

25-5950

ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

AUG 22 2025

OFFICE OF THE CLERK

ADEDAYO HAKEEM SANUSI,
Petitioner

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v.

UNITED STATES OF AMERICA,
Respondent

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

for the Ninth Circuit

Case No. 2:23-cr-00408-PA

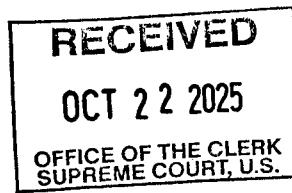
Case No. 2:34-cv-08702-PA

USCA9 No. 25-72

PETITION FOR A WRIT OF CERTIORARI
(Pro Se Submission)

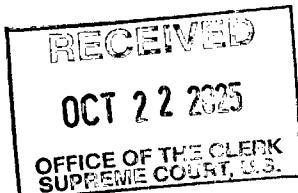
Respectfully Submitted By,

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QUESTIONS PRESENTED

1. Whether defense counsel renders constitutionally ineffective assistance under the Sixth Amendment when, for financial gain, he affirmatively lies to his client that a grand jury indictment has been returned thereby inducing waiver of the Fifth Amendment right to indictment and whether such a fundamental misrepresentation can ever be "cured" by a routine plea colloquy.
2. Whether a guilty plea is knowing and voluntary under the Due Process Clause where it rests upon a prosecutor's specific, off-the-record promise of a fully concurrent sentence a promise later disavowed at sentencing through reliance on a boilerplate "non-binding" clause in the written plea agreement.
3. Whether due process is violated when a prosecutor coerces a defendant to dismiss a pending appeal by threatening to bring additional, more severe charges if the appeal succeeds, thereby insulating constitutional errors at trial and sentencing from appellate review.
4. Whether the Ninth Circuit erred in denying a certificate of appealability ("GOA") under 28 U.S.C. § 2253(c), thereby barring appellate review of substantial constitutional claims in conflict with Slack vs. McDaniel, 529 U.S. 473,483 (2000), and Murray vs. United States, 579 U.S._, 596 (2016).



5. Whether defense counsel's undisclosed collusion with the prosecutor including text-message communications assuring petitioner "everything was handled" and proposing a three-way call to pressure petitioner into pleading guilty constitutes ineffective assistance of counsel under the Sixth Amendment and a conflict of interest under *Cuyler vs. Sullivan*, 446 U.S. 335 (1980).

PARTIES TO THE PROCEEDING

Petitioner is Adedayo Hakeem Sanusi, who was appellant below.

Respondent is the United States of America, which was appellee below.

No other parties appeared in the proceedings below.

TABLE OF CONTENTS

	<u>PAGE #</u>
Questions Presented	2
Parties to the Proceeding	3
Table of Contents	4
Table of Authorities	5
Opinion Below	6
Jurisdiction	6
Constitutional Provisions Involved	6 - 7
Statement of the Case	7 - 9
Reasons for Granting the Petition	10 - 15
Conclusion	15 - 16
Certificate of Service	17

TABLE OF AUTHORITIES

<u>Cases</u>	<u>Page(s)</u>
1. Blackledge vs. Allison , 431 U.S. 63 (1977)	
2. Bordenkircher vs. Hayes , 434 U.S. 357 (1978)	8, 12, 15
3. Brady vs. United States , 397 U.S. 742 (1970)	10, 11
4. Glover vs. United States , 531 U.S. 198 (2001)	10
5. Hill vs. Lockhart , 474 U.S. 52 (1985)	10
6. Lafler vs. Cooper , 566 U.S. 156 (2012)	10
7. Miller-El vs. Cockrell , 537 U.S. 322 (2003)	
8. Missouri vs. Frye , 566 U.S. 134 (2012)	12
9. Padilla vs. Kentucky , 559 U.S. 356 (2010)	
10. Santobello vs. New York , 404 U.S. 257 (1971)	8, 11, 14, 15
11. Slack vs. McDaniel , 529 U.S. 473 (2000)	1, 14, 15
12. Strickland vs. Washington , 466 U.S. 668 (1984)	10, 14, 15
13. United States vs. Cotton , 535 U.S. 625 (2002)	
14. United States vs. Rumery , 698 F.2d 764 (5th Cir. 1983)	

Statutes and Constitutional Provisions

18 U.S.C. § 3582(c)(2)

28 U.S.C. § 1254(1)

28 U.S.C. § 2253(c)

28 U.S.C. § 2255

U.S. Const. amend. V

U.S. Const. amend. VI

Sentencing Guidelines

U.S.S.G. § 4C1.1

OPINIONS BELOW

The order of the United States Court of Appeals for the Ninth Circuit denying rehearing was entered on July 30, 2025. App. 1a.

