

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ORLANDA TRAVON SLOAN — PETITIONER
VS.
UNITED STATES — RESPONDENT
ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES FIFTH CIRCUIT COURT OF APPEALS
PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the Sentencing Guidelines' static Criminal History Categories and excessive offense levels for methamphetamine actual/Ice fail to propose a reasonable and individualized range of imprisonment for defendants, such as Mr. Orlanda Travon Sloan, whose crimes have been driven by youth, mental health issues, and resulting drug addictions?

To impose a reasonable and individualized sentence on defendants such as Mr. Sloan, the Criminal History Categories and excessive offense levels for methamphetamine actual/Ice proposed by the Sentencing Guidelines must be adjusted to avoid punishing an individual defendant too severely for crimes driven by youth, mental health issues, and resulting drug addictions.

A decision by this Court could further the purposes of the Sentencing Guidelines, assuring district courts impose uniform reasonable and individualized sentences regardless of the location of the federal courthouse in which a defendant is prosecuted. This Court should grant a writ of certiorari, address this error, and provide guidance for a situation (1) likely to recur and to further unduly burden some defendants with constitutionally excessive sentences; and (2) that will unduly burden all citizens by imposing unnecessary costs related to excessive incarceration.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

RELATED CASES

1. *United States v. Sloan*, 2025 U.S. App. LEXIS 26222, 2025 WL 2848721 (5th Cir. Oct. 8, 2025)

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IN THE
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PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari be issued to review the judgment below.

OPINIONS BELOW

The opinion of the United States Fifth Circuit Court of Appeals appears at Appendix A to the petition and is reported at *United States v. Sloan*, 2025 U.S. App. LEXIS 26222, 2025 WL 2848721 (5th Cir. Oct. 8, 2025).

JURISDICTION

The United States Court of Appeals decided the case on October 8, 2025. No petition for rehearing was filed timely in the case. The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

18 U.S.C. § 3553:

(a) Factors To Be Considered in Imposing a Sentence.-The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider-

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed-
 - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
 - (B) to afford adequate deterrence to criminal conduct;
 - (C) to protect the public from further crimes of the defendant; and
 - (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;
- (3) the kinds of sentences available;
- (4) the kinds of sentence and the sentencing range established for-
 - (A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or
 - (B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements

issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;

(5) any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2) that is in effect on the date the defendant is sentenced;

(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(7) the need to provide restitution to any victims of the offense.

(b) Application of Guidelines in Imposing a Sentence.-The court shall impose a sentence of the kind, and within the range, referred to in subsection (a)(4) unless the court finds that there exists an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the guidelines that should result in a sentence different from that described. In determining whether a circumstance was adequately taken into consideration, the court shall consider only the sentencing guidelines, policy statements, and official commentary of the Sentencing Commission. In the absence of an applicable sentencing guideline, the court shall impose an appropriate sentence, having due regard for the purposes set forth in subsection (a)(2). In the absence of an applicable sentencing guideline in the case of an offense other than a petty offense, the court shall also have due regard for the relationship of the sentence imposed to sentences prescribed by guidelines applicable to similar offenses and offenders, and to the applicable policy statements of the Sentencing Commission.

STATEMENT OF THE CASE

A. Relevant Facts

According to the factual basis submitted during the change of plea hearing:

On or about August 29, 2022, in the Western District of Louisiana, Orlando Travon Sloan knowingly and intentionally sold to a confidential informant 37.3 grams of methamphetamine (actual), a Schedule II controlled substance, in exchange for \$800. This drug transaction was video recorded and depicted Orlando Travon Sloan. Without in anyway binding the Court, Orlando Travon Sloan and the United States agree and stipulate that the total drug quantity of methamphetamine (actual) reasonably attributable to Orlando Travon Sloan is 125.7 grams.

WHEREFORE, the above-described facts do not represent the totality of the evidence obtained in this case. But the parties signing below agree and stipulate that the preceding paragraph adequately describes Orlando Travon Sloan's role in the offense of possession with the intent to distribute controlled substances, under Count 2 of the Indictment, in order to establish Orlando Travon Sloan's guilt beyond a reasonable doubt.

