion.....	14
Appendix:	
<u>United States of America v. Idris Quintell Wilkes</u> , 78 F.4th 272 (6th Cir. 2023).	1a
<u>United States of America v. Idris Quintell Wilkes</u> , Case No.. 22-1436, 2025 U.S. App. LEXIS 7568 (6th Cir. April 1, 2025).....	10a

TABLE OF AUTHORITIES

<u>Cases</u>	<u>Pg. No.</u>
<u>Brown v. United States</u> , 602 U.S. 101 (2024).	4, 11
<u>Chamu v. United States AG</u> , 23 F.4th 1325 (11th Cir. 2022).. . . .	7, 8, 9, 10
<u>Johnson v. United States</u> , 576 U.S. 591 (2015).. . . .	10
<u>Shular v. United States</u> , 140 S. Ct. 779 (2020).. . . .	7, 8
<u>Taylor v. United States</u> , 495 U.S. 575 (1990).	7
<u>United States v. Abanatha</u> , 999 F.2d 1246 (8th Cir. 1996).	13
<u>United States v. Baker</u> , 858 F.3d 419(6th Cir. 2017).	12
<u>United States v. Jackson</u> , 55 F.4th 846 (11th Cir 2023).. . . .	11
<u>United States v. Jackson</u> , 635 F.3d 205, 209 (6th Cir. 2011).. . . .	12
<u>United States v. Laines</u> . 69 F.4th 1221 (11th Cir. 2023).	10
<u>United States v. Minter</u> , 80 F.4th 406 (2d Cir. 2023).. . . .	8
<u>United States v. Rourke</u> , 74 F.3d 802 (7th Cir. 1996).. . . .	13
<u>United States of America v. Idris Quintell Wilkes</u> , 78 F.4th 272 (6th Cir. 2023).	ii, 1, 4, 8, 10
<u>United States of America v. Idris Quintell Wilkes</u> , Case No. 22-1436, 2025 U.S. App. LEXIS 7568 (6th Cir. April 1, 2025).. . . .	ii, 1, 5, 8
 <u>Statutes</u>	
Fla. Stat. § 893.03(2)(a)(4) (2003).. . . .	7
MCLA § 333.7214(a)(iv).	1, 7
18 U.S.C. § 802(6).	1, 6
18 U.S.C. § 811(a) and (c).. . . .	1
18 U.S.C. § 924(a)(2).. . . .	2

18 U.S.C. § 924(e)(1).....	2
18 U.S.C. § 924(e)(2)(A)(ii).....	1
21 C.F.R. § 1300.01(b).....	6
21 C.F.R. § 1308.12(b)(4).....	6
21 U.S.C. § 801.	1
21 U.S.C. § 802.	6
21 U.S.C. § 812.....	1, 6
28 U.S.C. § 1254(1).....	1
<u>Other</u>	
BOP Program Statement 1351.05, <u>Release of Information</u> (September 19, 2002).	11
Sup. Ct. R. 10(a).	5
Sup. Ct. R. 10(c).	5
USSG § 1B1.8.	13
USSG § 1B1.8, cmt. n.1, 5.	12, 14
USSG § 1B1.8(b)(5).....	14

PETITION FOR WRIT OF CERTIORARI

Idris Quintell Wilkes respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit.

OPINION BELOW

The United States Court of Appeals for the Sixth Circuit affirmed Wilkes’s sentence in two published opinions. United States of America v. Idris Quintell Wilkes, 78 F.4th 272 (6th Cir. 2023), (Pet. App. 1a), and United States of America v. Idris Quintell Wilkes, Case No. 22-1436, 2025 U.S. App. LEXIS 7568 (6th Cir. April 1, 2025) (Pet. App. 10a).

JURISDICTION

The Sixth Circuit’s final opinion was filed on April 1, 2025. There was no petition for rehearing. The mandate issued on April 23, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves the serious drug offense provision of the Armed Career Criminal Act (“ACCA”), 18 U.S.C. § 924(e)(2)(A)(ii), sections 802(6), 811(a) and (c), and 812 of the Controlled Substances Act, 21 U.S.C. § 801 et seq., and Michigan’s statute that defines cocaine offenses—MCLA § 333.7214(a)(iv).