The Ninth Circuit's order denying a certificate of appealability was entered on June 16, 2025. App. 2a.

The opinion of the United States District Court for the Central District of California denying Petitioner's motion under 28 U.S.C. § 2255 was entered on December 23, 2024. App. 4a.

The district court's judgment was entered the same day. App. 9a.

JURISDICTION

The judgment of the court of appeals was entered on July 30, 2025.

This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STAUTORY PROVISIONS INVOLVED

U.S. Constitution Amend. V

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, nor shall any person be deprived of life, liberty, or property, without due process of law."

U.S. Constitution Amend. VI

"In all criminal prosecutions, the accused shall enjoy the right to have the Assistance of Counsel for his defense."

28 U.S.C. § 2255(a)

"A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States may move the court which imposed the sentence to vacate, set aside or correct the sentence."

28 U.S.C. § 2253(c)(1)(B)

"Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from the final order in a proceeding under section 2255."

STATEMENT OF THE CASE

1. Background and Plea.

Petitioner, Adedayo Hakeem Sanusi, was indicted in the United States District Court for the Central District of California. On advice of counsel, Petitioner entered a guilty plea. Counsel represented to Petitioner that no valid indictment existed and that a plea would ensure a reduced sentence. Petitioner later discovered that these representations were false.

During plea negotiations, the prosecution made specific assurances including that Petitioner's cooperation would lead to sentence reductions that were not honored or reflected in the written plea agreement. Petitioner relied on those assurances in deciding to plead guilty.

At a pre-trial hearing, defense counsel presented a plea agreement and an appellate waiver purportedly bearing petitioner's signature. In fact, petitioner never signed these documents. Counsel, without petitioner's consent, affixed his name to the signature lines and submitted them to the court and the government. Such conduct renders the plea facially invalid under *Boykin vs. Alabama*, 395 U.S. 238 (1969), which requires an affirmative and personal waiver of constitutional rights.

During plea negotiations, counsel engaged in undisclosed text-message exchanges with the prosecutor. These communications assured counsel "everything was handled" and proposed a three-way call with petitioner to pressure acceptance of the plea. These communications created an actual conflict of interest, depriving petitioner of independent advocacy in violation of the Sixth Amendment as articulated in *Cuyler vs. Sullivan*, 446 U.S. 335 (1980).

The prosecutor promised a reduced sentence and assured that no additional charges would be filed. After entry of the plea, however, the government failed to honor these promises. Worse, when petitioner filed a notice of appeal, the prosecutor threatened to pursue additional charges unless petitioner withdrew. Such conduct directly contravenes *Santobello vs. New York*, 404 U.S. 257 (1971), and constitutes prosecutorial vindictiveness prohibited under *Bordenkircher vs. Hayes*, 434 U.S. 357 (1978).

The district court denied petitioner's § 2255 motion. The Ninth Circuit denied a certificate of appealability, finding no substantial constitutional issue. Rehearing was also denied. Petitioner now seeks review.

2. **Sentencing.**

At sentencing, Petitioner was denied the benefit of his cooperation. The court imposed a sentence without applying reductions available under the Sentencing Guidelines, including U.S.S.G. § 4C1.1. Counsel failed to object to the government's breach of its promises or to seek relief under 18 U.S.C. § 3582(c)(2).

3. **Post-Conviction Proceedings.**

Petitioner moved to vacate his conviction and sentence under 28 U.S.C. § 2255, raising claims of ineffective assistance of counsel, prosecutorial breach of plea assurances, and coercion.

On December 23, 2024, the district court denied relief. App. 4a. The court did not address Petitioner's evidence that counsel affirmatively misrepresented the existence of an indictment or failed to enforce prosecutorial promises.

4. **Appeal.**

Petitioner sought a certificate of appealability ("COA") in the United States Court of Appeals for the Ninth Circuit. On June 16, 2025, the court of appeals denied a COA. App. 2a. Petitioner sought rehearing, which the court denied on July 30, 2025. App. 1a.

5. **Importance of Review.**

Petitioner's case presents recurring constitutional issues: whether a guilty plea induced by false assurances of counsel and prosecutorial promises is valid, whether un-kept prosecutorial commitments require relief; and whether the denial of a COA can insulate serious constitutional violations from appellate review.