ROA. 94-95.

B. Action before the District Court and the Court of Appeals

On September 27, 2023, Mr. Sloan was indicted in a 4-count indictment.

ROA. 3, 9-10. In part, the Government charged that, “[o]n or about August 29, 2022 in the Western District of Louisiana, the defendant, Orlando Travon Sloan, did knowingly and intentionally possess with the intent to distribute a controlled substance, to wit: five (5) grams or more of methamphetamine (actual), a Schedule II controlled substance; all in violation of Title 21, United States Code,

Sections 841(a)(1), (b)(1)(B)(viii)." ROA. 9. On February 13, 2024, Mr. Sloan pled guilty to Count 2 of the indictment. ROA. 5-6, 31-37, 53-71.

The final PSI determined that Mr. Sloan's total offense level was 31 and that his Criminal History Category was VI. ROA. 73, 82, 171-78, 187. Mr. Sloan's sentencing range was 188 to 235 months of imprisonment. ROA. 73-74, 82, 187.

On December 12, 2024, the District Court sentenced Mr. Sloan to 235 months of imprisonment. ROA. 7, 41-48, 82-83. On December 18, 2024, a notice of appeal was filed timely as to the December 17, 2024, judgment, in accordance with Rule 4(b) of the Federal Rules of Appellate Procedure. ROA. 7, 43-50.

On October 8, 2025, the United States Fifth Circuit Court of Appeals affirmed Mr. Sloan's conviction and sentence. This timely petition follows.

REASONS FOR GRANTING THE PETITION

A. Introduction

The Sentencing Guidelines' static Criminal History Categories and excessive offense levels for methamphetamine actual/Ice fail to propose a reasonable and individualized range of imprisonment for defendants, such as Mr. Sloan, whose crimes have been driven by youth, mental health issues, and resulting drug addictions. To impose a reasonable and individualized sentence on defendants such as Mr. Sloan, the Criminal History Categories and excessive offense levels for methamphetamine actual/Ice proposed by the Sentencing Guidelines must be adjusted to avoid punishing an individual defendant too severely for crimes driven by youth, mental health issues, and resulting drug addictions.

A decision by this Court could further the purposes of the Sentencing Guidelines, assuring district courts impose uniform reasonable and individualized sentences regardless of the location of the federal courthouse in which a defendant is prosecuted. This Court should grant a writ of certiorari, address this error, and provide guidance for a situation (1) likely to recur and to further unduly burden some defendants with constitutionally excessive sentences; and (2) that will unduly burden all citizens by imposing unnecessary costs related to excessive incarceration. Therefore, this Court should grant this writ, order full briefing and oral argument, and thereafter vacate Mr. Sloan's sentence and remand this case for further proceedings consistent with this Court's decision.

B. The Sentencing Guidelines' static Criminal History Categories and excessive offense levels for methamphetamine actual/Ice fail to propose a reasonable and individualized range of imprisonment for defendants, such as Mr. Orlanda Travon Sloan, whose crimes have been driven by youth, mental health issues, and resulting drug addictions. Reducing Mr. Sloan's Criminal History Category to III and eliminating the disparity based on inflated offense levels for methamphetamine actual/Ice would result in a proposed range of imprisonment that would recommend a just and reasonable sentence in this particular case.

For reasons set forth in the former amendments to U.S.S.G. § 5H1.1, the Sentencing Guidelines' static Criminal History Categories prevented the District Court, and indeed prevent any district court, from imposing a reasonable sentence on an individual defendant. Specifically, the Sentencing Guidelines fail to provide district courts with reasonable sentencing ranges for those like Mr. Sloan whose criminal history has been impacted by mental health issues, youth, and resulting drug addictions.

