

No. 25-1141

In the Supreme Court of the United States

JASON TYWANN BELL, PETITIONER

v.

JOHN GILLEY, WARDEN

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT*

BRIEF FOR THE RESPONDENT IN OPPOSITION

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QUESTION PRESENTED

Whether petitioner is entitled to vacatur of the court of appeals' decision, which affirmed the dismissal of petitioner's application for a writ of habeas corpus for lack of subject-matter jurisdiction, under *United States v. Munsingwear, Inc.*, 340 U.S. 36 (1950).

ADDITIONAL RELATED PROCEEDINGS

United States District Court (M.D.N.C.):

United States v. Bell, No. 03-cr-46 (Oct. 1, 2003)

Bell v. United States, No. 15-cv-721 (Aug. 31, 2015)

Bell v. Matevousian, No. 15-cv-1079 (Feb. 1, 2016)

United States Court of Appeals (4th Cir.):

In re Bell, No. 15-414 (June 23, 2016)

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-43a) is reported at 147 F.4th 452. The opinion of the district court (Pet. App. 44a-59a) is available at 2022 WL 329229.

JURISDICTION

The judgment of the court of appeals was entered on August 6, 2025. A petition for rehearing was denied on October 28, 2025 (Pet. App. 61a). On January 14, 2026, the Chief Justice extended the time within which to file a petition for a writ of certiorari until March 27, 2026, and the petition was filed on that date. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a guilty plea in the United States District Court for the Middle District of North Carolina, petitioner was convicted of attempted bank robbery, in vio-

lation of 18 U.S.C. 2113(a) and 2, and carrying and using a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. 924(c) (2000). Pet. App. 46a. He was sentenced to 274 months of imprisonment, to be followed by five years of supervised release. *Id.* at 47a. Petitioner did not appeal. The sentencing court subsequently denied multiple motions filed by petitioner to vacate, set aside, or correct his sentence under 28 U.S.C. 2255. See Pet. App. 47a-49a.

In 2018, petitioner filed an application for a writ of habeas corpus under 28 U.S.C. 2241 in the United States District Court for the District of South Carolina. Pet. App. 45a. The application was later transferred to the Western District of Virginia, where he was then confined. *Ibid.* The district court dismissed the application for lack of jurisdiction. *Id.* at 44a-59a. The court of appeals affirmed. *Id.* at 1a-43a.

1. In 2003, petitioner pleaded guilty to attempted bank robbery, in violation of 18 U.S.C. 2113(a) and 2, and carrying and using a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. 924(c) (2000). Pet. App. 4a. The then-mandatory Sentencing Guidelines specified a higher offense level for a “career offender,” defined as a defendant who (among other requirements) “has at least two prior felony convictions of either a crime of violence or a controlled substance offense.” Sentencing Guidelines § 4B1.1(a)(3) (2003); see Pet. App. 4a. The guidelines’ definition of “crime of violence” was (and remains) substantially similar to the definition of “violent felony” in the Armed Career Criminal Act (ACCA). Compare Sentencing Guidelines § 4B1.2(a)(2) (2003), with 18 U.S.C. 924(e)(2)(B).

In calculating petitioner’s guidelines range, the “sentencing court determined that Bell was a career of-

fender under [Sentencing Guidelines] § 4B1.1 based on two prior convictions: a South Carolina conviction for felony armed robbery and a North Carolina conviction for conspiracy to commit robbery with a dangerous weapon.” Pet. App. 46a. As a result of the career-offender designation, petitioner’s total guidelines range was 262 to 327 months of imprisonment, including an 84-month mandatory consecutive sentence on the firearm count. *Id.* at 47a; see 18 U.S.C. 924(c)(1)(A)(ii) and (D)(ii).

