

NO. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES  
OF AMERICA

ANDRE LAMONT RAWLS  
Petitioner-Defendant

v.

UNITED STATES OF AMERICA  
Respondent

On Petition for Writ of Certiorari from the  
United States Court of Appeals for the Fifth Circuit.  
Fifth Circuit Case No. 25-60316

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**PETITION FOR WRIT OF CERTIORARI**

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## **QUESTION PRESENTED FOR REVIEW**

Whether the judge in the Southern District of Mississippi erred by ordering the 60-month supervised release revocation sentence at issue to run consecutively to the previously ordered 110-month sentence in the Northern District of Mississippi, when the Northern District judge ordered the sentences to run concurrently.

## **PARTIES TO THE PROCEEDING**

All parties to this proceeding are named in the caption of the case.

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## I. OPINIONS BELOW

This case involves a supervised release revocation proceeding. Mr. Rawls' underlying conviction was from the Northern District of Texas. The Judgment on the underlying conviction is attached hereto as Appendix 1.

After completing the sentence for the underlying conviction, Mr. Rawls' case was transferred to the Southern District of Mississippi for supervised release purposes. He admittedly violated conditions of supervision and the district court ordered him to serve 60 months in prison, to run consecutively to another federal sentence ordered in the Northern District of Mississippi.<sup>1</sup> The Southern District Revocation Judgment is attached hereto as Appendix 2.

Mr. Rawls filed a timely Notice of Appeal of his revocation sentence to the United States Court of Appeals for the Fifth Circuit. On November 17, 2025, the Fifth Circuit affirmed the District Court's rulings. The Fifth Circuit's Opinion and its Judgment are attached hereto as composite Appendix 3.

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<sup>1</sup> There is a somewhat complex relationship between the underlying conviction out of the Northern District of Texas, a conviction out of the Northern District of Mississippi and the subject supervised revocation proceeding out of the Southern District of Mississippi. The relationship is described in detail under the "Statement of material facts" section of this Petition.

## **II. JURISDICTIONAL STATEMENT**

The United States Court of Appeals for the Fifth Circuit filed both its Order and its Judgment in this case on November 17, 2025. This Petition for Writ of Certiorari is filed within 90 days after entry of the Fifth Circuit's Judgment, as required by Rule 13.1 of the Supreme Court Rules. This Court has jurisdiction over the case under the provisions of 28 U.S.C. § 1254(1).

### **III. STATUTE INVOLVED**

(a) Imposition of concurrent or consecutive terms.--If multiple terms of imprisonment are imposed on a defendant at the same time, or if a term of imprisonment is imposed on a defendant who is already subject to an undischarged term of imprisonment, the terms may run concurrently or consecutively, except that the terms may not run consecutively for an attempt and for another offense that was the sole objective of the attempt. Multiple terms of imprisonment imposed at the same time run concurrently unless the court orders or the statute mandates that the terms are to run consecutively. Multiple terms of imprisonment imposed at different times run consecutively unless the court orders that the terms are to run concurrently.

18 U.S.C.A. § 3584(a).

#### IV. STATEMENT OF THE CASE

**A. Basis for federal jurisdiction in the court of first instance.**

This case arises out of a supervised release revocation proceeding. In regard to that proceeding, the court of first instance was the United States District Court for the Southern District of Mississippi. The Southern District of Mississippi had jurisdiction over the case because Mr. Rawls' underlying conviction arose from the laws of the United States of America.<sup>2</sup>

**B. Statement of material facts.**

This supervised release revocation proceeding arises out of an underlying conviction entered by the United States District Court for the Northern District of Texas for conspiracy to possess with intent to distribute a controlled substance, in violation of 21 U.S.C. §§ 841(a)(1) and 846. Mr. Rawls accepted full responsibility for his actions by pleading guilty to the charge on January 21, 2005. The Texas District Court ordered a 151-month prison sentence, followed by supervised release for five years. It entered a Judgment reflecting this sentence on December 22, 2005.

After his release from prison, jurisdiction over Mr. Rawls transferred from the Northern District of Texas to the Southern District of Mississippi. His supervised release began in Mississippi on September 3, 2019.

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<sup>2</sup> See *supra*, footnote 1.

On February 24, 2024, the Southern District of Mississippi issued the subject Petition for Warrant for Offender Under Supervision. The Petition alleged two supervised release violations – one for further violation of the law, and another for leaving the Southern District of Mississippi without permission.

