NO. 24-780

IN THE

Supreme Court of the United States

ANTHONY BLUE,
PETITIONER,

v.

THE PEOPLE OF THE STATE OF NEW YORK,
RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF NEW YORK

BRIEF FOR THE RESPONDENT IN OPPOSITION

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QUESTION PRESENTED

Does a defendant validly waive his right to counsel when he appreciates the dangers of proceeding pro se and further correctly understands that he would likely serve a lengthy prison sentence if convicted?

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INTRODUCTION

In this criminal prosecution, the New York Court of Appeals found that petitioner Anthony Blue made a knowing, voluntary, and intelligent waiver of his right to counsel because, among other reasons, "it [was] clear that [he] had an understanding of the extent of his potential sentencing exposure by the time the trial court conducted its waiver inquiry" (Pet. App. 13a). Contrary to petitioner's characterization, there is no split of appellate authority over whether a counsel waiver is valid under such circumstances. Although some courts have rejected counsel waivers when a defendant has either no understanding or a mistaken understanding of sentencing consequences, petitioner has identified no decision invalidating such a waiver when, as here, the defendant *did* correctly understand that he "likely would serve a lengthy prison sentence if convicted" (Pet. App. 12a).

Petitioner nonetheless attempts to manufacture a split by resisting the Court of Appeals' factual finding that he had a sufficient understanding of his potential sentence (*e.g.*, Pet. 31). Specifically, petitioner asserts that a defendant cannot appreciate the "'range of allowable punishments' that may be imposed upon him following a conviction" (Pet. i) unless he is advised of the *precise* legal minimum and maximum amount of time he could spend in prison based on the charges against him (Pet. App. 9a). As the Court of Appeals appropriately recognized, however (Pet. App. 14a n.5), neither this Court nor the lower courts have required this level of specificity in a pro se inquiry. And there is no division of authority on this question either: indeed, many of the

courts that petitioner cites in support of his claim of a split (*e.g.*, Pet. 20, 23) have in fact agreed with the Court of Appeals here that a defendant's "general understanding of the potential penalties of conviction" is enough. *Arrendondo v. Neven*, 763 F.3d 1122, 1130 (9th Cir. 2014); *see also State v. Diaz*, 878 A.2d 1078, 1086 (Conn. 2005) ("[T]he court [i]s not constitutionally required to ensure that the defendant had a precise understanding of the range of possible punishments." (internal quotation marks omitted)).

There is thus no irreconcilable conflict among the lower courts that this Court need address. And contrary to petitioner's assertion (Pet. 30), there is also no pressing need to address this issue in New York in light of intervening legal changes. After the pro se inquiry in this case, New York's Model Waiver of Counsel Colloquy was updated to recommend that judges "specify" a defendant's potential sentence before allowing a counsel waiver. N.Y. Model Colloquies, Waiver of Counsel 1 (Aug. 2016).[1] The dispute resolved by the Court of Appeals here is thus unlikely to recur in New York.

The petition should be denied.

STATEMENT OF THE CASE

A. Factual Background

From May through August of 2012, petitioner and an accomplice burglarized numerous apartments

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[1] https://www.nycourts.gov/judges/cji/8-Colloquies/Waiver_of_Counsel.pdf

in upper Manhattan. Local police opened an investigation into the pattern of burglaries, found surveillance footage of the burglars, and arrested petitioner and his accomplice. During the ensuing investigation, petitioner's phone was found to contain text messages coordinating the burglaries, and his apartment was found to contain stolen property and burglar's tools.

B. Evidence of Petitioner's Understanding of His Sentencing Exposure As Well As the Other Risks of Proceeding Without Counsel

Petitioner and his accomplice were each charged with six counts of second-degree burglary. At petitioner's arraignment on June 13, 2013, the prosecutor requested remand without bail, stressing that petitioner was "charged with six C violent felonies" and therefore "face[d] substantial time." The judge responded that petitioner was "clearly facing a lot of time" because he was "fac[ing] a mandatory state prison sentence and could get consecutive sentences." After the prosecutor announced that the People were "recommending 12 years jail with five years post release supervision" on a guilty plea, the judge remanded petitioner (Pet. App. 43a-45a).