REASONS FOR GRANTING THE PETITION

1. The Plea Agreement and Waiver Are Invalid Under Boykin Because Petitioner Never Signed Them:

A guilty plea is valid only if entered knowingly, voluntarily, and personally. Boykin, 395 U.S. at 243. This Court requires the record to show an affirmative waiver by the defendant himself. Where the defendant's signature is, absent or forged, no such waiver exists. See United States vs. Gonzalez, 553 U.S. 242, 249 (2008) (waiver of rights must be intentional and personal). Because petitioner's counsel affixed the signatures without authorization, the documents are void, and the plea cannot stand.

2. Counsel's false assurances and failure to enforce sentencing reductions constitute ineffective assistance under this Court's precedent.

This Court has long held that a guilty plea must be knowing, voluntary, and intelligent. Brady v. United States, 397 U.S. 742, 748 (1970). Where a plea is induced by false assurances from counsel, it cannot satisfy constitutional requirements. See Hill vs. Lockhart, 474 U.S. 52, 59 (1985) (ineffective assistance in plea context requires showing that counsel's errors affected the decision to plead guilty).

Here, counsel affirmatively misrepresented to Petitioner that no valid indictment existed and that pleading guilty would secure a reduced sentence. Both assurances were demonstrably false. Petitioner entered his plea in reliance on them. Under Strickland vs. Washington, 466 U.S. 668 (1984), such conduct falls below an objective standard of reasonableness and prejudiced Petitioner's decision-making.

The prejudice is clear: had Petitioner known the truth that a valid indictment did exist, and that no guaranteed reduction would follow he would not have pleaded guilty. This Court has recognized that the decision whether to plead guilty is "perhaps the most important single decision in any criminal case," and that effective assistance is essential at that stage. *Lafler vs. Cooper*, 566 U.S. 156, 170 (2012).

Further, counsel failed to advocate for sentencing reductions available under U.S.S.G. § 4C1.1 and 18 U.S.C. § 3582(c)(2). That omission alone constitutes prejudice, because even "a difference of only a few months in the sentence" satisfies Strickland's prejudice prong. *Glover vs. United States*, 531 U.S. 198,203 (2001).

This case squarely presents the question whether a plea induced by counsel's deliberate misrepresentations, coupled with a failure to secure available reductions, can stand. Lower courts have applied this Court's precedents inconsistently, leaving defendants like Petitioner without a meaningful remedy. Supreme Court review is necessary.

3. This Court's review is necessary to resolve whether unkept prosecutorial promises, including off-the-record assurances, invalidate a guilty plea.

This Court has made clear that "when a plea rests in any significant degree on a promise or agreement of the prosecutor, so that it can be said to be part of the inducement or consideration, such promise must be fulfilled." *Santobello vs. New York*, 404 U.S. 257, 262 (1971). A prosecutor's breach of assurances underlying a guilty plea "implicates due process" and entitles a defendant to relief. *Id.*

Here, the government made explicit assurances during plea discussions that Petitioner's cooperation would be rewarded with sentence reductions. These assurances, though not formalized

in the written plea agreement, were central to Petitioner's decision to plead guilty. When sentencing arrived, however, the government did not honor those commitments.

The lower courts refused to consider these promises because they were not incorporated into the written agreement. That narrow view cannot be squared with *Santobello*, which recognized that fairness in plea-bargaining demands enforcement of the government's assurances where they formed part of the inducement. See also *Brady vs. United States*, 397 U.S. 742, 755 (1970) (pleas must rest on "real notice of the true nature of the charge" and of the consequences of the plea).

This Court has repeatedly emphasized the central role of plea bargaining in the criminal system. See *Missouri v. Frye*, 566 U.S. 134, 143 (2012) ("Ninety-seven percent of federal convictions are the result of guilty pleas"). The integrity of that system depends on the government's good faith and the enforceability of its promises.

Absent review, prosecutors may induce pleas through oral or off-the-record assurances and later disclaim them, leaving defendants without remedy. That result undermines confidence in the fairness of the criminal process. Supreme Court review is urgently needed to clarify whether due process requires enforcement of prosecutorial promises that materially induce a plea, even when not memorialized in writing.

4. Prosecutorial coercion undermining the right to appeal presents an urgent constitutional question.

The Constitution guarantees not only the right to a fair trial and effective counsel, but also the right to appellate review of trial errors. See *Bordenkircher vs. Hayes*, 434 U.S. 357, 364 (1978) (prosecutor may not use threats to coerce a defendant into abandoning constitutional rights). While

Bordenkircher involved pre-trial plea negotiations, the principle applies with even greater force post-conviction: a defendant cannot be compelled to relinquish a statutory or constitutional right to appeal through threats of vindictive prosecution.

Here, after Petitioner filed a timely notice of appeal, the prosecutor threatened to bring additional, more severe charges if the appeal were successful. Confronted with this threat, Petitioner's conflict-free appellate counsel advised dismissal of the appeal. Petitioner complied but only because the government had effectively coerced him.

