No. 25-6127

IN THE SUPREME COURT OF THE UNITED STATES

BRODRICK EUGENE DAVIS, PETITIONER

v.

UNITED STATES OF AMERICA

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

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTION PRESENTED

Whether petitioner is entitled to appellate relief on his claim that the district court was required to convene a jury trial as a prerequisite for the revocation of petitioner's supervised release under 18 U.S.C. 3583(g), after petitioner admitted facts that supported the revocation.

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OPINIONS BELOW

The order of the court of appeals (Pet. App. 1-2) is available at 2025 WL 2367728. The order of the district court (Pet. App. 3-4) is unpublished.

JURISDICTION

The judgment of the court of appeals was entered on August 14, 2025. The petition for a writ of certiorari was filed on November 12, 2025. 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 Northern District of Texas, petitioner was convicted of conspiring to steal firearms, in violation of 18 U.S.C. 371. Judgment 1. The district court sentenced petitioner to 46 months of imprisonment, to be followed by three years of supervised release. Judgment 2. In February 2025, petitioner admitted to violating his conditions of supervised release, after which the district court revoked his supervised release and ordered him to serve a 12-month term of imprisonment. Revocation Judgment 1-2. The court of appeals affirmed. Pet. App. 1-2.

1. In August 2019, petitioner was arrested following a traffic stop. Presentence Investigation Report (PSR) ¶ 13. Law enforcement searched his vehicle and found two firearms under the driver's seat. Ibid. The owner of one of the firearms had reported it stolen a few days earlier. PSR ¶ 14. The owner of the other firearm told the police that he was unaware that it had been taken. Ibid. Petitioner, who had prior felony convictions for aggravated assault with a deadly weapon and aggravated battery, was prohibited from possessing either of the firearms. PSR ¶ 15; see 18 U.S.C. 922(g)(1).

Petitioner pleaded guilty to one count of conspiring to steal firearms, in violation of 18 U.S.C. 371. PSR ¶¶ 5-8. The district court sentenced him to 46 months of imprisonment, to be followed by three years of supervised release. Judgment 1-2.

2. In June 2022, petitioner was released from prison and began supervised release. D. Ct. Doc. 57, at 1 (Feb. 9, 2023). In February 2023, the Probation Office notified the district court that petitioner had violated two supervised-release conditions by unlawfully possessing and using methamphetamine. Ibid. The Probation Office referred petitioner to drug-treatment services and did not recommend further court action. Ibid. In September 2024, the Probation Office notified the court that petitioner had again violated a supervised-release condition -- this time by committing a new crime -- and petitioned the court to issue an arrest warrant. D. Ct. Doc. 58, at 1-2 (Sept. 3, 2024).

The Probation Office explained that officers with the Dallas Police Department saw petitioner working the door of an illegal gambling establishment. D. Ct. Doc. 58, at 2. After petitioner got into his car to leave, the officers followed him, saw a defective taillight on his car, and attempted to initiate a traffic stop. Ibid. Petitioner stopped briefly but then drove off and crashed into another car. Ibid. The officers found petitioner hiding near the scene of the accident and charged him with evading arrest or detention with a vehicle, a felony under the Texas Penal Code. Ibid.

The Probation Office's petition also explained that petitioner's new crime had been preceded by multiple encounters with law enforcement. D. Ct. Doc. 58, at 3. In one incident, petitioner had been arrested for driving without a license after

his wife attempted to jump out of his car with their baby; in another, a man told the police that he had stabbed petitioner in self-defense during an assault; and in a third, petitioner's wife told the police that he had slapped her. Ibid.

3. The government filed a motion to revoke petitioner's supervised release, asserting that petitioner had violated his release conditions by possessing and using methamphetamine in 2023 and evading arrest in 2024. D. Ct. Doc. 61, at 1-2 (Jan. 17, 2025). Petitioner notified the district court of his non-opposition to the motion, D. Ct. Doc. 75, at 1 (Feb. 12, 2025), and appeared for a revocation hearing in February 2025.