STATEMENT OF THE CASE

Grand Rapids, Michigan officers responded to a call on January 8, 2021,

reporting a man waving a gun outside a home. They found Wilkes standing outside. On the ground nearby was a loaded semi-automatic pistol.

(Presentence Investigation Report (“PSR”), R. 53, ¶¶ 8–16, Page ID # 181–82).

Because Wilkes had previous felony convictions a grand jury indicted him for possessing a firearm after a felony conviction, contrary to 18 U.S.C. § 922(g)(1). (Indictment, R. 1, Page ID # 1).

Wilkes pled guilty, without a written plea agreement. (Order Adopting Report and Recommendation, R. 44, Page ID # 124).

At sentencing, the PSR counted Wilkes’s four Michigan felony convictions for delivery or possession with intent to deliver cocaine as serious drug offenses under the Armed Career Criminal Act (“ACCA”). The ACCA increased Wilkes’s penalty from a maximum of 10 years in prison to a minimum of 15 years and a maximum of life in prison.¹ (PSR, R. 53, Page ID # 182, 212, Compare 18 U.S.C. § 924(a)(2) and 18 U.S.C. § 924(e)(1)).

Wilkes’s sentence range under the sentencing guidelines also increased from 46–57 months to 180–88 months. (Id., Page ID # 212).²

¹The ACCA’s enhanced penalty applies when a person has three or more convictions for a violent felony or a serious drug offense, or a combination of both. 18 U.S.C. § 924(e)(1).

²Wilkes’s sentencing guideline range as an armed career criminal was based on an offense level score of 30 and a criminal history category score of V. The range started at 151–188 months, but since the ACCA requires a minimum sentence of 15 years, the range became 180–188 months. (PSR, R. 53, Page ID # 212).

Wilkes objected. He said his cocaine convictions shouldn't count because Michigan's cocaine definition covered more substances than federal law. He gave two reasons: first, Michigan defined cocaine to include ioflupane when Wilkes got his Michigan convictions and current federal law excludes ioflupane; and second, Michigan's definition of cocaine adds cocaine's stereoisomers, while the federal definition only adds cocaine's optical and geometric isomers. (Objection Letter, R. 46, Page ID # 164–66).

At sentencing, the district court heard testimony from two chemistry professors—Dr. Dudley for the defense and Dr. Denmark for the prosecution. The district court overruled the objections. The court said that because ioflupane was not readily available and not likely to cause any harm, “the conclusion is there is no realistic probability that Mr. Wilkes's Michigan convictions were in any way based on ioflupane.” (Sentencing Tr., R. 89, Page ID # 1109). The court did not reach Wilkes's timing argument. (Id.).

The court also rejected Wilkes's argument about the difference between cocaine's stereoisomers and its optical and geometric isomers. The court reasoned that Wilkes's argument would make the term “geometric” surplusage in the federal statute. (Id., Page ID # 1110–11).

Wilkes also objected to the PSR discussing what he told investigators as part of a proffer agreement. The district court overruled that objection, too.

(Id., Page ID # 1072–73, PSR, R. 53, Page ID # 216–17).

The district court sentenced Wilkes to serve 180 months in prison. (Sentencing Tr., R. 89, Page ID # 1112).

Wilkes appealed. He raised the same issues in the Sixth Circuit Court of Appeals. The Sixth Circuit affirmed the district court in two opinions. First it rejected Wilkes argument that stereoisomers is broader than optical and geometric isomers. After observing that the plain meaning of the term “geometric isomers” “eludes immediate conception,” the court said that the term must mean something, pointing to the canon against surplusage, dictionary definitions, Drug Enforcement Administration rules issued close in time to the enactment of the federal statute, and Dr. Denmark’s testimony. United States v. Wilkes, 78 F.4th at 280–81.

The court held that the “the federal statutory term— optical and geometric isomers— is coextensive with the Michigan statutory term, stereoisomers.” Id., at 285.