Because petitioner’s sentencing hearing predated this Court’s decision in *United States v. Booker*, 543 U.S. 220 (2005), which rendered the guidelines advisory, see *id.* at 245, the district court was obligated to impose a sentence within petitioner’s guidelines range unless it found that exceptional circumstances justified a departure, see *id.* at 233-234. The court sentenced petitioner to 274 months of imprisonment—190 months on the robbery count and 84 months on the firearm count—to be followed by five years of supervised release. Pet. App. 47a. Petitioner did not appeal. *Ibid.*

2. In 2004, petitioner filed a motion under 28 U.S.C. 2255 to vacate, set aside, or correct his sentence, alleging sentencing error under *Blakely v. Washington*, 542 U.S. 296 (2004). See Pet. App. 47a. The sentencing court dismissed that motion; petitioner again did not appeal. *Ibid.*

In 2015 and 2016, petitioner made multiple unsuccessful attempts to secure postconviction relief under *Johnson v. United States*, 576 U.S. 591 (2015), which held that a portion of the ACCA’s definition of “violent felony” was unconstitutionally vague, *id.* at 602. See Pet. App. 47a-49a. Petitioner contended that under *Johnson*, his prior North Carolina conviction would no longer qualify as a “violent felony” under the ACCA, and there-

fore should no longer qualify as a “crime of violence” for purposes of a career-offender designation under the guidelines. *Id.* at 47a.

The sentencing court dismissed or denied each of his requests on procedural or timeliness grounds. See Pet. App. 47a-49a. Petitioner did not appeal any of those dismissals or denials.

3. In 2018, petitioner filed an application for a writ of habeas corpus under 28 U.S.C. 2241, again seeking sentencing relief under *Johnson*. See Pet. App. 45a. In February 2022, the district court dismissed the application for lack of subject-matter jurisdiction. *Id.* at 44a-59a.

The district court observed that petitioner could proceed under Section 2241 only if he satisfied the “saving clause” in Section 2255(e), which permits a federal prisoner to challenge the validity of his conviction or sentence in a habeas petition only if a Section 2255 motion would be “inadequate or ineffective to test the legality of his detention,” 28 U.S.C. 2255(e). See Pet. App. 50a. The court observed that under then-prevailing circuit precedent, Section 2255 would be considered “inadequate or ineffective” only if (among other things) settled law foreclosing the prisoner’s claim “changed” after his first Section 2255 motion. Pet. App. 50a.

The district court determined that petitioner could not proceed in habeas under the saving clause because no change in law supported his claim. Pet. App. 51a-59a. The court observed that although *Johnson* had found a portion of the ACCA’s definition of “violent felony” unconstitutionally vague, this Court in *Beckles v. United States*, 580 U.S. 256 (2017), had declined to extend that reasoning to “the career offender guideline, at least as to defendants who were sentenced under the

advisory Guidelines,” and “did not address whether *Johnson*’s reasoning could apply to the mandatory Guidelines.” Pet. App. 54a. The district court thus determined that neither *Beckles* nor subsequent circuit precedent “change[d] any settled law applicable to [petitioner].” *Id.* at 54a-55a.

4. Meanwhile, in 2021, petitioner had sought and received authorization from the Fourth Circuit to file a successive Section 2255 motion raising a claim under *United States v. Davis*, 588 U.S. 445 (2019), which held that a portion of the definition of “crime of violence” in 18 U.S.C. 924(c)(3) is unconstitutionally vague, see *Davis*, 588 U.S. at 470. Petitioner argued that his conviction under 18 U.S.C. 924(c) was invalid because his attempted bank robbery no longer qualified as a “crime of violence” that could support the Section 924(c) conviction. See Pet. App. 49a & n.4.

In July 2024, the sentencing court granted petitioner’s Section 2255 motion and vacated the Section 924(c) conviction. 03-cr-46 D. Ct. Doc. 147 (July 17, 2024); see *United States v. Taylor*, 596 U.S. 845 (2022) (holding that attempted Hobbs Act robbery is not a “crime of violence” under Section 924(c)(3)). The court issued an amended judgment under which petitioner was required to serve 190 months of imprisonment for the attempted bank robbery (the same sentence he had originally received on that count), to be followed by three years of supervised release (reduced from the original five-year term). 03-cr-46 D. Ct. Doc. 148, at 2-3 (July 30, 2024).

