

No. _____

**In The
Supreme Court of the United States**

GREGORY MAXWELL PALMER,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

On Petition for a Writ of Certiorari
To the United States Court of Appeals
for the Fourth Circuit

PETITION FOR WRIT OF CERTIORARI

JOHN BAKER
FEDERAL PUBLIC DEFENDER
JOSHUA B. CARPENTER
APPELLATE CHIEF
JARED P. MARTIN
ASSISTANT FEDERAL PUBLIC DEFENDER
Counsel of Record
OFFICE OF THE FEDERAL PUBLIC DEFENDER
WESTERN DISTRICT OF NORTH CAROLINA
129 W. Trade Street, Suite 300
Charlotte, NC 28202
704-374-0720
Jared_P_Martin@fd.org

QUESTIONS PRESENTED

I. State defense counsel did not advise Palmer that his guilty plea created a substantial likelihood that he would be denaturalized and deported, rendering his conviction unconstitutional under the Sixth Amendment and *Padilla v. Kentucky*, 559 U.S. 356 (2010). Should evidence of Palmer's unconstitutional conviction obtained in violation of *Padilla* be admitted at a federal trial?

RELATED PROCEEDINGS

United States v. Palmer, No. 23-4538, U.S. Court of Appeals for the Fourth Circuit.

Judgment entered Nov. 18, 2025.

United States v. Palmer, No., 3:21-cr-234, U.S. District Court for the Western

District of North Carolina. Judgment entered August 2, 2023.

TABLE OF CONTENTS

TABLE OF AUTHORITIES iv

PETITION FOR WRIT OF CERTIORARI 1

OPINIONS BELOW 1

JURISDICTION..... 1

CONSTITUTIONAL AND STATUTORY PROVISIONS..... 1

STATEMENT OF THE CASE..... 2

 A. Factual background..... 3

 B. The Fourth Circuit’s ruling below 5

REASONS FOR GRANTING THE WRIT 6

 I. This Court should recognize that unconstitutional convictions based on ineffective assistance of counsel under *Padilla* should not be admitted at trial to prove guilt. 6

 A. This Court's precedent requires the exclusion of unconstitutional state convictions at a trial 6

 B. The Court of Appeals' reliance on *Custis* is misplaced 7

CONCLUSION..... 10

TABLE OF AUTHORITIES

	Page(s)
<u>Cases</u>	
<i>Burgett v. Texas</i> , 389 U.S. 109 (1967).....	6
<i>Custis v. United States</i> , 511 U.S. 485 (1994).....	5, 7, 8, 9
<i>Delgadillo v. Carmichael</i> , 332 U.S. 388 (1947).....	5, 9
<i>Knauer v. United States</i> , 328 U.S. 654 (1946).....	2, 7
<i>Loper v. Beto</i> , 405 U.S. 473 (1972).....	6
<i>Nichols v. United States</i> , 511 U.S. 738 (1994).....	9
<i>Padilla v. Kentucky</i> , 559 U.S. 356 (2010).....	2, 4, 5, 6, 7, 8, 9
<i>United States v. Bryant</i> , 579 U.S. 140 (2016).....	6
<i>United States v. Nichols</i> , 438 F.3d 437 (4th Cir. 2006).....	9
<i>United States v. Palmer</i> , 159 F.4th 221 (4th Cir. 2025)	2, 5
<i>United States v. Seay</i> , 553 F.3d 732 (4th Cir. 2009).....	8
<i>United States v. Watts</i> , 519 U.S. 148 (1997).....	8

Statutes

8 U.S.C. § 1451(e)..... 4
18 U.S.C. § 1425(a) 1, 2, 4
28 U.S.C. § 1254(1) 1
U.S. Const. Amend. VI..... 1

PETITION FOR WRIT OF CERTIORARI

Petitioner Gregory Maxwell Palmer respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit.

OPINIONS BELOW

The Fourth Circuit's published panel opinion (App. 1-12) is available at 159 F.4th 221 (4th Cir. 2025). The district court's judgment (App. 14-21) is unreported.

JURISDICTION

The United States Court of Appeals for the Fourth Circuit entered its judgment on November 18, 2025. App. 13. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS

The Sixth Amendment states in relevant part:

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, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

U.S. Const. Amend. VI.

