

No. 25-6451

IN THE SUPREME COURT OF THE UNITED STATES

THOMAS STEVEN SANDERS, 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

D. JOHN SAUER
Solicitor General
Counsel of Record

A. TYSEN DUVA
Assistant Attorney General

DAVID M. LIEBERMAN
Attorney

Department of Justice
Washington, D.C. 20530-0001
SupremeCtBriefs@usdoj.gov
(202) 514-2217

QUESTION PRESENTED

Whether the presidential commutation of petitioner's capital sentence to a term of life imprisonment entitles him to vacatur of the judgment below.

PARTIES TO THE PROCEEDING

Petitioner is Thomas Steven Sanders.

Respondent is the United States of America.

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OPINION BELOW

The opinion of the court of appeals (Pet. App. 1a-76a) is reported at 133 F.4th 341.

JURISDICTION

The judgment of the court of appeals was entered on March 27, 2025. A petition for rehearing was denied on July 29, 2025 (Pet. App. 77a). On October 20, 2025, Justice Alito extended the time within which to file a petition for a writ of certiorari to and including December 26, 2025. The petition for a writ of certiorari was filed on December 22, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a jury trial in the United States District Court for the Western District of Louisiana, petitioner was convicted on one count of interstate kidnapping resulting in death, in violation of 18 U.S.C. 1201(a)(1), and one count of murder in the course of using or carrying a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. 924(c)(1)(A) and (j)(1). Judgment 1. Petitioner was sentenced to death on each count. Judgment 2. While petitioner's appeal was pending, each of his capital sentences was commuted to a term of life imprisonment. Pet. App. 1a-2a & n.1. The court of appeals subsequently vacated petitioner's conviction on the firearm count and affirmed in all other respects. Id. at 1a-76a.

1. In 2010, petitioner began dating Suellen Roberts in Las Vegas. Pet. App. 2a. In late summer, petitioner and Roberts planned a Labor Day weekend trip with Roberts's 12-year-old daughter. Ibid. Shortly before the trip, petitioner purchased ammunition for a .22-caliber rifle. Id. at 2a-3a. Petitioner, Roberts, and her daughter then traveled to Arizona. Id. at 3a. On the ride home, they stopped along the road and found a place to go shooting. Ibid. After petitioner and Roberts had shot the rifle for a while, petitioner fatally shot Roberts in the head at close range. Ibid. Roberts's daughter witnessed the shooting. Ibid.

Petitioner then drove with the daughter for three or four days to Louisiana. Pet. App. 3a. He stopped in a remote area and fatally shot the daughter four times in the head and chest before slitting her throat. Ibid. Petitioner left the daughter's body in the woods. Ibid. Hunters discovered her remains a month later. Id. at 4a. Law enforcement arrested petitioner and he confessed to killing Roberts and her daughter. Ibid.

2. A grand jury in the Western District of Louisiana returned a superseding indictment charging petitioner with one count of interstate kidnapping resulting in death, in violation of 18 U.S.C. 1201(a)(1), and one count of murder in the course of using or carrying a firearm during and in relation to a crime of violence (namely, the kidnapping resulting in death), in violation of 18 U.S.C. 924(c)(1)(A) and (j)(1). Superseding Indictment 1-2. Congress has authorized death as a permissible punishment for the charged offenses, 18 U.S.C. 924(j)(1), 1201(a), and the government filed a notice of its intent to seek the death penalty for both counts, D. Ct. Doc. 73 (Aug. 1, 2012).

The case proceeded to trial, and the jury found petitioner guilty on both counts. Judgment 1; see Pet. App. 4a. After a seven-day penalty-phase hearing, the jury unanimously recommended that petitioner be sentenced to death on each count, and the district court imposed a capital sentence on each count. Judgment 2; see Pet. App. 4a.