On January 8, 2014, petitioner appeared in court with counsel, who reported that petitioner wanted to represent himself. The judge responded that petitioner was set "to have some pretrial hearing motions and then a trial." When petitioner said, "I still would like to waive counsel and proceed pro se," the judge warned, "That's a big mistake. You face a lot of jail time." Petitioner insisted, "I understand,

your Honor, but I am making my decision." The judge advised, "I want you to think about it because you're to be treated just like a lawyer and you don't know the rules of evidence. . . . It's a big mistake." After a brief discussion of another issue, petitioner asked, "So what is the decision for the pro se?" The judge said he was reserving decision, telling petitioner, "I want you to think about that. That's a mistake. I am going to ask you a lot of questions on February 3rd" (Pet. App. 48a-52a).

On February 3, 2014, petitioner returned to court with counsel, who announced that petitioner still wanted to represent himself. The judge confirmed that petitioner could communicate in English and that petitioner's ability to understand the proceedings was not limited by any medication or underlying condition. Petitioner specified that he had received enough time to consider whether to proceed pro se, that he had completed two years of college, that his employment history included work in trucking, and that he had previously gone to trial on drug-possession charges (Pet. App. 54a-57a).

The judge next questioned petitioner about his familiarity with this case. When asked what he was charged with, petitioner correctly answered, "Burglary [in] the second degree." When asked about the case's status, petitioner complained that he did not know even though he had "been requesting information from counsel for months." The judge explained that the case was due to proceed to hearings and then trial; petitioner said that he understood. Petitioner also specified that, before his previous trial, there had been a *Mapp* hearing. When asked

whether he knew what a *Mapp* hearing was, petitioner answered, again correctly, "That's where you determine if the evidence is admissible, if the officer has probable cause for arrest." Petitioner went on to explain that the purpose of a trial was "[t]o determine if I'm guilty or not based on evidence that's submitted," and that the judge's role at trial was to "[m]ake sure that everything runs smoothly" (Pet. App. 57a-59a).

As the colloquy progressed, petitioner noted that he had read about criminal advocacy and had taken debate classes. The judge asked about petitioner's discussions with counsel in this case, and petitioner complained, "The only thing we've discussed is a cop out [a plea]. We haven't discussed trial strategy, nothing." Petitioner continued, "I'm just dissatisfied with counsel and I feel I could do a better job." The judge proposed assigning petitioner another attorney, but petitioner responded, "No. I don't want another attorney. I would like to proceed myself." The judge warned petitioner that, although he had the right to represent himself, "such a choice may not be a wise one." The judge then listed many disadvantages of self-representation, and petitioner said that he understood. After several further warnings, petitioner maintained that he was capable of representing himself and wanted to do so, at which point the judge granted petitioner's request to go pro se and relieved counsel (Pet. App. 59a-69a).

During pretrial proceedings over the ensuing two years, petitioner was repeatedly encouraged to explore a negotiated guilty plea, largely because of the risk that he could receive a lengthy sentence. For

instance, at a court appearance on April 3, 2014, the judge urged petitioner to consider a disposition because "the exposure in a case like this is so great if you were to go to trial and lo[ ]se." Petitioner responded, "Understood" (4/3/2014 Minutes: 2). At the next court appearance, the People reported that they were recommending a prison term of 15 years on a plea to the top count, and petitioner responded, "Let's mo[v]e forward." When the judge noted that, as standby counsel could explain, the People's recommendation was not binding on the court, petitioner said, "She has informed me." The judge proposed, "If you are interested I will take a look at it again and come up with a number, if you don't want me to I won't." Petitioner responded, "Not at this time" (4/22/2014 Minutes: 8). And during a June 2014 court appearance, the prosecutor stated, "I think the Court may have been offering Mr. Blue seven years on a plea" to the top count in the indictment, and opined that such an offer seemed reasonable because petitioner could receive "consecutive time on each count." After discussing logistical matters, the judge encouraged petitioner to "think about resolving this case." Petitioner responded, "I understand" (6/16/2014 Minutes: 2-4).

On September 29, 2014, the judge again urged petitioner to consider resolving this case. When petitioner complained about assertedly one-sided proceedings, the judge answered, "I am trying my very best to point you in the right direction," stressing that "your [sentencing] exposure in this case is huge." Petitioner responded, "I am aware of that." The judge elaborated, "You don't need to go to jail for 25, 30, 40 years, Mr. Blue, that is crazy. I am not trying to scare

you, I am telling you there are judges who would do that to you." Petitioner responded, "I understand" (Pet. App. 78a-79a).