Section 1425(a) of Title 18 of the United States Code provides:

(a) Whoever knowingly procures or attempts to procure, contrary to law, the naturalization of any person, or documentary or other evidence of naturalization or of citizenship Shall be fined under this title or imprisoned not more than 25 years (if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title)), 20 years (if the offense was committed to facilitate a drug

trafficking crime (as defined in section 929(a) of this title)), 10 years (in the case of the first or second such offense, if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime) or 15 years (in the case of any other offense), or both.

18 U.S.C. § 1425(a).

STATEMENT OF THE CASE

This Court should grant certiorari regarding an important, recurring question of federal law that has not been, but should be, settled by this Court. In *Padilla v. Kentucky*, 559 U.S. 356, 366, 369 (2010), this Court held that a criminal defense attorney must “advise a noncitizen client that pending criminal charges may carry a risk of adverse immigration consequences” under the Sixth Amendment, ineffective-assistance-of-counsel analytical framework. In this case, the Fourth Circuit found that although *Padilla* errors are “serious,” a state conviction based on a *Padilla* error may still be admitted at a federal trial to establish guilt. See *United States v. Palmer*, 159 F.4th 221, 228 (4th Cir. 2025). The Fourth Circuit declined to “create a new exception for *Padilla* errors.” *Id.* But “denaturalization, like deportation, may result in the loss of all that makes life worth living.” *Knauer v. United States*, 328 U.S. 654, 659 (1946). Thus, this Court should explicitly recognize that a conviction based on ineffective assistance of counsel under *Padilla*, is a special type of Sixth Amendment error, similar to a *Gideon* error, that is inadmissible at trial.

A. Factual background

Palmer, a Jamaican native, has struggled with comprehension, language, learning, writing, and reading since childhood. Fourth Circuit Joint Appendix (JA) 30; JA63-64; JA866-883. His IQ score is between 72 and 75, which indicates a significant limitation in intellectual functioning. JA174; JA866-883; JA 987-988. Palmer has also been diagnosed with a language-literacy developmental disorder. JA866-883.

After Palmer immigrated to the United States and married in 2005, JA164, his wife took on the role of helping him complete paperwork and fill out forms. In May 2011, she helped him submit a naturalization application in which he certified on Question 15 that he had not committed a crime or offense for which he was not arrested. JA17-19; JA568-69. In October 2011, he appeared for a naturalization interview and signed the application. The application was approved, and Palmer was granted a Certificate of Naturalization. JA17-19.

In December 2012, Palmer reportedly confessed to sexual abuse. JA813-814. In June 2013, Palmer pled guilty in state court to attempted statutory rape. JA238-243. His state defense counsel didn't advise him that his guilty plea could result in his denaturalization and deportation, and neither did the court that accepted his guilty plea. JA232-243. Palmer was sentenced to a term of imprisonment of between 157 to 198 months in prison. JA238-239.

More than eight years after his state plea and about one month before the expiration of the statute of limitations, a federal grand jury in the Western District

of North Carolina charged Palmer with naturalization fraud in violation of 18 U.S.C. § 1425(a) (Count One). A conviction of naturalization fraud under § 1425 automatically results in revocation of citizenship under 8 U.S.C. § 1451(e). The naturalization fraud charge stemmed from Palmer's failure to admit the 2008 sex offense when he answered "no" to Question 15 on the naturalization application in 2011, which asks: "Have you ever committed a crime or offense for which you were not arrested?" JA17. Section 1425(a) makes it a crime to "knowingly procure [] . . . , contrary to law, the naturalization of any person."

Palmer filed a motion in limine seeking to exclude evidence of the 2013 state conviction because the conviction violated the Sixth Amendment. JA205-249. He argued that his state plea and conviction resulted from his lawyer's ineffective assistance of counsel, in violation of his Sixth Amendment rights under *Padilla v. Kentucky*, 559 U.S. 356 (2010), because his lawyer failed to warn him that pleading guilty to the state charges carried a risk of denaturalization and deportation. JA205-249. Palmer asserted that he would not have pleaded guilty if he had received adequate advice and that evidence of his guilty plea should be excluded from trial. JA205-249.

After a hearing in which the court refused to consider affidavits from Palmer, JA234, and an expert witness who opined that the conduct of Palmer's attorney was not objectively reasonable, JA244-249, the district court denied the motion. JA389-393. In the court's view, the motion was "an improper collateral attack," and state counsel was not ineffective. JA389-393; JA751-756.