The court also held that the PSR could include Wilkes’s proffer. Id., at 285–86. At Wilkes’s request the court held off deciding if the current federal definition of cocaine excluding ioflupane meant that Wilkes’s cocaine convictions when ioflupane was part of the Michigan definition should not count as predicate offenses under the ACCA, pending decision of the same

issue by this Court.

After this Court decided that courts should use the federal drug schedules in effect when the predicate convictions took place in Brown v. United States, 602 U.S. 101 (2024), the Sixth Circuit rejected Wilkes's contrary timing argument. United States of America v. Wilkes, 2025 U.S. App. LEXIS 7568 at *8–9. Wilkes does not press that issue here in light of this Court's decision in Brown.

REASONS FOR GRANTING THE WRIT

This petition presents important federal questions that have not been, but should be, settled by the Court. See Sup. Ct. R. 10(c). First, when using the categorical approach, do stereoisomers, part of Michigan's and Florida's definition of cocaine, include more substances than cocaine's optical and geometric isomers, terms used in federal law?

Second, is it fair to equate obscure and unclear chemistry terms, or does due process require more clarity before imposing punishment?

Third, should proffer-protected information appear in Presentence Investigation Reports?

The circuit courts disagree as to the first and third questions. Those conflicts give the Court another reason to grant the petition: to resolve conflicting decisions of the United States courts of appeals. Sup. Ct. R. 10(a).

1. Stereoisomers of cocaine include more than optical and geometric isomers.

If the term stereoisomer used to define cocaine covers more substances than the terms optical and geometric isomers, then Wilkes and many other defendants have been wrongly sentenced under the ACCA.

The ACCA says that a serious drug offense is:

“an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 U.S.C. [§]802)), for which a maximum term of imprisonment of ten years or more is prescribed by law.”

18 U.S.C. § 924(e)(2)(A)(ii).

Section 802 of the Controlled Substances Act defines controlled substance as:

(6) . . . a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this subchapter.

21 U.S.C. § 802(6).

The Controlled Substances Act lists cocaine on Schedule II. 21 U.S.C. § 812. Schedule II includes:

(4) coca [Coca] leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives,

their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the substances referred to in this paragraph.³

21 U.S.C. § 812, Schedule II(a)(4) (emphasis added).

Michigan currently defines cocaine as:

“[c]oca leaves and any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of these substances, except that the substances do not include decocainized coca leaves or extraction of coca leaves which extractions do not contain cocaine or ecgonine. The substances include cocaine, its salts, stereoisomers, and salts of stereoisomers when the existence of the salts, stereoisomers, and salts of stereoisomers is possible within the specific chemical designation.

Mich. Comp. Laws Ann. § 333.7214(a)(iv). Florida uses the same definition.

Chamu v. United States AG, 23 F.4th 1325, 1329 (11th Cir. 2022), citing Fla.

Stat. § 893.03(2)(a)(4) (2003).

To determine if Michigan cocaine convictions count as serious drug offenses under the ACCA, courts should follow the categorical approach this Court first set out in Taylor v. United States, 495 U.S. 575 (1990). The court must look at the elements of the offense, not at what the defendant actually did. If the elements of the state offense sweep more broadly than the federal

³The optical and geometric isomer language also appears in the regulations that define isomers of cocaine. 21 C.F.R. 1300.01(b) (defining isomer). The current definition of cocaine on schedule II appears at 21 C.F.R. § 1308.12(b)(4).

offense, the court may not use the conviction to enhance the defendant's sentence under the ACCA. So, if a state's schedule of controlled substances covers more substances than the federal schedule, the state offense does not count for purposes of the ACCA. Shular v. United States, 140 S. Ct. 779, 784 (2020).

Michigan and Florida law list cocaine and its stereoisomers on their schedules of controlled substances. Federal law lists cocaine and its optical and geometric isomers. If cocaine's stereoisomers include more substances than its optical and geometric isomers, then the law is overbroad and Michigan cocaine convictions don't count to enhance a defendant's sentence under the ACCA. Shular v. United States, 140 S. Ct. at 784.