As to the first violation, the Petition alleges the following:

The defendant failed to refrain from a violation of federal, state or local law. On May 22, 2024, [] Rawls was indicted in the Northern District of Mississippi under docket number: 3:24cr51, for Conspiracy to Possess with Intent to Distribute More than Five (5) Kilograms of Cocaine in violation of 21 U.S.C. § 841(a)(1), 841(b)(1)(A) and 846.

The second violation alleges the following: “The defendant traveled outside of the supervising judicial district without permission of the probation officer or the Court. On or about April 26, 2003, Rawls traveled to Winona, Mississippi, located in the Northern District of Mississippi, without the permission of the probation officer or the Court.”

The Southern District conducted a supervised release revocation hearing on May 28, 2025. Mr. Rawls accepted responsibility by admitting the two supervised release violations.

To Mr. Rawls’ credit, the probation officer testified that between his release from prison in 2019, and the time of the subject violations in 2024, he abided by all conditions of supervision. He was continuously employed while on supervision. Also, he passed all drug tests and met with the probation officer as required.

The Sentencing Guidelines range for the supervised release violations was 51 to 60 months in prison. The court ordered Mr. Rawls to serve the maximum sentence – 60 months in prison. The court ordered the 60-month sentence to run consecutively to a 110-month sentence ordered in the Northern District of Mississippi.

At this point, we must review the related proceeding in the Northern District of Mississippi, which occurred *before* the above described supervised release revocation hearing in the Southern District. In case number 3:24cr51, the prosecution in the Northern District indicted Mr. Rawls for conspiracy to possess with intent to distribute cocaine. The Northern District conspiracy charge arose from the exact same conduct alleged in violation one of the subject supervised release revocation proceeding. That is, the Southern District supervised release violation pertains to the same drug dealing for which Mr. Rawls was indicted and convicted in the Northern District.

Mr. Rawls pled guilty to the Northern District charge on November 20, 2024. The Northern District conducted a sentencing hearing on February 26, 2025. The court sentenced Mr. Rawls to 110 months in prison.

The Northern District judge was aware that Mr. Rawls faced revocation of his supervised release in the Southern District, and that the two proceedings involved the exact same illegal conduct. In this context, the Northern District judge

ruled: “The term of imprisonment imposed by this judgment shall run *concurrently* to the sentence imposed in [Southern District of Mississippi] Docket No.: 3:24CR00069-001.”

Now we return focus to the subject supervised release revocation proceeding. The Southern District judge ignored the Northern District judge’s ruling that sentences on the Northern District conviction and the Southern District revocation should run concurrently. Specifically, the Southern District Revocation Judgment states: “The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: Sixty (60) months imprisonment, to run *consecutive* to the sentence imposed in Northern District of Mississippi Docket No.: 3:24cr51-010[.]” The court entered a Revocation Judgment reflecting its sentence on June 9, 2025. On June 10, 2025, Mr. Rawls appealed the Southern District’s Revocation Judgment.

After Mr. Rawls filed the Notice of Appeal, the Southern District judge entered an Order of Clarification. The Order addresses the following issue:

The Bureau of Prisons (“BOP”), which currently houses Defendant Andre Lamont Rawls (“Rawls”) requested clarification from the United States Marshals Service as to whether Rawls’s sentence in this matter is to run consecutively or concurrently with a prior sentence Rawls received from another district judge. In turn, the United States Marshals Service requested clarification from this Court.

Through the Order of Clarification, the Southern District judge ruled that the sentences must be served consecutively.

## V. ARGUMENT

### A. Review on certiorari should be granted in this case.

Rule 10 of the Supreme Court Rules states, “[r]eview on writ of certiorari is not a matter of right, but of judicial discretion.” This Court should grant certiorari to define the scope of its holdings in *Setser v. United States*, 566 U.S. 231 (2012).

In *Setser*, this Court ruled that a federal court could order a sentence to run consecutively (and presumptively concurrently) with an anticipated but yet to be ordered *state* court sentence. As presented below, the *Setser* Court did not decide whether a federal court could order a sentence to run consecutively or concurrently to an anticipated but yet to be ordered *federal* court sentence. The latter issue was not decided because the facts of *Setzer* failed to raise that question. *See Setser*, 566 U.S. at 241 n. 4 (holding “that this issue is not before us.”).