On December 23, 2024, while petitioner's appeal was still pending, he was issued a commutation that "commute[d] the sentences of death * * * to sentences of life imprisonment without the possibility of parole, leaving intact and in effect for [petitioner] all other conditions and components of the sentences." D. Ct. Doc. 400, at 1 (Dec. 23, 2024); see id. at 2 (listing petitioner); Pet. App. 1a-2a & n.1.

3. The court of appeals vacated petitioner's conviction and sentence on the firearm count and affirmed his conviction and capital sentence on the kidnapping count. Pet. App. 1a-76a.

With respect to the sentence, the court of appeals acknowledged the commutation of petitioner's capital sentences, Pet. App. 1a-2a & n.1, but found it "unclear whether the commutation of [petitioner's] death sentences to life sentences without parole mooted [petitioner's] contentions," id. at 46a; see id. at 49a, 53a, 64a (same), and therefore considered and rejected petitioner's sentencing claims. Specifically, the court of appeals determined that the evidence was sufficient to support the statutory aggravating factors that rendered petitioner eligible for a capital sentence under 18 U.S.C. 3592, see Pet. App. 46a-49a; that the victim-impact testimony presented by the government at the penalty phase was not unduly prejudicial under Payne v. Tennessee, 501 U.S. 808 (1991), see Pet. App. 49a-52a; that the government did not commit misconduct during its penalty-phase closing argument, id. at 53a-61a; that the Federal Death Penalty

Act, 18 U.S.C. 3591 et seq., is constitutional both facially and as applied to petitioner; see Pet. App. 61a-63a; and that petitioner's death sentence comports with the Eighth Amendment, id. at 64a-68a.

Judge Oldham concurred, expressing disapproval of the commutation. Pet. App. 70a-76a.

ARGUMENT

Petitioner does not request plenary review but instead seeks (Pet. 4-8) an order granting the petition for a writ of certiorari, vacating the judgment below, and remanding the case (GVR) to the court of appeals. Specifically, he contends that the commutation of his capital sentences mooted his sentencing claims, and this Court should require that the portions of the court of appeals' opinion and judgment relevant to those claims should be vacated. That extraordinary relief is unwarranted. Petitioner fails to show that the court of appeals erred in its decision to address petitioner's sentencing claims or identify any decision of this Court or another court of appeals that would require a different course in these circumstances. Nor, in any event, should the Court grant petitioner's GVR request in the absence of any basis for concluding that the issues addressed by the Court of appeals would satisfy the criteria for certiorari. And petitioner has additionally failed to demonstrate the equitable requirements for vacatur. The petition should therefore be denied.

1. A case becomes moot on appeal only when intervening circumstances would make it "impossible for a court to grant any effectual relief whatever to the prevailing party." Knox v. Service Employees International Union, 567 U.S. 298, 307 (2012) (citations and internal quotation marks omitted). Here, the sentencing range for petitioner's firearm count was "death or * * * imprisonment for any term of years or for life." 18 U.S.C. 924(j)(1). Had petitioner been successful in his sentencing challenges, he might have argued that he was entitled to a term-of-years sentence shorter than the death-commuted-to-life sentence on that count. And the court of appeals could have remanded the case to the district court to consider that argument in the first instance.

As it happens, the court of appeals vacated the firearm conviction on double-jeopardy grounds, reasoning that Congress did not authorize duplicate punishment for a Section 924(j) offense and the underlying crime of violence. See Pet. App. 25a-32a. But parties often raise multiple or overlapping grounds for relief, and a court's ultimate grant of relief on one ground does not foreclose the court from issuing an opinion that considers other overlapping claims. If it did, then a court could never issue alternative holdings because each one would moot the other -- a nonsensical result. Here, petitioner challenged both the conviction and the sentence on his firearm count, and the court of

appeals could address both sets of challenges on the merits, even though it ultimately granted relief on one and not the other.