At the hearing, the government agreed that it was proceeding "only" "on the Grade B violation" arising from petitioner's evasion of arrest. D. Ct. Doc. 85, at 5 (Apr. 9, 2025); see also D. Ct. Doc. 58, at 4. The district court thus stated that its "findings and rulings [would] be based on" the evasion of arrest alone, and "not the Grade C violation" arising from petitioner's use of a controlled substance. D. Ct. Doc. 85, at 5.

The district court then asked petitioner whether he intended to plead "[t]rue or not true" to the violations identified in the government's motion. D. Ct. Doc. 85, at 5-6. Petitioner responded, "True." Id. at 6. The court accepted petitioner's admission that he had violated his release conditions and revoked his supervised release. Id. at 12-13. The court ordered petitioner to serve a 12-month term of imprisonment with no

additional supervised release. Id. at 13-15; see Revocation Judgment. In a sealed, summary statement of reasons filed after the hearing, the section describing the "Statutory Maximum" for the violations listed in the government's motion noted that the statutory maximum term of imprisonment for petitioner's violations was two years and that a violation for possessing a controlled substance called for "[m]andatory revocation" under 18 U.S.C. 3583(g)(1). D. Ct. Doc. 79, at 1 (Feb. 26, 2025).

4. Petitioner appealed, arguing that the district court was required to hold a jury trial before it could revoke his supervised release under 18 U.S.C. 3583(g). Pet. C.A. Br. 6-7, 9-14. Petitioner acknowledged that "plain-error review applie[d]" because petitioner "did not preserve the issue below"; that the court of appeals had already "decided the issue he raises against him"; and that the court could decide his appeal "summarily." Id. at 8 (citing United States v. Garner, 969 F.3d 550 (5th Cir. 2020), cert. denied, 141 S. Ct. 1439 (2021)). The government agreed and moved for summary affirmance. Gov't C.A. Motion for Summary Affirmance 2 (June 24, 2025). The court of appeals summarily affirmed. Pet. App. 1-2.

ARGUMENT

Petitioner contends (Pet. 4-6) that the district court was required to hold a jury trial as a prerequisite to revoking his supervised release and ordering a term of reimprisonment under 18 U.S.C. 3583(g). Petitioner's challenge to his revocation and

reimprisonment is now moot because he has completed his post-revocation prison term and is no longer subject to supervised release. In any event, the court of appeals correctly rejected petitioner's argument, and its decision does not conflict with any decision of this Court or another court of appeals. The Court has recently and repeatedly denied petitions raising the same issue.[1] It should follow the same course here.

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[1] See Reyes v. United States, 145 S. Ct. 1189 (2025) (No. 24-5944); Sevier v. United States, 145 S. Ct. 1187 (2025) (No. 24-5679); Stradford v. United States, 145 S. Ct. 1185 (2025) (No. 24-5943); Ivory v. United States, 144 S. Ct. 1375 (2024) (No. 23-6979); Johnson v. United States, 144 S. Ct. 1074 (2024) (No. 23-6645); Nevins v. United States, 144 S. Ct. 852 (2024) (No. 23-6359); Wheeler v. United States, 144 S. Ct. 309 (2023) (No. 23-5484); Rojas v. United States, 144 S. Ct. 305 (2023) (No. 23-5449); Harris v. United States, 144 S. Ct. 151 (2023) (No. 22-7723); Villarreal v. United States, 143 S. Ct. 2629 (2023) (No. 22-7585); Kinsey v. United States, 143 S. Ct. 832 (2023) (No. 22-6493); Bookman v. United States, 143 S. Ct. 393 (2022) (No. 22-5769); Ervin v. United States, 143 S. Ct. 242 (2022) (No. 22-5167); Lynch v. United States, 143 S. Ct. 179 (2022) (No. 21-8159); Barrieta-Barrera v. United States, 143 S. Ct. 162 (2022) (No. 21-8074); Marshall v. United States, 142 S. Ct. 2846 (2022) (No. 21-7910); Nguyen v. United States, 142 S. Ct. 824 (2022) (No. 21-6404); Carter v. United States, 142 S. Ct. 270 (2021) (No. 21-5160); Strong v. United States, 142 S. Ct. 187 (2021) (No. 20-8330); Walker v. United States, 142 S. Ct. 177 (2021) (No. 20-8287); Onick v. United States, 141 S. Ct. 2742 (2021) (No. 20-7941); Green v. United States, 141 S. Ct. 1708 (2021) (No. 20-7041); Dorman v. United States, 141 S. Ct. 1448 (2021) (No. 20-6977); Pandey v. United States, 141 S. Ct. 1439 (2021) (No. 20-6888); Garner v. United States, 141 S. Ct. 1439 (2021) (No. 20-6883); Mankin v. United States, 141 S. Ct. 1422 (2021) (No. 20-6715); Del Rio v. United States, 141 S. Ct. 1276 (2021) (No. 20-6566); Coston v. United States, 141 S. Ct. 1252 (2021) (No. 20-6513); Homer v. United States, 141 S. Ct. 1246 (2021) (No. 20-6452); Richey v. United States, 141 S. Ct. 1106 (2021) (No. 20-6292); Williams v. United States, 141 S. Ct. 1105 (2021) (No. 20-6285); Skidmore v. United States, 141 S. Ct. 925 (2020) (No. 20-6101); Weightman v. United States, 141 S. Ct. 834 (2020) (No. 20-