During a November 2014 court appearance, the judge again urged petitioner to consider a disposition, explaining, "[Y]our exposure in this case is huge, you can still resolve this case." The judge continued, "You are a smart guy, you can represent yourself, you can do a great job and you can still lose and lose big." Petitioner said, "I understand," before changing the subject to scheduling (11/7/2014 Minutes: 3-5).

On January 5, 2015, the judge observed that petitioner had already accumulated "an awful lot of time in on this case" before asking, "Am I wasting my breath to suggest a resolution?" Petitioner responded that, through a plea bargain, the charges against him—which were class C violent felonies—could "drop[ ] down one letter grade to a violent D." Petitioner correctly observed that a class D violent felony conviction would carry a minimum prison term of two years and a maximum prison term of seven years. The prosecutor responded that the People would not agree to drop the top count and noted that the judge had already offered petitioner the statutory minimum on a plea to the top count. But petitioner interjected, "That's for a C [violent felony]. . . . If you want me to give up something, I should get something in exchange." The judge pointed out that petitioner's exposure was much higher than the prison term that had been offered, exclaiming, "I would need a calculator to tell you what your exposure is"; but petitioner retorted, "I'm fully aware of it. I'm fully aware" (1/5/2015 Minutes: 5-7).

The following week, petitioner complained that the People were not allowing him to plead guilty to a lower-level crime. After the prosecutor confirmed that the People would not agree to drop the top count, petitioner said, "Let's proceed." The judge asked whether petitioner would plead guilty in exchange for a prison term of three and one-half years—the minimum on a conviction on the top count—and petitioner answered, "No, I'm not interested" (1/12/2015 Minutes: 4-6). At a court appearance four days later, the judge reiterated that the best offer he could make was the minimum prison term of three and one-half years, and he warned petitioner, "If you should lose at trial, your exposure is way up here." Petitioner responded, "I understand that" (1/16/2015 Minutes: 3).

Petitioner thereafter secured his release on his own recognizance, and his trial—with a different judge presiding—began on October 5, 2015. The jury convicted him of five of the six counts of second-degree burglary. On November 12, 2015, the trial judge sentenced petitioner to consecutive five-year prison terms on each of the five burglary counts, yielding an aggregate prison term of 25 years. Although that aggregate 25-year prison term is lawful under New York Penal Law §§ 70.02 and 70.25, a separate provision of New York law directs the State Department of Corrections and Community Supervision to "deem[ ]" such consecutive terms to be an aggregate term of only 20 years. New York Penal Law § 70.30(1)(e)(i); *see People v. Moore*, 61 N.Y.2d 575, 578 (1984).

C. Petitioner's Appeal

On appeal to New York's Appellate Division, First Department, petitioner's appellate counsel raised various arguments, but did not raise any arguments concerning the pro se inquiry below. The Appellate Division unanimously remanded for further consideration of a constitutional speedy-trial claim petitioner had raised in a collateral challenge (Pet. App. 39a-41a). After that claim was rejected on remand, appellate counsel filed a supplemental brief seeking reversal on that claim. The Appellate Division unanimously affirmed (Pet. App. 35a-38a).

Before the New York Court of Appeals, petitioner argued, for the first time, that he had not validly waived the right to counsel. In particular, petitioner argued that his waiver could not be knowing, voluntary, and intelligent unless he had been specifically advised about "his maximum sentencing exposure"—in particular, the prospect "that he faced up to 20 years in prison" under the statutory cap defined in New York Penal Law § 70.30(1)(e)(i) (Pet. App. 84a, 90a).