At trial, the defense argued that Palmer did not have the cognitive ability to understand Question 15 on the application. The government admitted evidence of the 2013 state conviction, and the jury returned a verdict of guilty. JA748. At sentencing, Palmer was sentenced to six months' incarceration to be served concurrently with his existing state sentence. JA831.

B. The Fourth Circuit's ruling below

On appeal to the Fourth Circuit, Palmer argued, *inter alia*, that the district court's admission of the 2013 state conviction violated his Sixth Amendment Rights under *Padilla*. Palmer asserted that "denaturalization and deportation are uniquely severe penalties" because they are 'the equivalent of banishment or exile.' *United States v. Palmer*, 23-4538, Op. Br. at 48 (citing *Padilla*, 559 U.S. at 373 (quoting *Delgado*, 332 U.S. at 390-91)). As such, Palmer argued that a "*Padilla* error results in the defendant's uninformed relinquishment of a uniquely fundamental federal right," and therefore "suppressing the result of a *Padilla* error in a subsequent federal criminal trial is justified." *Id.* at 57.

The Fourth Circuit affirmed. The Court "presume[d] that state convictions and guilty pleas are valid" and held that there is "only one exception to that strong presumption: when a person is deprived of his right to counsel." *Palmer*, 159 4th at 228. The Fourth Circuit held that this Court "has declined to extend that exception to ineffective assistance of counsel claims." *Id.* (citing *Custis v. United States*, 511 U.S. 485, 496 (1994)). Accordingly, the Fourth Circuit declined to "create a new

exception for *Padilla* errors” and found “no principled basis to distinguish *Padilla* errors from other ineffective assistance of counsel claims.” *Id.*

REASONS FOR GRANTING THE WRIT

I. This Court should recognize that unconstitutional convictions based on ineffective assistance of counsel under *Padilla* should not be admitted at trial to prove guilt.

A. This Court’s precedent requires the exclusion of unconstitutional state convictions at a trial.

This Court has held that a conviction obtained in violation of an individual’s Sixth Amendment Right to Counsel cannot “be used against a person . . . to support guilt.” *Burgett v. Texas*, 389 U.S. 109, 115 (1967). The Court reasoned that “since the defect in the prior conviction was denial of the right to counsel, the accused in effect suffers anew from the deprivation of that Sixth Amendment right.” *Id.* Thus, the “admission of a prior criminal conviction which is constitutionally infirm under the standards of *Gideon v. Wainwright* is inherently prejudicial.” *Id.*; *see also United States v. Bryant*, 579 U.S. 140, 150 (2016) (“It is undisputed that a conviction obtained in violation of a defendant’s Sixth Amendment right to counsel cannot be used in a subsequent proceeding ‘either to support guilt or enhance punishment for another offense.’”) (quoting *Burgett*, 389 U.S. at 115).

Relying on *Burgett*, this Court also held that “the use of convictions constitutionally invalid under *Gideon v. Wainwright* to impeach a defendant’s credibility deprives him of due process of law.” *Loper v. Beto*, 405 U.S. 473, 483 (1972). The Court found that the “absence of counsel impairs the reliability of such

convictions just as much when used to impeach as when used as direct proof of guilt.” *Id.*

Similar to *Gideon* errors, a lawyer’s failure to inform a client that his guilty plea might result in denaturalization and deportation is distinct from other Sixth Amendment issues because of the severity of the consequences flowing from the error. Many defendants would prefer to risk a long prison sentence after a trial rather than pleading guilty to a crime that will likely result in denaturalization and deportation. Because of all of the consequences of permanent exile, the Supreme Court has recognized that “denaturalization, like deportation, may result in the loss of all that makes life worth living.” *Knauer v. United States*, 328 U.S. 654, 659 (1946). A *Padilla* error results in the defendant’s uninformed relinquishment of a uniquely fundamental federal right. Thus, suppressing the result of a *Padilla* error in a subsequent federal criminal trial is justified.

B. The Court of Appeals’ reliance on *Custis* is misplaced.

In *Custis*, this Court did not establish a *per se* rule that previously unchallenged state convictions cannot be challenged in a federal prosecution. Rather, the Court acknowledged that the use at sentencing of convictions obtained in violation of the defendant’s Sixth Amendment right to appointed counsel under *Gideon* “is inherently prejudicial and to permit use of such a tainted prior conviction for sentence enhancement would undermine the principle of *Gideon*.” *Custis*, 511 U.S. at 495.

