

No. 24-7183

IN THE SUPREME COURT OF THE UNITED STATES

JAMES LITTLE, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM FOR THE UNITED STATES

D. JOHN SAUER
Solicitor General
Counsel of Record
Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

IN THE SUPREME COURT OF THE UNITED STATES

No. 24-7183

JAMES LITTLE, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM FOR THE UNITED STATES

Following a guilty plea in the United States District Court for the District of Columbia, petitioner was convicted on one count of parading, demonstrating, or picketing in a Capitol building on January 6, 2021, in violation of 40 U.S.C. 5104(e)(2)(G). Pet. App. 72a. The district court sentenced him to 60 days of imprisonment and three years of probation. Id. at 73a-74a. Petitioner appealed his sentence, contending that the relevant statutes authorize the imposition of a term of imprisonment or a term of probation but not both. A divided panel of the court of appeals agreed with petitioner's contention, vacated his sentence,

and remanded for resentencing. Id. at 39a-71a. On remand, the district court sentenced petitioner to 150 days of imprisonment with credit for the 60 days he had already served on his vacated sentence of imprisonment, plus an additional 30 days of credit to reflect the 18 months that he had spent on probation. Id. at 5a; see id. at 36a. Petitioner again appealed his sentence, and the court of appeals unanimously affirmed. Id. at 1a-21a.

The court of appeals issued its judgment in the second appeal on December 20, 2024. Pet. App. 1a. On January 20, 2025, the President “grant[ed] a full, complete and unconditional pardon to all * * * individuals convicted of offenses related to the events that occurred at or near the United States Capitol on January 6, 2021,” with the exception of certain named individuals whose sentences the President instead commuted. Proclamation No. 10,887 of Jan. 20, 2025, 90 Fed. Reg. 8331, 8331 (Jan. 29, 2025). The President also directed the Attorney General “to pursue dismissal with prejudice to the government of all pending indictments against individuals for their conduct related to the events at or near the United States Capitol on January 6, 2021.” Ibid.

Petitioner is among the individuals whom the President pardoned for offenses related to the events of January 6, 2021. On February 27, 2025, consistent with the President’s directive, the government filed an unopposed motion in the district court to dismiss the information in this case with prejudice under Federal Rule of Criminal Procedure 48(a). D. Ct. Doc. 85; see D. Ct. Doc.

86, at 2 (Mar. 31, 2025). Rule 48(a) allows the government to seek dismissal of an indictment, information, or complaint even after the district court enters judgment. See Rinaldi v. United States, 434 U.S. 22, 29-32 (1977) (per curiam). The government's motion remains pending before the district court.

Under the circumstances, the government agrees with petitioner (Pet. 4) that it would be appropriate for this Court to grant the petition, vacate the judgment below, and remand to the court of appeals. That disposition would be consistent with this Court's practice in cases in which "the Government has changed its position while a criminal case is pending on petition for certiorari." Thompson v. United States, 444 U.S. 248, 250-251 (1980) (per curiam). On remand, the court of appeals can enter an appropriately modified disposition of this case that would allow for the district court to grant the government's Rule 48(a) motion. Cf. Gov't C.A. Br. in Resp. to Mot. to Vacate at 2-5, United States v. Griffin, No. 22-3042 (D.C. Cir. Apr. 3, 2025).*

Respectfully submitted.

D. JOHN SAUER
Solicitor General

JUNE 2025

* The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.