Cocaine has the molecular formula of C₁₇H₂₁NO₄. Isomers of cocaine have the same formula, but their molecules are arranged in space differently and connected differently. Cocaine has several varieties of isomers, including positional isomers, constitutional isomers, and stereoisomers. United States v. Minter, 80 F.4th 406, 410 (2d Cir. 2023), Chamu v. United States AG, 23 F.4th at 1331–32.

Stereoisomers of cocaine have the same formula as cocaine and are attached the same way and in the same sequence. They only differ in how they are physically arranged. Stereoisomers can be further divided into

optical isomers or enantiomers and diastereomers, Chamu v. United States AG, 23 F.4th at 1330.

The parties agreed that cocaine has a mirror-image stereoisomer, otherwise known as an optical isomer or enantiomer, and six other stereoisomers. United States v. Wilkes, 78 F.4th at 280, (Gov't Brief, R. 70, Page ID # 817, Exhibit 8, Denmark Decl., R. 70-8, Page ID # 947–48, Dudley Decl., R. 60-1, Page ID # 258). Non-mirror-image stereoisomers are called diastereomers. Their molecules have the same configuration as cocaine, but have different three-dimensional arrangements. (See Dudley Decl., R. 60-1, Page ID # 256–57). Diastereomers, in turn, consist of geometric and non-geometric isomers. Chamu at 1331.

The parties disagreed about the existence of geometric isomers of cocaine.⁴ If they do not exist, then federal law defines cocaine more narrowly

⁴The chemistry experts who testified in the district court disagreed about the meaning of geometric isomers of cocaine.. Dr. Dudley, defendant's expert, said that the term geometric was obsolete and imprecise and that historically it was limited to cis-trans isomers—a subset of diastereomers consisting of alternative arrangements of two substituents on a ring or double bond. But cis trans isomers do not exist for cocaine. Dr. Denmark, the government's expert, said that geometric isomers applied to diastereomers of cocaine and that geometric isomer means the same as diastereomer. Both chemists agreed that the International Union of Pure and Applied Chemistry (IUPAC) Gold Book was the consensus source for definitions of chemistry terminology. (Transcript, R. 69-2, Page ID # 767–68, 777–78, 780).

According to Dr. Dudley the IUPAC Gold Book says that geometric isomers means cis-trans isomers. (Id., Page ID # 776). Dr. Denmark said that,

than Michigan. Further, if there are non-geometric isomers of cocaine, then Michigan's definition also covers more substances than the federal definition.

The Sixth Circuit agreed with the district court that adopting Wilkes's view that there are no geometric isomers of cocaine would mean that the word geometric does no work in the federal statute. The lower courts rejected Wilkes's approach and held that geometric isomers refers to cocaine's non-mirror image stereoisomers, so that state and federal laws cover the same substances. United States v. Wilkes, 78 F. 4th at 285. But the Eleventh Circuit sees it differently.

The Eleventh Circuit says that there are non-geometric diastereomers. So, if non-geometric diastereomers of cocaine exist, then stereoisomers when used in state statutes captures a subset of cocaine isomers that the federal statute does not. Chamu v. United States AG, 23 F.4th at 1330. The burden is

even using the historical meaning of cis-trans, cocaine diastereomers are cis-trans isomers and thus geometric isomers. (Id., Page ID # 760–67). Dr. Dudley said that this use of cis-trans when applied to cocaine's stereoisomers was ambiguous and unwieldy because it required an arbitrary starting point. (Id., Page ID # 767, 784–85).

In chemistry, when a substance is a cis or trans isomer it is rigorously defined using the cis or trans prefix or the more modern "E" or "Z" designations. But cocaine has no such described isomers. Dr. Denmark's contrary view is in the minority. (See Defendant's Exhibit 1, R. 69-1, Page ID # 713–720) (discussing the divergent views of the two experts).

on the government to show that non-geometric isomers of cocaine do not exist. United States v. Laines, 69 F.4th 1221, 1236 (11th Cir. 2023) (Rosenbaum, J., dissenting in part). The government did not do that here.