The district court summarily concluded that Petitioner "voluntarily dismissed his appeal." App. 7a. That conclusion ignores the coercive context, in which the prosecutor leveraged the threat of additional criminal liability to prevent appellate review. This practice undermines the appellate process and allows trial-level constitutional errors to escape scrutiny, contrary to the fundamental principles of due process.

No clear standard currently exists in the lower courts to determine when prosecutorial threats after conviction rise to unconstitutional coercion. This case presents the Court with an opportunity to clarify that:

- A. Threats of new charges designed to suppress an appeal constitute *per se* due process violations; and
- B. Defendants cannot be deemed to have "voluntarily" waived appellate rights when faced with such threats.

Without Supreme Court review, this coercive tactic will remain an unchecked tool for government prosecutors to insulate convictions from meaningful appellate oversight.

5. The Lower Courts' Rulings Insulate Grave Constitutional Errors from Review and Undermine the Integrity of the Criminal Justice System.

Each of the constitutional violations identified in this petition counsel's deliberate misrepresentations, the government's broken promises, and coercion of appellate rights independently warrants Supreme Court review. Together, they reveal a systemic failure that threatens the fairness and integrity of the criminal justice system.

The Ninth Circuit's denial of a certificate of appealability under *Slack v. McDaniel*, 529 U.S. 473 (2000), demonstrates a troubling trend in post-conviction litigation. While the standard for granting a COA is intended to filter out frivolous claims, lower courts have interpreted it in a manner that effectively blocks appellate review of substantial constitutional claims. Here, Petitioner presented specific, credible evidence showing that his Fifth and Sixth Amendment rights were violated, yet the court summarily dismissed his claims without analysis.

This case provides the Court with a vehicle to clarify the proper application of the COA standard and to reaffirm the principles underlying *Strickland*, *Santobello*, and related precedents. Allowing the denial of appellate review in cases like this diminishes the remedial purpose of 28 U.S.C. § 2255, undermines confidence in the fairness of plea bargaining, and permits constitutional violations to remain uncorrected.

Supreme Court intervention is necessary to establish clear standards for evaluating:

- A. Whether counsel's affirmative misrepresentations regarding indictments or sentencing constitute per se ineffective assistance;
- B. The enforceability of prosecutorial promises made during plea negotiations, even if off the record;
- C. When prosecutorial threats to deter appeals constitute coercion in violation of due process; and
- D. The proper scope of appellate review for constitutional claims under 28 U.S.C. § 2253(c).

Without review, these recurring issues will continue to compromise the fairness and integrity of the federal criminal justice system.

REQUEST FOR INDEPENDENT FORENSIC EXAMINATION

Petitioner respectfully requests an independent forensic examination of the signatures on the plea agreement and appellate waiver, conducted by a nationally accredited handwriting expert. Because authenticity of petitioner's assent is central to this case, a neutral expert review is necessary to resolve the dispute.

CONCLUSION

For the foregoing reasons, the petition satisfies the stringent requirements for Supreme Court review:

1. Each issue implicates a fundamental constitutional right effective assistance of counsel, due process protection of plea bargaining promises, and the right to appellate review.
2. The Ninth Circuit's denial of a COA conflicts with Slack vs. McDaniel and Murray vs. United States, creating a clear circuit split that warrants resolution.
3. The case provides an opportunity to reaffirm and clarify the scope of Strickland, Santobello, Bordenkircher, and related precedents as they apply to modern federal plea bargaining practice.

Accordingly, Petitioner respectfully requests that this Court:

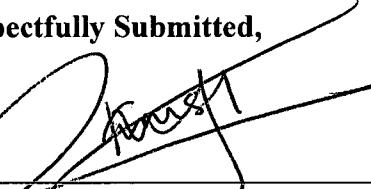
1. Grant the petition for a writ of certiorari;
2. Reverse the Ninth Circuit's denial of a certificate of appealability;
3. Remand the case for further proceedings consistent with the opinions cited above; and
4. Grant such additional relief as the Court deems just and proper.

PRAYER FOR RELIEF

Petitioner respectfully prays that this Court:

1. Grant a writ of certiorari;
2. Vacate the judgment of the Ninth Circuit;
3. Remand with instructions to grant a certificate of appealability;
4. Declare the plea and waiver invalid and permit withdrawal of the plea, or in the alternative, order specific performance of the original promises;
5. Direct an independent forensic examination of the disputed signatures; and
6. Grant such other and further relief as may be just and proper.

Respectfully Submitted,


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