1. Petitioner's challenge to the procedure by which the district court revoked his supervised release and ordered a term of reimprisonment is moot because he has completed that prison term and is no longer even on supervised release. See D. Ct. Doc. 87, at 1 (May 8, 2025) (noting that petitioner's sentence would end in January 2026); Pet. 5 (noting petitioner's "upcoming release"); see also Federal Bureau of Prisons, Find an Inmate, www.bop.gov/inmateloc (No. 59419-177).

The completion of a defendant's sentence for an offense does not moot an appeal challenging the defendant's conviction because criminal convictions generally have "'continuing collateral consequences'" beyond the sentences imposed. Spencer v. Kemna, 523 U.S. 1, 8 (1998). But when a defendant challenges only the length of a term of imprisonment, the completion of that prison term moots an appeal unless the defendant can show that the challenged action continues to cause "collateral consequences adequate to meet Article III's" requirement of an injury-in-fact traceable to the challenged action and redressable by a favorable decision. Id. at 14.

This Court has applied that rule to conclude that challenges to parole-revocation procedures were moot after a defendant

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5940); Washington v. United States, 141 S. Ct. 637 (2020) (No. 20-5738); Nguyen v. United States, 141 S. Ct. 416 (2020) (No. 20-5219); Cortez v. United States, 141 S. Ct. 386 (2020) (No. 20-5056); Chandler v. United States, 141 S. Ct. 310 (2020) (No. 19-8675); Blanton v. United States, 589 U.S. 1300 (2020) (No. 19-7771).

completed the corresponding term of reimprisonment. See Spencer, 523 U.S. at 12-14; see also Lane v. Williams, 455 U.S. 624, 631 (1982) ("Since respondents elected only to attack their sentences, and since those sentences expired during the course of these proceedings, this case is moot."). And it likewise applies to the revocation of supervised release that petitioner challenges here.

Petitioner challenges only "the mandatory revocation provision at 18 U.S.C. § 3583(g)" to the extent that it "compel[led] the district court to impose a term of imprisonment." Pet. 3, 5. But petitioner has completed his post-revocation term of imprisonment, is no longer even on supervised release, and identifies no continuing collateral consequences that would allow him to continue to challenge the circumstances under which his now-completed incarceration was ordered. Petitioner's challenge is therefore moot. See Lane, 455 U.S. at 631.

2. In any event, the court of appeals' summary affirmance is correct and does not conflict with the decision of any other court of appeals.

a. The Sixth Amendment provides that in "all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed." U.S. Const. Amend. VI. And the Fifth Amendment includes a "companion right to have the jury verdict based on proof beyond a reasonable doubt." Apprendi v. New Jersey, 530 U.S. 466, 478 (2000). Because the

Sixth Amendment jury-trial right applies only in "criminal prosecution[s]," this Court has held that the Sixth Amendment does not extend to "the revocation of parole," Morrissey v. Brewer, 408 U.S. 471, 480 (1972), or probation revocation, see Gagnon v. Scarpelli, 411 U.S. 778, 782 (1973).