Thus, to impose a reasonable and individualized sentence on defendants such as Mr. Sloan, the Criminal History Categories proposed by the Sentencing Guidelines must be adjusted to avoid punishing an individual defendant too severely for crimes driven by youth, mental health issues, and resulting drug addictions. As set forth below, in Mr. Sloan's case, reducing his Criminal History Category to III would address the unreasonable sentencing range suggested under the Sentencing Guidelines.

As formerly amended, U.S.S.G. § 5H1.1 provided that “[a]ge may be relevant in determining whether a departure is warranted.” Specifically, “[a] downward

departure also may be warranted due to the defendant's youthfulness at the time of the offense or prior offenses. Certain risk factors may affect a youthful individual's development into the mid-20's and contribute to involvement in criminal justice systems, including environment, adverse childhood experiences, substance use, lack of educational opportunities, and familial relationships. In addition, youthful individuals generally are more impulsive, risk-seeking, and susceptible to outside influence as their brains continue to develop into young adulthood. Youthful individuals also are more amenable to rehabilitation." *Id.* Further, "[t]he age-crime curve, one of the most consistent findings in criminology, demonstrates that criminal behavior tends to decrease with age." *Id.*

Mr. Sloan exemplifies the type of defendant referenced in the former version of § 5H1.1. As noted in detail below, his Criminal History Category was driven by his youth, his untreated psychological and psychiatric conditions, and his drug addiction. As such, Mr. Sloan is exactly the type of person the Sentencing Guidelines had recognized as worthy of a lesser sentence.

Nonetheless, despite the Sentencing Commission's recognition that science and experience undermine the efficacy of its static categorization of criminal history, the Sentencing Guidelines continue to offer a one-size-fits-all approach to sentencing. As such, the Sentencing Guidelines failed to give the District Court adequate guidance upon which to fashion a reasonable sentence for Mr. Sloan.¹

¹ Mr. Sloan concedes the District Court imposed a sentence at the top of the guideline range of imprisonment. However, the Sentencing Guidelines failed to

To have provided the District Court with a sentencing range from which it could have imposed a reasonable sentence on Mr. Sloan, the Sentencing Guidelines should have done what the Sentencing Commission has done, recognize that not all criminal histories are equal. To do so, a defendant's Criminal History Category should be, and must be, adjusted based on the defendant's social history.

Indeed, like too many addicts, Mr. Sloan appears to have engaged in selling drugs to raise money to fund his habit/self-medication. That is, his criminal conduct was not meant to raise wealth but was a byproduct of his addiction.

Specifically, Mr. Sloan has used marijuana and Xanax since he was a 15-year-old. ROA. 184. He first used cocaine and Percocet as a 17-year-old and methamphetamine as an 18-year old. ROA. 184.

Further, Mr. Sloan's Career Offender status was sealed when he was a 21-year-old. ROA. 171-74. One of Mr. Sloan's convictions that resulted in his Career Offender status was for a crime committed in 2011 when Mr. Sloan was 18. ROA. 174. This was over 14 years ago. (No information concerning the specifics of this offense were provided to the United States probation officer. ROA. 174.)

The other of Mr. Sloan's convictions that resulted in his Career Offender status was for a crime committed in 2014 when Mr. Sloan was 21. ROA. 174. This was over 11 years ago. ROA. 175.

provide a reasonable starting point for the District Court to consider in order to impose an individualized sentence on Mr. Sloan that could be considered reasonable given Mr. Sloan's individual criminal and social history.

Mr. Sloan's criminal conduct in general and his criminal conduct in this matter appears to be driven by self-medicating his psychiatric and psychological conditions. Specifically, Mr. Sloan "reported suffering from depression, anxiety, and frequent anxiety attacks his whole life. . . . [He] presents no sense of energy, feelings of hopelessness, lack of energy, withdrawal from others, racing thoughts, binge eating due to depression, and sleeping for long periods." ROA. 181. Mr. Sloan does not appear to have received proper diagnosis, treatment, or care for these conditions.