Petitioner asserts (Pet. 5-6) that other circuits would have taken a different approach, but none of the decisions that he cites involved the circumstances here. The Fourth Circuit's summary order in United States v. Surratt, 855 F.3d 218 (en banc), cert. denied, 583 U.S. 1040 (2017), found mootness where a prisoner attacked a commuted sentence that he had affirmatively agreed to accept. See id. at 219; see also Ex parte Wells, 18 How. 307, 315 (1856) (a conditional pardon, "when accepted by the convict, is the substitution, by himself, of a lesser punishment than the law has imposed upon him, and he cannot complain if the law executes the choice he has made"). The Fourth Circuit's decision in Blount v. Clarke, 890 F.3d 456 (2018), rejected a district court's reasoning that a state prisoner was entitled to habeas relief because his original sentence "taint[ed]" a later (unreviewable) executive act of clemency by the governor. Id. at 460 (citation omitted); see id. at 462-463. And the D.C. Circuit's decision in United States v. Schaffer, 240 F.3d 35 (2001) (en banc) (per curiam), involved the uncontested mootness of a government appeal of a new-trial order vacating a defendant's conviction, where the President had issued a full pardon during the pendency of the appellate proceedings. See id. at 38.

2. In any event, 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 otherwise would not have warranted certiorari absent the alleged 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). That criterion is not satisfied here.

Absent the commutation, petitioner's sentencing challenges would not have warranted certiorari because they largely advanced factbound evidentiary, government-misconduct, and constitutional claims pertaining to his own circumstances and trial. See Pet. App. 9a-25a, 46a-68a. And the court of appeals' disposition of most of them took account of the stringent requirements of plain-error relief, in light of petitioner's failure to preserve the claims in the district court. Id. at 46a, 49a, 53a-54a, 64a; see Fed. R. Crim. P. 52(b); United States v. Olano, 507 U.S. 725, 731-732 (1993). The only non-factbound claim petitioner raised was a facial constitutional challenge to the Federal Death Penalty Act, but the court rejected that challenge as foreclosed by longstanding circuit precedent and thus did not make any new law in the process. See Pet. App. 61a (citing United States v. Webster, 162 F.3d 308, 354 (5th Cir. 1998), cert. denied, 528 U.S. 829 (1999)).

Nor does this case warrant certiorari to review the mootness question itself. The alleged mootness presented by this case is narrow and does not recur frequently. Even when viewed at the highest level of generality, it still affects only a federal

prisoner who receives an unconditional commutation to a lower sentence while he has pending claims on direct appeal that, if successful, could allow him to argue for an even lower sentence. Apart from his own case, petitioner has not identified any other prisoner in a comparable situation.

3. Finally, and at all events, equitable factors counsel against vacatur. Because vacatur on mootness grounds "is rooted in equity, the decision whether to vacate turns on 'the conditions and circumstances of the particular case.'" Azar v. Garza, 584 U.S. 726, 729 (2018) (per curiam) (citation omitted). Here, petitioner received his commutation more than three months before the court of appeals issued its decision. Yet he did not even alert the court to the commutation, much less argue that the commutation rendered his sentencing claims moot. Nor did he seek to withdraw those claims or strike them from his appellate briefs. Instead, he raised mootness for the first time in a petition for rehearing after the panel had rejected his sentencing claims on the merits. Given those circumstances, it would be inequitable to vacate the court's resolution of those claims simply because petitioner now regrets the circuit precedent that his case generated.

Indeed, this Court has traditionally vacated lower-court judgments on mootness grounds only when the case has become 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); see United States v. Munsingwear, Inc., 340 U.S. 36, 41 (1950). Here, however, petitioner's argument is that his sentencing claims were moot even before the court of appeals issued its decision. Petitioner's request for a GVR is thus in essence a request for error-correction of the lower court's determination of non-mootness. That falls outside of any "established practice," Munsingwear, 340 U.S. at 39, of summary vacatur.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

D. JOHN SAUER
Solicitor General

A. TYSEN DUVA
Assistant Attorney General

DAVID M. LIEBERMAN
Attorney

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