In United States v. Haymond, 588 U.S. 634 (2019), this Court considered the constitutionality under the Fifth and Sixth Amendments of 18 U.S.C. 3583(k), a supervised-release provision that applies only to certain sex offenders. Under Section 3583(k), if the sentencing court finds by a preponderance of the evidence that such a defendant has committed certain specified sex offenses while on supervised release, the court must revoke supervised release and order reimprisonment for a minimum of five years. 18 U.S.C. 3583(k). This Court did not issue a majority opinion.

A four-justice plurality concluded that Section 3583(k) violated the Sixth Amendment "as applied in cases" that "expose a defendant to an additional mandatory minimum prison term well beyond that authorized by the jury's verdict." Haymond, 588 U.S. at 652 (emphasis omitted). In doing so, the plurality acknowledged that "supervised release punishments arise from and are '[t]reat[ed] * * * as part of the penalty for the initial offense'"; made clear that a jury need "not * * * find every fact in a revocation hearing that may affect the judge's exercise of discretion within the range of punishments authorized by the jury's verdict"; and expressly disclaimed any view on the Sixth

Amendment's application to supervised-release revocation under Section 3583(e) or 3583(g). Id. at 648, 652 n.7 (emphasis added; citation omitted; brackets in original).

Justice Breyer concurred in the judgment, in an opinion that is narrower than the plurality opinion and therefore controlling under Marks v. United States, 430 U.S. 188, 193 (1977). Justice Breyer agreed with the four dissenting Justices that "a supervised-release proceeding is consistent with traditional parole" and generally does not require a jury trial. Haymond, 588 U.S. at 657-658 (Breyer, J., concurring in the judgment); see id. at 665-668 (Alito, J., dissenting). But Justice Breyer identified three features that made Section 3583(k) proceedings "more like punishment for a new offense, to which the jury right would typically attach." Id. at 659 (Breyer, J., concurring in the judgment).

"First, § 3583(k) applies only when a defendant commits a discrete set of federal criminal offenses specified in the statute." Haymond, 588 U.S. at 659 (Breyer, J., concurring in the judgment) (emphasis omitted). "Second, § 3583(k) takes away the judge's discretion to decide whether violation of a condition of supervised release should result in imprisonment and for how long." Ibid. (emphasis omitted). "Third, § 3583(k) limits the judge's discretion in a particular manner: by imposing a mandatory minimum term of imprisonment of 'not less than 5 years' upon a judge's

finding that a defendant has 'commit[ted] any' listed 'criminal offense.'" Ibid. (emphasis omitted; brackets in original).

Justice Alito authored a dissenting opinion for four Justices. See Haymond, 588 U.S. at 659-683. The dissent explained that because a supervised-release revocation proceeding is not part of a "'criminal prosecution' within the meaning of the Sixth Amendment," the jury-trial right does not apply. Id. at 667. And Justice Alito and the three other dissenters would have upheld the application of Section 3583(k) based on judicial factfinding by a preponderance of the evidence. Id. at 669.

b. This case does not involve Section 3583(k). Instead, petitioner asserts that the district court revoked his supervised release pursuant to 18 U.S.C. 3583(g), under which a "court shall revoke the term of supervised release and require the defendant to serve a term of" reimprisonment if the defendant violates the conditions of supervised release in particular ways, including by "possess[ing] a controlled substance," 18 U.S.C. 3583(g)(1). Unlike Section 3583(k), Section 3583(g) does not specify a particular term of reimprisonment, but instead requires the court to order a term of reimprisonment "not to exceed the maximum term" authorized by Section 3583(e)(3), which is the general provision governing supervised release.[2]