Additionally, Mr. Sloan's environment as a child likely impacted his criminal history. Mr. Sloan's father engaged in drug distribution and spent time in prison. ROA. 181. Further, "as an adolescent, . . . [Mr. Sloan] associated with a negative group that influenced him to use illegal drugs." ROA. 182.

Despite these challenges, Mr. Sloan has worked consistently and sought treatment for his drug addictions. ROA. 183-86. That is, Mr. Sloan, despite struggling with addiction and mental health issues, has attempted to better his life.

Nonetheless, 16 of Mr. Sloan's 18 criminal history points were assigned for conduct when he was 25 years old or younger. ROA. 173-18. Most, if not all, of Mr. Sloan's criminal history points arose from drug offenses, *i.e.*, were related to his drug addiction and self medication.

As noted above, former amendments to U.S.S.G. § 5H1.1 acknowledged that "youthful individuals generally are more impulsive, risk-seeking, and susceptible to outside influence as their brains continue to develop into young adulthood.

Youthful individuals also are more amenable to rehabilitation.” *Id.* Moreover, as the Sentencing Commission reported “[t]he age-crime curve, one of the most consistent findings in criminology, demonstrates that criminal behavior tends to decrease with age.” *Id.*

As such, Mr. Sloan’s VI Criminal History Category is more indicative of Mr. Sloan’s youth, mental health issues, and drug addiction than his dangerousness or risk of recidivism if he receives proper treatment for his addiction and underlying mental health issues. For these reasons, a Criminal History Category of III would reflect Mr. Sloan’s criminal history more accurately and would give weight to the findings of the Sentencing Commission.

Such relief would not forgive or excuse Mr. Sloan’s instant crime. However, a Criminal History Category of III would comply with the 18 U.S.C. § 3553(a) factors and would address the failure of the Sentencing Guidelines to provide district courts with a proposed sentencing range from which fair and reasonable sentences could be imposed on individual defendants. A Criminal History Category of III would result in a proposed range of imprisonment that would recommend a just and reasonable sentence in this particular case.

Additionally, as recognized in *United States v. Robinson*, 21-14, 2022 U.S. Dist. LEXIS 231041, at p. 2 (S.D. Miss. Dec. 23, 2022) (internal footnote omitted), “[t]he U.S. Sentencing Guidelines use drug purity as a proxy for a defendant’s culpability. The Guidelines say, in relevant part, ‘the fact that a defendant is in possession of unusually pure narcotics may indicate a prominent role in the

criminal enterprise and proximity to the source of the drugs.’ U.S.S.G. § 2D1.1 cmt. n. 27(C). As a result, the Guidelines make a distinction between ‘methamphetamine’ and ‘actual methamphetamine.’ *Id.* § 2D1.1(c). All else equal, defendants caught with actual methamphetamine get longer sentences than defendants caught with methamphetamine mixture. *Id.* ‘No other drug is punished more severely based on purity.’ *United States v. Hayes*, 948 F. Supp. 2d 1009, 1025 (N.D. Iowa 2013) (citation omitted).’

As recognized in *Robinson*, “all credible data gathered since the time the Sentencing . . . Commission promulgated these rules and related policy statements demonstrate that the purity level of methamphetamine is not indicative of Mr. [Sloan’s culpability]. Empirical data and national trends bear out, . . . that everyone involved with methamphetamine today, whether a drug lord or an end user, has access to a substantially pure, uncut product.” *Robinson*, 21-14, 2022 U.S. Dist. LEXIS 231041, at p. 3 (all alterations, except for those in brackets, were in the original).

As the *Robinson* court recognized “Methamphetamine (actual)” or “Ice” is punished 10 times more severely than “Methamphetamine.” *Robinson*, 21-14, 2022 U.S. Dist. LEXIS 231041, at p. 4. However, since at least 2015, Methamphetamine seized by the DEA has averaged at least 95% purity, which means the average Methamphetamine seized by the DEA is Ice. *Id.*; see DEA 2020 National Drug Threat Assessment located at

<https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment.pdf>

0Drug%20Threat%20Assessment_WEB.pdf (last checked on June 10, 2025), 19-20.