2. Due process requires clarity when applying the ACCA.

Due process requires that criminal laws notify ordinary people about the lawfulness of their conduct and about the penalties for engaging in unlawful conduct. Johnson v. United States, 576 U.S. 591, 595–96 (2015).

The term geometric isomers had different meanings for Dr. Denmark and Dr. Dudley. The government agrees that Dr. Dudley’s meaning was used historically. (Gov’t Brief on appeal, Sixth Cir. Doc., 20, p. 31). If scientific experts disagree about the meaning of geometric isomers, how can a lay person know what conduct is prohibited?

Here, the Sixth Circuit’s holding seemingly requires an ordinary citizen to delve into obscure debates about chemistry terms. The court should require more clarity when interpreting the ACCA with its onerous penalties. See United States v. Jackson, 55 F.4th 846, 862–63 (11th Cir 2023) (Rosenbaum, J., concurring), affirmed Brown v. United States, 602 U.S. 101 (2024).

3. Proffer protected information does not belong in a Presentence Investigation Report.

The court of appeals affirmed the district court decision overruling

Wilkes's objection to including a statement in the PSR that Wilkes and the government agreed was not to be used against him. The information did not affect Wilkes's guideline sentence range, nor does it appear that it affected his sentence. Still, because a PSR is such an important document for an inmate, the Court should resolve a circuit split about how to handle proffer statements.

The PSR's contents can affect how the Bureau of Prisons classifies a federal prisoner and classification can affect prison placement. The report becomes part of the prisoner's central file. BOP Program Statement 1351.05, Release of Information (September 19, 2002).

Wilkes provided his statement as part of an agreement that prohibited the government from using information against him, but the government gave the statement to the probation department anyway.

The Sixth Circuit has held on plain error review that nothing in the sentencing guideline concerning cooperation agreements permits the government to withhold information from the district court or prohibits the court from considering the information. United States v. Jackson, 635 F.3d 205, 209 (6th Cir. 2011), citing USSG § 1B1.8 cmt. n. 1 and 5.

In a case decided after Jackson, the Sixth Circuit held that reviewing proffer-protected information creates a dilemma for the district court. The

court said:

A sentencing court's reviewing a confidential proffer statement places the court in the position of having knowledge that it is unable to use, which may understandably give rise to concerns about possible prejudice to the defendant. . . .[W]e urge any district court . . . to proceed carefully to ensure that the defendant is not prejudiced by the court's review of the proffer.

United States v. Baker, 858 F.3d 419, 423 (6th Cir. 2017).

Other circuit courts take different approaches. The Eighth Circuit held that a grant of immunity prohibits a court from using information provided by the defendant to affect a subsequent sentence. This rule protects the defendant's rights under the Fifth Amendment to the Constitution and USSG § 1B1.8. United States v. Abanatha, 999 F.2d 1246, 1248–49 (8th Cir. 1996). This is so, even though the sentencing court should have all available information about a defendant when sentencing a defendant. The court reasoned that:

[A] defendant's prior, immunized testimony is, by agreement with the Government, not available regardless of how broadly the Sentencing Reform Act may be construed, so as to allow a sentencing court to consider as much information as possible about a defendant, the Act is, nonetheless, limited by the constitutionally protected rights of that defendant. When the two conflict, the statute must yield.

United States v. Abanatha, 999 F.2d at 1249. The Seventh Circuit holds otherwise. United States v. Rourke, 74 F.3d 802, 809 n.6 (7th Cir. 1996).

The Court should protect defendants' constitutional rights. It should

instruct the district courts that they should not include proffer-agreement protected information in the PSR, even if the Court concludes that the district court may properly consider the information for the limited purpose of considering a government motion for downward departure. See USSG § 1B1.8(b)(5) and cmt. n.1.

The harm to Wilkes was a practical one. He did not want the wider world to know that he talked to the government.

4. This Case is a Good Vehicle for Review.

This case deserves review. The question of how to compare stereoisomers and optical and geometric isomers was presented and decided below, as was Wilkes's objection to the inclusion of his proffer protected information. These questions recur and affect many defendants, and the circuit courts are divided.

CONCLUSION

The Court should grant the petition for writ of certiorari.

Respectfully submitted,

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