[2] Another pending petition for a writ of certiorari raises a constitutional challenge to the revocation of supervised release under 18 U.S.C. 3583(e)(3). See Burnett v. United States, No. 25-5442 (filed Aug. 18, 2025). Previous petitions on the same or similar issues have been denied. See Carpenter v. United States,

The court of appeals correctly recognized that the district court was not required to conduct a jury trial as a prerequisite for revoking supervised release under Section 3583(g). Pet. App. 1-2. Section 3583(g) has none of the three features of Section 3583(k) that led Justice Breyer to conclude in his controlling opinion in Haymond that Section 3583(k) operated "less like ordinary revocation and more like punishment for a new offense, to which the jury right would typically attach." 588 U.S. at 659 (Breyer, J., concurring in the judgment).

First, whereas Section 3583(k) "applies only when a defendant commits a discrete set of federal criminal offenses specified in the statute," Haymond, 588 U.S. at 659 (Breyer, J., concurring in the judgment), Section 3583(g) can apply to criminal and noncriminal conduct, such as a defendant's "refus[al] to comply with drug testing imposed as a condition of supervised release," 18 U.S.C. 3583(g)(3). Second, whereas Section 3583(k) "takes away the judge's discretion to decide whether violation of a condition of supervised release should result in imprisonment and for how long," Haymond, 588 U.S. at 659 (Breyer, J,. concurring in the judgment), Section 3583(g) instructs only that a court "require the defendant to serve" some unspecified "term of imprisonment not

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145 S. Ct. 1188 (2025) (No. 24-5594); Smith v. United States, 145 S. Ct. 1184 (2025) (No.24-5608); Kerrick v. United States, 145 S. Ct. 1109 (2025) (No. 24-6104); Henderson v. United States, 142 S. Ct. 810 (2022) (No. 21-6286); Salazar v. United States, 142 S. Ct. 321 (2021) (No. 21-5231); Cameron v. United States, 141 S. Ct. 925 (2020) (No. 20-6102).

to exceed the maximum term of imprisonment authorized under" the default revocation provision (Section 3583(e)(3)), leaving the length of the term up to the discretion of the court. 18 U.S.C. 3583(g). Third, whereas Section 3583(k) mandates that the judge "impos[e] a mandatory minimum term of imprisonment of 'not less than five years,'" Haymond, 588 U.S. at 659 (Breyer, J., concurring the judgment), Section 3583(g) does not prescribe a particular minimum term of reimprisonment.

Furthermore, petitioner would not even be entitled to relief under the plurality opinion in Haymond, which made clear that its reasoning was "limited to § 3583(k)" and expressly stated that it did not adopt "a view on the mandatory revocation provision for certain drug and gun violations in § 3583(g), which requires courts to impose 'a term of imprisonment' of unspecified length." 588 U.S. at 652 n.7, 654. And the plurality opinion's concern over the "substantial" five-year minimum term of imprisonment required by Section 3583(k), id. at 652, does not apply to Section 3583(g), which requires no minimum term of reimprisonment, and in fact limits the amount of reimprisonment that a district court can order by cross-referencing the caps on reimprisonment in the default revocation provision, Section 3583(e)(3). 18 U.S.C. 3583(g); see D. Ct. Doc. 79, at 1.

The plurality opinion also states that, to the extent that ordering reimprisonment under the default Section 3583(e) based on judicial factfinding could violate the jury-trial right, it would

not do so where the "defendant's initial and post-revocation sentences issued under § 3583(e) [do] not yield a term of imprisonment that exceeds the statutory maximum term of imprisonment the jury has authorized for the original crime of conviction." Haymond, 588 U.S. at 655. And here, the 12 months of reimprisonment ordered by the district court brings petitioner's total period of imprisonment to 58 months, which does not exceed the statutory-maximum term of imprisonment of 60 months for petitioner's original crime of conviction. See Revocation Judgment 2; PSR ¶ 94.

2. Petitioner identifies no decision of any court that has held Section 3583(g) unconstitutional. And he does not even seek plenary review of that issue in his case because, as he acknowledges (Pet. 5-6), he did not argue in the district court that he was entitled to a jury finding on whether he violated the conditions of his supervised release. Petitioner's claim that his revocation and reimprisonment under 18 U.S.C. 3583(g) deprived him of his constitutional rights can accordingly be reviewed only for plain error. See Fed. R. Crim. P. 52(b); Pet. 6.