Meanwhile, in June 2024, while both that motion and the appeal of the denial of petitioner’s habeas application were still pending, petitioner reached the release date under his original judgment, was accordingly re-

leased from imprisonment, and began serving his term of supervised release. See 22-6189 C.A. J.A. 74. Shortly after his release, the court of appeals asked the parties to file supplemental briefs addressing whether the appeal was now moot. See 22-6189 C.A. Doc. 48 (Aug. 27, 2024). Petitioner asserted that his appeal was not moot because he was still serving the now-three-year term of supervised release, which was not scheduled to expire until June 2027. 22-6189 Pet. C.A. Supp. Br. 3-6.

In June 2025, after oral argument in the court of appeals, but before it had issued its decision, the sentencing court granted in part petitioner’s motion for early termination of his supervised release, further reducing the term to 18 months. 03-cr-46 D. Ct. Doc. 157, at 3 (July 11, 2025). As a result, petitioner’s term of supervised release was scheduled to end on December 24, 2025. See Pet. App. 68a-70a.

5. In August 2025, the court of appeals unanimously affirmed the dismissal of petitioner’s habeas application. Pet. App. 1a-43a. The court first took the view that petitioner’s appeal was not moot despite his release from prison because if petitioner were to prevail on the merits of his claim, it “would lead to his resentencing,” which in turn could lead to an adjustment in the term of supervised release. *Id.* at 9a; see *id.* at 8a-10a. But the court affirmed the dismissal of the habeas application, explaining that petitioner had not satisfied the requirements for saving-clause relief under *Jones v. Hendrix*, 599 U.S. 465 (2023). Pet. App. 10a-23a. And the court unanimously found that the unavailability of habeas did not violate the Suspension Clause, with the majority relying on circuit precedent, *id.* at 23a-28a, and Judge Richardson relying on *Jones*, see *id.* at 29a-43a (Richardson, J., concurring in part and in the judgment).

ARGUMENT

Petitioner does not seek plenary review of the decision below. Instead, he asks (Pet. 6-11) this Court to vacate the court of appeals’ judgment under *United States v. Munsingwear, Inc.*, 340 U.S. 36 (1950), on the ground that the uncontested mootness of his habeas application precludes further review of his Suspension Clause arguments. But “not every moot case will warrant vacatur” under *Munsingwear*. *Azar v. Garza*, 584 U.S. 726, 729 (2018) (per curiam). Even where *Munsingwear*’s prerequisites are otherwise satisfied, vacatur for mootness “is rooted in equity,” and “the decision whether to vacate turns on ‘the conditions and circumstances of the particular case.’” *Ibid.* (citation omitted). And vacatur would be inappropriate here for multiple reasons.

First, this Court ordinarily does not exercise its discretionary jurisdiction to grant certiorari and vacate a lower court’s judgment on mootness grounds if the case would not have warranted certiorari absent the mootness event. See Stephen M. Shapiro et al., *Supreme Court Practice* § 19.4, at 19-28 & n.34 (11th ed. 2019); U.S. Br. in Opp. at 5-8, *Velsicol Chemical Corp. v. United States*, cert. denied, 435 U.S. 942 (1978) (No. 77-900). Summary vacatur is generally available only to “those who have been prevented [by mootness] from obtaining the review to which they are entitled.” *Munsingwear*, 340 U.S. at 39. No such entitlement exists unless the Court actually would have exercised its discretion to grant certiorari. And while petitioner cursorily asserts (Pet. 11) that the Court would have done so here, there is no sound basis for that assertion.