On October 22, 2024, the New York Court of Appeals affirmed (Pet. App. 1a-34a). The court rejected petitioner's proposed "bright-line rule" that "a criminal defendant cannot make a knowing, voluntary, and intelligent waiver of the right to counsel unless the trial judge specifically apprises the defendant of his maximum sentencing exposure in years" (Pet. App. 1a). After observing that "neither this Court nor the U.S. Supreme Court have required a specific recitation of maximum potential years of

imprisonment as part of a valid waiver colloquy," the court reviewed the entire record and determined that petitioner had validly waived his right to counsel because, among other reasons, "it [was] clear that [he] had an understanding of the extent of his potential sentencing exposure by the time the trial court conducted its waiver inquiry" (Pet. App. 9a-14a). For example, at various moments before petitioner's pro se colloquy, he was alerted to the fact that "he likely would serve a lengthy prison sentence if convicted" (Pet. App. 12a). During the pro se colloquy, petitioner acknowledged that he had discussed a plea deal with his lawyer—an acknowledgment that demonstrated that petitioner "understood he faced an even longer sentence than the twelve years of imprisonment and five years of post-release supervision that the People sought" (Pet. App. 13a-14a). And in subsequent proceedings, petitioner repeatedly said that he was aware of his sentencing exposure, including when the trial court warned that he could be imprisoned for 25, 30, or 40 years. Those proceedings thus "confirm[ed] what was apparent from the pre-colloquy proceedings: [petitioner] had an understanding of the extent of his potential sentencing exposure at the time he elected to waive his right to counsel" (Pet. App. 14a).

REASONS FOR DENYING THE PETITION

1. Petitioner asks this Court to grant certiorari so that it can address whether a defendant can validly waive his right to counsel when he does not understand "the range of allowable punishments" for his criminal charges, claiming that there is "a well-entrenched split" in authority on that issue (Pet. i,

17). But any such split is not implicated by this case because the New York Court of Appeals squarely found that petitioner "had an understanding of the extent of his potential sentencing exposure at the time he elected to waive his right to counsel" (Pet. App. 14a).[2]

All of the cases cited by petitioner in support of his claim of a split involved defendants who either had no understanding of sentencing exposure or were operating under an outright misconception about potential sentences. For example, in *United States v. Moskovits*, 86 F.3d 1303 (3d Cir. 1996) (cited at Pet. 18-19), "punishment was not discussed at the waiver hearing" at all, and the court was concerned that the defendant—who had previously gone to trial and received a sentence of fifteen years before an appellate reversal—would mistakenly believe that a retrial could not yield a sentence of more than fifteen years. *Moskovits*, 86 F.3d at 1306-07. Other decisions cited by petitioner involved material misadvice about a potential sentencing range. *See United States v.*

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[2] As petitioner acknowledges, when evaluating the validity of a waiver of the right to counsel, "'the ultimate inquiry is not what the district court *said* but what the defendant knew and *understood*'" (Pet. 3 (quoting *United States v. Virgil*, 444 F.3d 447, 455 n.8 (5th Cir. 2006) (italics in petition))). For that reason, courts examine the record as a whole—rather than just the pro se colloquy—to assess a defendant's understanding at the time of his waiver. *See, e.g.*, *United States v. Lillard*, 2023 WL 193679, at *1 (9th Cir. 2023) (relying on discussions at various proceedings to uphold waiver of right to counsel); *United States v. Bishop*, 2022 WL 17543908, at *4 (10th Cir. 2022) (same); *Torres v. United States*, 140 F.3d 392, 401 (2d Cir. 1998) (same).

Booker, 684 F.3d 421, 427-28 (3d Cir. 2012) (cited at Pet. 19); *United States v. Jones*, 452 F.3d 223, 233-34 (3d Cir. 2006) (cited at Pet. 20 n.2); *United States v. Erskine*, 355 F.3d 1161, 1165 (9th Cir. 2004) (cited at Pet. 20-21). And others involved not just a complete absence of discussion of potential sentences, but also other widespread deficiencies in the defendant's understanding of the dangers of proceeding pro se. *See Henderson v. Frank*, 155 F.3d 159, 166-67 (3d Cir. 1998) (cited at Pet. 19) ("generic waiver form" contained no explanation of "sentences or fines"); *United States v. Cash*, 47 F.3d 1083, 1088 (11th Cir. 1995) (cited at Pet. 22) (no discussion at all of "the charges and potential penalties he faced"); *United States v. Mohawk*, 20 F.3d 1480, 1484 (9th Cir. 1994) (cited at Pet. 21 n.3) (no record whatsoever of colloquy with defendant).