The important issue of whether a federal court can order a sentence to run consecutively or concurrently with an anticipated but yet to be ordered *federal* court sentence is ripe for consideration under the facts of Mr. Rawls’ case. And that issue is equally important as the issue of whether a federal court can order a sentence to run consecutively or concurrently with an anticipated but yet to be ordered *state* court sentence. Consistent with this Court’s reasoning for granting certiorari in *Setser*, we ask the Court to grant certiorari and decide whether a

federal court can order a defendant to serve a sentence consecutively or concurrently with a yet to be ordered sentence in another federal court.

**B. Argument.**

As presented above, *Setser* addressed “whether a district court, in sentencing a defendant for a federal offense, has authority to order that the federal sentence be consecutive to an anticipated state sentence that has not yet been imposed.” 566 U.S. at 233. In other words, the issue was whether a federal court could order its sentence to run consecutively to a state court sentence yet to be ordered. *Id.* Similar to Mr. Rawls’ case, the yet to be ordered state court sentence in *Setser* was for a parole violation stemming from the same illegal drug activity involved in the federal case. *Id.*

The federal court in *Setser* ordered the prison term to be served consecutively to the yet to be ordered state court sentence for the parole violation. *Setser*, 566 U.S. at 233. *Setser* appealed the district court’s ruling to the Fifth Circuit, and ultimately to this Court. This Court held that a federal court has authority to order its sentence to run consecutively (and presumptively concurrently) to a yet to be ordered state court sentence. *Id.* at 244-45.

18 U.S.C. § 3584(a) addresses the consecutive versus concurrent sentence issue. Section 3584(a) states:

(a) Imposition of concurrent or consecutive terms.--If multiple terms of imprisonment are imposed on a defendant at the same time, or if a term of

imprisonment is imposed on a defendant who is already subject to an undischarged term of imprisonment, the terms may run concurrently or consecutively, except that the terms may not run consecutively for an attempt and for another offense that was the sole objective of the attempt. Multiple terms of imprisonment imposed at the same time run concurrently unless the court orders or the statute mandates that the terms are to run consecutively. Multiple terms of imprisonment imposed at different times run consecutively unless the court orders that the terms are to run concurrently.

The *Setser* Court noted that § 3584(a) “says when concurrent and consecutive sentences may be imposed, and specifies which of those dispositions will be assumed in absence of indication by the sentencing judge, does not cover the situation here.” *Setser*, 566 U.S. at 234. “It addresses only ‘multiple terms of imprisonment ... imposed ... at the same time’ and ‘a term of imprisonment ... imposed on a defendant who is already subject to an undischarged term of imprisonment.’” *Id.* at 234-35 (citing § 3584(a)). “Here the state sentence is not imposed at the same time as the federal sentence, and the defendant was not already subject to that state sentence.” *Id.* at 235. Because § 3584(a)’s language did not address the fact scenario presented in *Setser*’s case, this Court had to determine Congress’ likely intention when it enacted the statute.

The *Setser* Court recognized that “[j]udges have long been understood to have discretion to select whether the sentences they impose will run concurrently or consecutively with respect to other sentences that they impose, or that have been imposed in other proceedings, including state proceedings.” *Setser*, 566 U.S. at 236

(citation omitted). Further, “a large majority of the federal appellate courts addressing the question have recognized a similar authority in the context here, where a federal judge anticipates a state sentence that has not yet been imposed.” *Id.* (citations omitted).

The *Setser* Court ruled, “[w]e find nothing in the Sentencing Reform Act, or in any other provision of law, to show that Congress foreclosed the exercise of district courts’ sentencing discretion in these circumstances.” *Setser*, 566 U.S. at 236-37. In other words, this Court ruled that a federal district court can order its sentence to run consecutively (and presumptively concurrently) to an anticipated but yet to be ordered state court sentence. *Id.* at 244-45.

The facts in Mr. Rawls’ case differs from the facts in *Setser*. On one hand, *Setser* involves a federal court ordering a sentence to run concurrently or consecutively to an anticipated but yet to be ordered state court sentence. On the other hand, Mr. Rawls’ case involves a federal court ordering a sentence to run concurrently or consecutively to an anticipated but yet to be ordered federal court sentence by a different district judge.

The *Setser* Court was careful to note that it was not deciding whether a federal court could order a sentence to be served consecutively or concurrently with an anticipated but yet to be ordered federal court sentence. *Setser*, 566 U.S. at 241 n.4. However, Mr. Rawls contends that the reasoning in *Setser* should apply to

his case. That is, a federal court should be allowed to order a sentence to run concurrently or consecutively to an anticipated but yet to be ordered sentence in another federal court.

