

24-7403
No. ~~3~~

IN THE SUPREME COURT
OF THE UNITED STATES

MICHAEL STAPLETON,

Petitioner,

v.

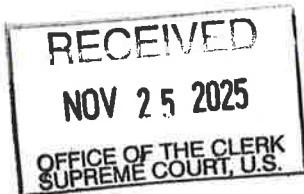
UNITED STATES OF AMERICA,

Respondent.

On Petition for Rehearing of an Order Denying Certiorari
from the United States Court of Appeals for the Eleventh Circuit
(Case No. 19-12708; Decision March 27, 2025; Rehearing Denied May 5, 2025)

PETITION FOR REHEARING

Michael Stapleton, *Pro Se* Petitioner
Reg. No. 17627-104
FCI Victorville Medium II
PO BOX 3850
ADELANTO, CA 92301



CERTIFICATION OF GOOD FAITH

I certify that this petition for rehearing is presented in good faith and not for delay, and that it is limited to intervening circumstances of a substantial or controlling effect, or to other substantial grounds not previously presented, in accordance with Supreme Court Rule 44.2.

Respectfully submitted,



Michael Stapleton, Pro Se Petitioner
Reg. No. 17627-104
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October 15, 2025

This petition for rehearing is filed in good faith and is based on substantial grounds not previously presented, pursuant to Supreme Court Rule 44.2.

INTRODUCTION

Petitioner respectfully seeks rehearing because the district court never orally pronounced sentence on forty-seven counts of conviction, rendering the written judgment void under Fed. R. Crim. P. 32(k) and 18 U.S.C. § 3553(c). This jurisdictional defect deprived the court of appeals of authority to affirm, and rehearing is necessary to prevent enforcement of a sentence never imposed in open court.

Pursuant to Supreme Court Rule 44.2, Petitioner respectfully seeks rehearing of the Court's denial of certiorari. This petition is based on "other substantial grounds not previously presented"—namely, that the district court failed to orally pronounce sentence on 47 counts of conviction, rendering the written judgment jurisdictionally invalid under Fed. R. Crim. P. 32(k) and 18 U.S.C. § 3553(c). Because a valid sentence is the very essence of a "final judgment" under *Berman v. United States*, 302 U.S. 211 (1937), the absence of a pronounced sentence deprived the Eleventh Circuit of jurisdiction.

GROUND FOR REHEARING

1. Failure to Pronounce Sentence Renders the Judgment Void

The record shows that the district court never orally pronounced the individual sentences reflected in the written judgment. The court stated:

"It is the judgment of the Court that the defendant, Michael Stapleton, be committed to the Bureau of Prisons for a term of 262 months. This term consists of 120 months as to each count." (Appendix A Page 113)

The court never clarified how the 262-month term applied across 47 counts. The judge paused mid-sentencing, conferred with the probation officer, and relied on the officer to recite the sentence. On multiple occasions the probation officer reminded the court that it must pronounce each sentence itself. The judge responded, “You got your pen—go on and do it.” (Appendix A Page 137 Line 10)

The written judgment (Appendix B) later reflected three consecutive sentences—Counts 1 and 2 (120 months each) and Count 47 (22 months)—none of which were orally pronounced or explained in open court. See *United States v. Purcell*, 715 F.2d 561 (11th Cir. 1983) (judgment void where sentence not orally imposed). Under *United States v. Gomez-Leckie*, 545 F.3d 777 (9th Cir. 2008), and *United States v. Marquez*, 506 F.3d 485 (6th Cir. 2007), the oral pronouncement controls. A written judgment that conflicts with or replaces the oral sentence is invalid.

2. The Defect Is Jurisdictional and May Be Noticed *Sua Sponte*

A judgment without an oral pronouncement of sentence is not “final.” *Berman*, 302 U.S. at 212; *Burton v. Stewart*, 549 U.S. 147 (2007) (*per curiam*). This defect is jurisdictional and cannot be waived. See *Silber v. United States*, 370 U.S. 717 (1962) (*per curiam*) (Court may notice plain error affecting substantial rights even if not raised below). Because the district court’s omission deprived the Eleventh Circuit of jurisdiction to review the merits, this Court’s intervention is necessary to prevent a manifest injustice. The Government itself conceded that the 2013 and 2014 indictments charged the same scheme. (SDFL 14-80151-CR-DMM - DE 323 at 21–22; Gov’t Brs. SDFL 14-80151-CR-DMM - DE 25 & 28.) The imposition of consecutive sentences therefore also

contravenes U.S.S.G. § 3D1.2, which requires grouping of counts from the same transaction or scheme.

3. Due Process and Equal Protection Require Correction

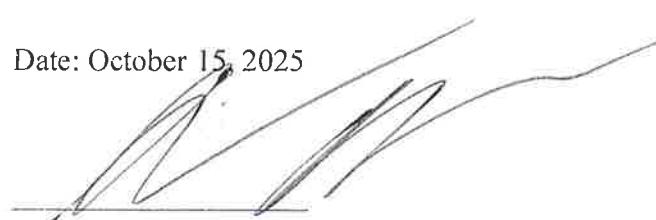
Petitioner, a U.S. citizen by birth through his American father, seeks only the protections guaranteed to every citizen: that no sentence be imposed except by a court acting within constitutional bounds and in open court. The lower courts' refusal to correct the omission, coupled with the district court's permanent filing injunction without notice or cause, demonstrates bias and a denial of due process.

CONCLUSION

For the foregoing reasons, petitioner respectfully requests that the Court grant rehearing, vacate the denial of certiorari, and remand with instructions to the Eleventh Circuit to recall its mandate and remand to the district court for proper pronouncement of sentence consistent with Fed. R. Crim. P. 32(k) and 18 U.S.C. § 3553(c).

Respectfully submitted,

Date: October 15, 2025



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CERTIFICATE OF SERVICE

I, Michael Stapleton, certify that on this 15th day of October 2025, I mailed, with proper postage prepaid, the original of the foregoing Petition for Rehearing, addressed to:

Clerk of the Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543

and one copy to:

Solicitor General of the United States
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Respectfully submitted,



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APPENDIX

Index of Appendix

Appendix A - Case No. 14-80151-CR-DMM, Docket 278, Sentencing Transcript

Appendix B - Case No. 14-80151-CR-DMM, Docket 260, Judgment

**Additional material
from this filing is
available in the
Clerk's Office.**