In rejecting *Custis*'s ability to challenge his prior convictions based on ineffective assistance of counsel in a federal sentencing proceeding, the Court reasoned that "failure to appoint counsel for an indigent defendant [is] a unique constitutional defect." *Id.* at 496. It also reasoned that investigating a failure-to-appoint claim is not difficult, because "failure to appoint counsel at all will generally appear from the judgment roll itself, or from an accompanying minute order." *Id.* The Court contrasted ordinary "claims of ineffective assistance of counsel," which "would require sentencing courts to rummage through frequently nonexistent or difficult to obtain state-court transcripts or records that may date from another era, and may come from any one of the 50 states." *Id.*

Custis's limitation on Sixth Amendment ineffective-assistance challenges to the use of prior convictions should not limit a court's ability to preclude admission at trial of an unconstitutional conviction obtained in violation of *Padilla*.

First, *Custis* addressed the use of prior convictions at sentencing, not as evidence of guilt at a trial. 511 U.S. at 496. As compared to criminal trials, in sentencing proceedings courts are allowed to rely on less reliable evidence and to provide less protection of defendants' rights to preclude consideration of evidence. For instance, the Federal Rules of Evidence do not apply at sentencing, and "sentencing judges have considerable latitude to consider evidence at sentencing." *United States v. Seay*, 553 F.3d 732, 741-42 (4th Cir. 2009). Additionally, the government need only prove relevant conduct at sentencing by a preponderance of the evidence rather than beyond a reasonable doubt. *United States v. Watts*, 519

U.S. 148, 156 (1997). The sentencing process . . . [is] less exacting than the process of establishing guilt.” *United States v. Nichols*, 438 F.3d 437, 440 (4th Cir. 2006) (quoting *Nichols v. United States*, 511 U.S. 738, 747 (1994)). Thus, under *Custis*, good reasons exist to exclude from trial evidence about a prior conviction obtained in violation of the defendant’s Sixth Amendment right to effective assistance of counsel.

Second, adding to the increased requirements for evidence presented at trial, denaturalization and deportation are uniquely severe penalties—they are “the equivalent of banishment or exile.” *Padilla*, 559 U.S. at 373 (quoting *Delgado*, 332 U.S. at 390-91). In *Custis*, the Court identified a “theme that failure to appoint counsel for an indigent defendant [is] a unique defect.” 511 U.S. at 496. Similar to *Gideon* errors, a lawyer’s failure to inform a client that his guilty plea might result in denaturalization and deportation is distinct from other Sixth Amendment issues because of the severity of the consequences flowing from the error.

Third, *Padilla* errors are not difficult to identify from state court records. Determining whether the state conviction is one that subjects a defendant to deportation or denaturalization often will require no more than identifying the state conviction, comparing it to federal statutes to determine whether it will result in deportation, and—in the case of a naturalized citizen—determining whether they were naturalized after the alleged criminal conduct occurred. *See Padilla*, 559 U.S. at 368 (noting, “*Padilla*’s counsel could have easily determined that his plea would make him eligible for deportation simply from reading the text of the statute”). The

only question will be whether counsel advised the defendant whether he would face deportation or denaturalization consequences as the result of his guilty plea. Answering that question will not require courts to delve into musty state court files; it merely requires an affidavit from the defendant or trial counsel stating whether counsel provided the advice.

These factors demonstrate that a *Padilla* error, like a *Gideon* error, is a special type of Sixth Amendment error. That kind of Sixth Amendment error should prevent the admission into evidence of guilty pleas that were obtained without legal advice regarding the denaturalization and deportation risks attached to the defendant's admission of guilt. The Fourth Circuit erred when it ruled that the exclusionary rule could not be applied to Palmer's state conviction on Sixth Amendment grounds.

CONCLUSION

For the foregoing reasons, this Court should grant the petition for a writ of certiorari.

Respectfully submitted,

John Baker
FEDERAL PUBLIC DEFENDER FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
Joshua B. Carpenter
Appellate Chief
Jared P. Martin
Assistant Federal Public Defender
Counsel of Record
129 West Trade Street
Suite 300
Charlotte, NC 28202
704-374-0720
Jared_P_Martin@fd.org

February 12, 2026