These decisions do not conflict with the New York Court of Appeals' ruling below because the Court here squarely found that petitioner *did* understand—correctly—that he "likely would serve a lengthy prison sentence if convicted" (Pet. App. 12a). That finding is well supported by the record. As early as petitioner's arraignment on the indictment, he was alerted to the fact that the People were recommending a twelve-year prison term with five years of post-release supervision on a guilty plea (Pet. App. 45a), and petitioner subsequently confirmed that he had discussed the plea and proposed sentence with his counsel (Pet. App. 60a). Those plea discussions would presumably have included some discussion of how a twelve-year prison term related to petitioner's overall sentencing exposure. The trial court also repeatedly warned petitioner that he was facing a lengthy period

of incarceration based on the possibility of consecutive sentences for his six burglary charges (Pet. App. 45a, 51a). And petitioner's understanding at the time of his counsel waiver was confirmed by his multiple subsequent acknowledgments that he could go to prison for "25, 30, 40 years" (Pet. App. 79a); that he was thoroughly familiar with the sentencing ranges for different classes of violent felonies (1/5/2015 Minutes: 6-7); and that his sentencing exposure was much greater than five years in prison (1/5/2015 Minutes: 7).

Petitioner has not identified a single case where a counsel waiver was invalidated for a defendant with this level of understanding of his sentencing exposure. At most, petitioner has identified (Pet. 24-27) a handful of cases where courts have been willing to *accept* counsel waivers by defendants with much less robust understandings of their potential sentences, so long as those defendants had been adequately warned of the other dangers of proceeding pro se. *See, e.g.*, *United States v. Turner*, 644 F.3d 713, 722 (8th Cir. 2011) (cited at Pet. 25) ("reject[ing] the idea that a valid waiver of the right to counsel must invariably be accompanied by specific warnings about the range of possible punishments"); *Cox v. Burke*, 361 F.2d 183, 186 (7th Cir. 1966) (cited at Pet. 24) ("the failure of the trial court to indicate a maximum sentence did not render Cox's waiver of counsel incompetent or unintelligent"). But any disagreement between courts about whether a defendant should be allowed to proceed pro se when he lacks understanding of his potential sentence is simply not implicated by a case like this one, where petitioner had the requisite understanding.

2. Petitioner's real objection to the New York Court of Appeals' decision is about that court's factual finding that he adequately understood the kind of sentence that he might receive. Petitioner repeatedly states that he is insisting upon nothing more than an understanding of sentencing "range" (Pet. 17-31). But given that the record establishes his meaningful appreciation of his sentencing exposure, petitioner is in fact insisting—as he did in his brief below—that the trial court should have provided "a specific recitation of maximum potential years of imprisonment"; and that the "failure to apprise [petitioner] that he faced up to 20 years in prison" thus "invalidate[d] the waiver here" (Pet. App. 9a, 90a).

Contrary to petitioner's assertion, however, courts have not held that a constitutionally sufficient waiver of the right to counsel requires a precise enumeration of a defendant's potential sentencing exposure. No decision from this Court supports such a rule. In *Von Moltke v. Gillies*, a plurality observed that a valid waiver of counsel entailed an understanding of "the range of allowable punishments"—one of many considerations demonstrating the invalidity of von Moltke's waiver of her right to counsel near the outset of proceedings in a case that could have yielded the death penalty. 332 U.S. 708, 709, 724 (1948). And in *Iowa v. Tovar*, this Court eschewed "any formula or script to be read to a defendant who states that he elects to proceed without counsel" in favor of a holistic approach that evaluates the validity of a counsel waiver based on "a range of case-specific factors." 541 U.S. 77, 88 (2004).

Nor have the lower courts required such precision. Indeed, many of the jurisdictions that petitioner cites in support of his position have aligned with the Court of Appeals' decision here (Pet. App. 14a n.5) in rejecting any constitutional obligation to provide the level of specificity that petitioner demanded below. For example, although petitioner repeatedly cites the Ninth Circuit's decision in *Arrendondo* (Pet. 21, 30), that decision calls for only "a general understanding of the potential penalties of conviction before waiving counsel." 763 F.3d at 1130. The Eleventh Circuit in *United States v. Hakim* (cited at Pet. 21-22) likewise expressly declined to "decide the precision with which defendants generally must know the consequences of conviction." 30 F.4th 1310, 1323 (11th Cir. 2022), *cert. denied*, 143 S. Ct. 776 (2023). And the Connecticut Supreme Court, while holding that a defendant must have a "meaningful appreciation" of his sentencing exposure, also held that "the court [i]s not constitutionally required to ensure that the defendant had a precise understanding of the range of possible punishments." *Diaz*, 878 A.2d at 1086 (internal quotation marks omitted). Multiple other courts have agreed with this approach. *See, e.g.*, *United States v. Robinson*, 753 F.3d 31, 44 (1st Cir. 2014) (holding that, although the court "did not convey in concrete terms the sentencing range" that the defendant faced, his waiver of counsel was valid because the record as a whole showed that he "knew just what he was getting himself into"); *McCollister v. Cameron*, 535 Fed. Appx. 187, 191-92 (3d Cir. 2013) (finding, in the habeas context, that sentence warning was sufficient despite imprecisions as to mandatory minimum and potential maximum);