To show plain error, petitioner must demonstrate (1) "an error" (2) that is "clear or obvious, rather than subject to reasonable dispute," (3) that "affected [his] substantial rights," and (4) that "'seriously affect[s] the fairness, integrity or public reputation of judicial proceedings.'" Puckett v. United States, 556 U.S. 129, 135 (2009) (quoting United States v. Olano,

507 U.S. 725, 736 (1993)) (second set of brackets in original). Petitioner all but acknowledges that he cannot meet that standard under existing law. Petitioner identifies no decision of any court adopting his argument that Section 3583(g) violates the Fifth and Sixth Amendments. And Haymond itself cannot support plain-error relief on the constitutionality of Section 3583(g), as Haymond did not address that provision. Indeed, as petitioner acknowledges (Pet. 4), the plurality in Haymond "expressly reserved" ruling on the issue that he presents here.

Petitioner nonetheless asks this Court to at least hold his petition pending "any plenary grant of certiorari" in a case in which a challenge to the constitutionality of Section 3583(g) has been properly preserved and then remand in light of that hypothetical future decision, which he contends may establish that the asserted error in his case is "plain." Pet. 4, 6 (citing Henderson v. United States, 568 U.S. 266 (2013)). Petitioner, however, does not identify any pending petition in which the petitioner preserved a challenge to Section 3583(g), and the government is not aware of any such petition. There is no basis to hold this petition indefinitely, as petitioner requests. And the Court has denied a similar request in the past. See Sevier v. United States, 145 S. Ct. 1187 (No. 24-5679).

3. At all events, this case would be an unsuitable vehicle to consider the constitutionality of Section 3583(g) for two independent reasons.

As an initial matter, the record indicates that the district court did not rely on Section 3583(g) to revoke petitioner's supervised release. See p. 4, supra. At petitioner's revocation hearing, the government withdrew its reliance on the controlled-substance violations that would have triggered Section 3583(g), and the district court therefore explained that its "findings and rulings [would] be based on" the evasion of arrest alone, "not the Grade C violation" arising from petitioner's controlled-substance violations. D. Ct. Doc. 85, at 5. And the court's analysis at the hearing never suggested that revocation would be automatic. See id. at 7-12. Petitioner points (Pet. 3) to the summary "statement of reasons" that the district court later issued, but that form statement merely listed the "Statutory Maximum" for the offenses originally raised in the government's motion, which included the controlled-substance violations. D. Ct. Doc. 79, at 1. That form does not indicate that the district court, in contravention of its explanation at the hearing, in fact revoked petitioner's supervised release based on Section 3583(g).

Furthermore, even assuming that Section 3583(g) underlay the revocation of petitioner's supervised release, and assuming even further that the jury-trial right at issue in Haymond clearly and obviously applied to Section 3583(g), that right was not violated here because petitioner admitted to the facts that the court relied on in revoking his supervised release. In Haymond, the district court found by a preponderance of the evidence -- over the

defendant's objection -- that he had violated his supervised-release conditions by possessing child pornography and was thus subject to mandatory revocation and reimprisonment under Section 3583(k). 588 U.S. at 639 (plurality opinion). Here, in contrast, petitioner filed a written notice documenting his nonopposition to the government's motion to revoke his supervised release, D. Ct. Doc. 75, at 1, and admitted in open court that "the violations alleged in the motion" were "[t]rue," D. Ct. Doc. 85, at 6. The jury-trial right applied in Haymond does not extend to facts "admitted by the defendant." Haymond, 588 U.S. at 643 (plurality opinion). And at a minimum, petitioner's admissions render plain-error relief unwarranted in this case. See Olano, 507 U.S. at 736 (explaining that plain-error relief is not appropriate unless the error "seriously affect[s] the fairness, integrity or public reputation of judicial proceedings") (citation omitted; brackets in original).

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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