The decision below simply recognized that petitioner could not pursue his merits claim in a habeas application

because he could neither satisfy the requirements of 28 U.S.C. 2255(e)’s saving clause under *Jones v. Hendrix*, 599 U.S. 465 (2023), nor show that enforcing those requirements would violate the Suspension Clause. See Pet. App. 10a-28a. Petitioner does not identify any conflicting decision of this Court or another court of appeals. Cf. *Jones*, 599 U.S. at 477-478; *Felker v. Turpin*, 518 U.S. 651, 664 (1996) (explaining that the statutory “restrictions on successive” habeas applications by state prisoners “do not amount to a ‘suspension’ of the writ”). Despite petitioner’s observation (Pet. 10) that the panel members offered different reasons for rejecting his Suspension Clause claim, he does not cite any court of appeals that would have *granted* him relief. Cf. *California v. Rooney*, 483 U.S. 307, 311 (1987) (per curiam) (“This Court ‘reviews judgments, not statements in opinions.’”) (citation omitted).

Second, this Court’s “established practice” of vacatur has developed only in “civil case[s].” *Munsingwear*, 340 U.S. at 39. Lower courts have accordingly observed that “it is not altogether clear that the general vacatur principles, as described in [*Munsingwear*], apply in the context of criminal cases.” *United States v. Flute*, 951 F.3d 908, 909 (8th Cir. 2020) (per curiam). And *Munsingwear*’s rationale for vacatur in civil cases—to “clear[] the path for future relitigation of the issues between the parties,” 340 U.S. at 40—is inapplicable to cases challenging criminal sentences because any such relitigation would be contingent on the defendant’s reengaging in criminal activity—something courts are loath to presume. See, e.g., *O’Shea v. Littleton*, 414 U.S. 488, 497 (1974). Although the precedential decision below might govern “similarly situated federal prisoners in the Fourth Circuit,” Pet. 8, *Munsingwear* relief for peti-

tioner is unwarranted in the absence of any cognizable future effect of the decision on him specifically.

Third, this case is a poor candidate for *Munsingwear* vacatur because the lower courts dismissed petitioner’s habeas petition on jurisdictional grounds, and would have been entitled to rule on that basis even had the issue of mootness arisen earlier. This Court has repeatedly “recognized that a federal court has leeway ‘to choose among threshold grounds for denying audience to a case on the merits.’” *Sinochem International Co. v. Malaysia International Shipping Corp.*, 549 U.S. 422, 431 (2007) (quoting *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 585 (1999)). Subject-matter jurisdiction is one of those threshold grounds. *Ibid.* And “there is no mandatory ‘sequencing of jurisdictional issues.’” *Ibid.* (quoting *Ruhrgas*, 526 U.S. at 584). It would therefore make little sense for *this* Court to vacate the lower court’s jurisdictional determination simply to replace it with a different jurisdictional determination. Indeed, such a disposition would be in tension with the no-mandatory-sequencing rule.

Fourth, additional equitable considerations disfavor *Munsingwear* relief. To begin with, petitioner’s sentencing claim was actually moot upon his release from prison, long before the court of appeals issued its decision. See 22-6189 Gov’t C.A. Supp. Br. 5-10. This Court has traditionally vacated lower-court decisions on mootness grounds only when the case becomes moot *after* the court of appeals’ ruling. *E.g.*, *Acheson Hotels, LLC v. Laufer*, 601 U.S. 1 (2023); *Department of Justice v. House Committee on the Judiciary*, 142 S. Ct. 46 (2021) (No. 19-1328). And even if the termination of supervised release were the mooting event, that event did not occur by happenstance, but instead at petitioner’s own

request. Cf. *U.S. Bancorp Mortgage Co. v. Bonner Mall Partnership*, 513 U.S. 18, 24 (1994) (observing *Munsingwear* vacatur is inappropriate where a nongovernmental petitioner “cause[s] the mootness by voluntary action”). Finally, petitioner had multiple opportunities to withdraw his appeal once it became apparent that the outcome of that appeal would make no practical difference to him—including upon his June 2024 release from prison, the July 2024 order vacating his Section 924(c) conviction, and the July 2025 order granting early termination of his supervised release—but instead chose to press his appeal. Under those circumstances, it would be inequitable to vacate the court of appeals’ resolution of that appeal simply because petitioner now regrets the circuit precedent that his case generated.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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