United States v. Kimball, 291 F.3d 726, 731-32 (11th Cir. 2002) (maximum sentence warning sufficient despite misleading and inaccurate reference to lower potential Guidelines sentence); *United States v. Fore*, 169 F.3d 104, 108 (2d Cir. 1999) (sentence warning sufficient despite inaccuracy as to maximum sentence, which "was a remote possibility at best").[3]

This approach is a sensible one because, as this case demonstrates, there is often uncertainty over a defendant's actual sentencing exposure at the early stages of a case, when requests to proceed pro se are typically made. For example, at the time of petitioner's pro se colloquy, the parties mistakenly understood him to be a predicate felony offender, apparently because of confusion over the application of New York's sometimes-complex lookback rules for past convictions. *See People v. Hernandez*, 2025 WL 515364, at *2 (N.Y. Feb. 18, 2025). Moreover, when—as in this case—a defendant is facing potentially consecutive sentences, it is often not clear until after trial whether consecutive sentences are legally available under New York law. *See People v. Laureano*, 87 N.Y.2d 640, 645 (1996) (requiring "separate and distinct" acts for consecutive sentences). And some sentences may be legally available but so unlikely as a practical matter that giving the defendant an implausibly high upper range could actually "detract from the trial court's duty to inform defendant of the effect that self-representation

[3] Maryland does require a more specific account of sentencing range (Pet. 23), but that requirement is established by Maryland Rule 4-215. *See Knox v. State*, 945 A.2d 638, 645 (Md. 2008).

could have." *Fore*, 169 F.3d at 108 (noting that upward departures under Sentencing Guidelines could potentially inflate sentence to 125 years imprisonment).

Furthermore, state rules may affect the amount of time that a defendant spends in prison without altering his legal sentence. Here, for example, petitioner could legally have received an aggregate prison term of 90 years. *See* New York Penal Law §§ 70.02 and 70.25. But state law directs the New York State Department of Corrections and Community Supervision to "deem[ ]" such sentences to amount to only 20 years under New York Penal Law § 70.30(1)(e)(i). And even that 20-year term could be subject to further adjustment under provisions like New York Correction Law § 803 (reducing sentences for good behavior), New York Correction Law § 867(4) (authorizing conditional release for completing shock incarceration program), or New York Executive Law §§ 259-r, 259-s (medical parole).

Given the array of potentially confounding factors that may affect the amount of time a defendant can potentially serve in prison, courts have sensibly not required a precise accounting of legally available minimum and maximum sentences before accepting a counsel waiver—particularly when, as here, a defendant has been fulsomely warned of the other dangers of proceeding without an attorney. Petitioner's insistence upon absolute precision contravenes the "pragmatic" approach that this Court has embraced for dealing with waivers of the right to counsel. *Tovar*, 541 U.S. at 90 (internal quotation marks omitted).

3. Finally, certiorari is also not warranted because intervening legal changes in New York have diminished the importance of resolving the question presented. Specifically, after the pro se inquiry in this case, New York's Committee on Criminal Jury Instructions and Model Colloquies updated its model pro se colloquy to call for a more specific discussion of a defendant's sentencing exposure. *See* N.Y. Model Colloquies, Waiver of Counsel 1.[4] This issue is thus unlikely to recur within New York. And because petitioner has identified no relevant division of legal authority in other jurisdictions, this Court's further review is not warranted.

[4] https://www.nycourts.gov/judges/cji/8-Colloquies/Waiver_of_Counsel.pdf

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

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