For these reasons and as the *Robinson* court noted, there is no empirical justification for the Sentencing Guidelines' decision to punish "Methamphetamine (actual)" or "Ice" 10 times as severely as "Methamphetamine." *See Robinson*, 21-14, 2022 U.S. Dist. LEXIS 231041, at pp. 4-5, 7-8 (citing cases).

As the *Robinson* court found, a more just sentence is achieved when culpability (*i.e.*, offense level) is determined by "examin[ing] all of the circumstances of the defendant's case and life - seeing the defendant as a 'whole person,'" and when "Methamphetamine (actual)" and "Ice" are punished at a 1:1 ratio with "Methamphetamine," not at a 10:1 ratio. 21-14, 2022 U.S. Dist. LEXIS 231041, at pp. 8-9.

In this case, doing so would result in a base offense level of 24, instead of 30, and a total offense level of 21 instead of 27. Based on an offense level of 21 and a criminal history category of III, Mr. Sloan's guideline range of imprisonment would be 46-57 months of imprisonment, which would become 60 months of imprisonment given Mr. Sloan's statutory mandatory minimum, whereas his current guideline range of imprisonment is 188-235 months of imprisonment.

Such a sentence would not forgive or excuse Mr. Sloan's crime. A sentence of 60 months of imprisonment would reflect the seriousness of Mr. Sloan's criminal history and instant offense more accurately.

60 months of imprisonment is significant. Such a sentence would allow Mr. Sloan to receive treatment for his substance abuse and for his psychological and

psychiatric conditions. It would allow Mr. Sloan to do what he has done before, increase his skills to himself and to society while he is imprisoned.

60 months in prison most importantly would allow Mr. Sloan to repay his debt to society. It would show others the great price of Mr. Sloan's conduct. But it would allow Mr. Sloan a faster return to society and to his family, for which he has served as a caregiver.

Mr. Sloan is a 32-year-old. ROA. 166. As noted above, Mr. Sloan's crime likely arose from efforts to self-medicate his drug-addiction.

Mr. Sloan began his use of drugs as self-medication when he was a 15-year old. ROA. 183-85. As such, Mr. Sloan was under the influence of drugs when he committed both of the crimes that contributed to his criminal history category and to his career offender status.

Mr. Sloan is far from perfect. However, given Mr. Sloan's drug addiction, his youth when he committed the offenses leading to his Career Offender Status, and the unduly harsh offense levels the Sentencing Guidelines suggest for "Methamphetamine (actual)" and for "Ice," the Sentencing Guidelines failed to provide the District Court with a guidelines range of imprisonment that could support a reasonable sentence.

If the Sentencing Guidelines recommended a total offense level of 21 and a sentence of 60 months of imprisonment, it would have provided the District Court with a suggestion from which the District Court could have imposed a just and reasonable sentence that would comply with the 18 U.S.C. § 3553(a) factors.

For these reasons, the Sentencing Guidelines' static Criminal History Categories and excessive offense levels for methamphetamine actual/Ice fail to propose a reasonable and individualized range of imprisonment for defendants, such as Mr. Orlanda Travon Sloan, whose crimes have been driven by youth, mental health issues, and resulting drug addictions. Reducing Mr. Sloan's Criminal History Category to III and eliminating the disparity based on inflated offense levels for methamphetamine actual/Ice would result in a proposed range of imprisonment that would recommend a just and reasonable sentence in this particular case.

To address these concerns, this Court should grant this writ, should vacate Mr. Sloan's sentence and should remand this matter to the District Court for further proceedings consistent with this Court's ruling.

CONCLUSION

The petition for a writ of certiorari should be granted. To further the purposes of the Sentencing Guidelines and to assure district courts impose uniform reasonable and individualized sentences regardless of the location of the federal courthouse in which a defendant is prosecuted, Mr. Sloan's sentence should be vacated and this matter should be remanded to the District Court for further proceedings consistent with this Court's ruling.

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