The following Fifth Circuit precedent appears to be at odds with Mr. Rawls' argument. We ask this Court to grant certiorari and clarify the issue

In a decision predating *Setser*, the Fifth Circuit addressed whether a federal court can order a sentence to run consecutively to an anticipated sentencing order in a different federal court. The Fifth Circuit held, “§ 3584 does not provide a district court authority to order that its sentence run consecutively [or presumptively concurrently] to an anticipated but not-yet-imposed federal sentence.” *United States v. Quintana-Gomez*, 521 F.3d 495, 498 (5th Cir. 2008).

After this Court decided *Setser*, the Fifth Circuit decided *United States v. Nava*, 762 F.3d 451 (5th Cir. 2014). Nava was convicted in the Northern District of Texas and sentenced to 27 months in prison for illegal reentry of a previously deported alien. *Id.* at 452. The judgment stated that the sentence “will run consecutively with any sentence of imprisonment imposed in his pending revocation proceeding in the Western District of Texas.” *Id.* Nava did not object to running the two sentences consecutively. *Id.*

Based on Nava's failure to object in district court, the Fifth Circuit applied a plain error standard of review. Under plain error review, a court “may correct a

forfeited error in its ‘sound discretion’ on a showing of (1) an error (2) that is clear or obvious, (3) that affects substantial rights, and (4) that seriously affects the fairness, integrity, or public reputation of judicial proceedings.” *Nava*, 762 F.3d at 452 (citations omitted).

The *Nava* court ultimately affirmed the Northern District of Texas’ order to run the two sentences consecutively. *Nava*, 762 F.3d at 454. But it did so because *Nava* failed to meet prong three of the plain error analysis. *Id.* That is, he did not prove that the error affected his substantial rights. *See id.*

The relevance of *Nava* to Mr. Rawls’ case lies in the Fifth Circuit’s analysis of prongs one and two of the plain error analysis. Prongs one and two question whether an error was made (prong one), and if so, whether the error was clear and obvious (prong two). *Nava*, 762 F.3d at 452. As to these two factors, the Court held, “[t]he order to run the illegal reentry sentence consecutively with the pending federal sentence is clear and obvious error under prongs one and two.” *Id.* (citing *United States v. Quintana–Gomez*, 521 F.3d 495, 498 (5th Cir.2008)).

Under the Fifth Circuit’s holdings in *Nava*, it appears that the law in *Quintana–Gomez* still applies post-*Setser*. That is, a federal court in the Fifth Circuit cannot order its sentence run concurrently or consecutively to an anticipated but yet to be ordered sentence in a different federal court.

And that is exactly what the Fifth Circuit held in Mr. Rawls' case. The court held:

The district court did not commit error in ordering consecutive sentences. We have recognized that "one district court has no authority to instruct another district court how, for a different offense in a different case, it must construct its sentence." *United States v. Quintana-Gomez*, 521 F.3d 495, 498 (5th Cir. 2008); see 18 U.S.C. § 3584(a).

Accordingly, Rawls's sentence is AFFIRMED.

Fifth Circuit Opinion, p. 2.

Based on both the ruling in Mr. Rawls' case and the holding in *Nava*, the Fifth Circuit believes that post-*Setser*, a federal court does not have authority to order a sentence to be served consecutively or concurrently with a yet to be ordered sentence in another federal court. The *Setser* Court was silent on that particular issue. But Mr. Rawls' issue is equally important as the issue that was addressed in *Setser*. Therefore, we ask the Court to grant certiorari and provide guiding law on this important issue.

## VI. CONCLUSION

Based on the arguments presented above, Mr. Rawls asks the Court to grant his Petition for Writ of Certiorari in this case.

Submitted February 12, 2026, by:

*s/ Abby Brumley Edwards*

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**CERTIFICATE OF SERVICE**

I, Abby Breumley Edwards, appointed under the Criminal Justice Act,  
certify that today, February 12, 2026, pursuant to Rule 29.5 of the Supreme Court  
Rules, a copy of the Petition for Writ of Certiorari and the Motion to Proceed In  
Forma Pauperis was served on Counsel for the United States by Federal Express,  
No. 888722929626, addressed to:

The Honorable D. John Sauer  
Solicitor General of the United States  
Room 5614, Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530-0001

I further certify that all parties required to be served with this Petition and the Motion have been served.

s/ Abby Brumley Edwards

**Abby Brumley Edwards** (MS Bar #101320)

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