25-7340

No. _____

ORIGINAL

FILED
MAR 02 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

MICHAEL LADRE DUNBAR — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. NINTH CIRCUIT COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MICHAEL L. DUNBAR
(Your Name)
FCI PHOENIX
37910 N. 45th Ave
(Address)
Phoenix Az 85086
(City, State, Zip Code)
(619) 755-4650 [Power of Attorney Father Greg Ruffin]]]
(Phone Number)

QUESTION(S) PRESENTED

FIRST:

Whether a defendant's Sixth Amendment right to proceed pro se under Faretta v. California, 422 U.S. 806 (1975), extends to a first appeal (direct appeal) as of right.

SECOND:

Can the Ninth Circuit apply later enacted statutory formulation to appellant/petitioner (Mr.Dunbar's) trial rights and outcome thereby depriving him of a defense that was available under governing law at the time of trial and creating a retroactive change in the legal consequences of his conduct in violation of the Ex Post Facto clause?

THIRD:

In a 1591 prosecution, when a defendant is explicitly notified he need not defend against force, fraud, or coercion, does the government have to prove the only one fact that triggers a 10 year mandatory minimum sentence and all punitive enhancers recieved at the punishment stage?

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[redacted]

LIST OF PARTIES

PETITIONER: Michael Ladre Dunbar

RESPONDENTS: United States Of America

LAST COURT THAT RULED ON MERITS: U.S. Ninth Circuit Court Of Appeals

TRIAL/ DISTRICT COURT (D.C.): Southern District Of California

RELATED CASES

Civil: D.C. No.:21-cv-02001-TWR-(KSC); **9th Cir. No.:**22-55939

Habeaus Corpus: D.C. No.:22-cv-00875-TWR-(BGS); **9th Cir. No.:**22-55848
[relevant 9th Cir. MEMO dkt.Entry#14, see APPENDIX C at 5 (forced appointed appellate counsels ignored, "Dunbar is not precluded from raising 28 U.S.C. unlawful detention 4th Amendment arguments on direct appeal)]

JURISDICTIONAL STATEMENT

The United States Ninth Circuit Court of Appeals issued a memorandum in petitioner's case on May 9, 2025 **(APPENDIX A at 2).** Petitioner timely filed three notifications to the Circuit for a rehearing and suggustion for en banc; petitioner's counsel filed to be relieved at this time. The Ninth Circuit granted her relieving and petitioner had to submit petition limited to counsel's raised issued. Petition for rehearing/ Suggustion for En banc was denied on December 16, 2025 **(APPENDIX A at. 3).** A mandate was issued on December 30, 2025 **(APPENDIX A at. 4)**

This court's jurisdiction is invoked under 28 U.S.C. 1254(1).

CONSTITUIONAL AND STATUTORY PROVISIONS

AMENDMENT V: No person shall be held to answer for a infamous crime unless on indictment of a grand jury, nor shall a person be deprived liberty without 'due process' of law.

AMENDMENT VI: In all criminal prosecutions, the accused shall enjoy the right to trial by an impartial jury of the district wherein the crime shall have been committed, and be informed of the NATURE and the 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 defense.

AMENDMENT XIV: No state shall deprive any person of life, liberty, or property without due process of law, nore deprive any person the equal protection of the laws.

OTHER PROVISIONS

(2023) USSC Amendment 821 "Status Points" 4A1.1(e):
Decreases the number of status points recieved by individuals who committed their offense while under a criminal justice sentence.

USSG 2G1.3 cmt.n.3(B)(2014):
Advises courts to closely look to the facts in finding if the minor's voluntariness was compromised.

Intervening Arrest Ninth Circuit Precedent:
In United States v. Leal-Felix, 665 F.3d 1041 (9th Cir. 2011)(En Banc) (an arrest is commonly used as it is defined: "imprisonment")

CASE LAWS:

DECLARATION BY PETITIONER

Under Penalty of Perjury I declare on this 2nd day of March 2026 the following and believe the following to be true:

1. It's well established an invalid indictment cannot be saved by a bill of particulars (or oral theories). see Russell v. United States, 369 US 749,82 S.Ct 1038, 8 L.Ed.ed 240 (1962); also see United States v. Keith, 605 F.2d 462, 464 (9th Cir. 1979). If allowed in my case the role of the grand jury as an intervenor will be circumvented. The prosection, through the court in my case was allowed to second guess what actually happened within the grand jury; with the help of the court filled in the gaps with assumed transpired theories:

   The Court made suggustions to what the governments theory under COUNT 2 could be. "Wouldnt it be indicative..." or suggusted that there was alleged pornography and that the purpose of travel was to create videos... The prosecution agreed.

   see In Limines August 16, 2022 (D.C. ECF. 312 at 59-61)

   Thus, this is why there should have been a 'Statement of Facts' attached to the grand jury indictment informing me (petitioner) of the nature and cause under my Sixth Amendment. see Hamling v. United States, US 418, 87, 117-18, 94 S. Ct. 2887, 41 L. Ed.2d 590 (1974).

2. My indictment charged 18 U.S.C 1591(a) [not subsection (b)(1),(b)(2), or (c). No phrases of force, fraud, or coercion was included. Likewise, the AUSA explicitly confirmed:

   AUSA: MS MCGRATH: **"Your Honor, just to clarify my comments, we are not attempting to assert that this is 'ANY TYPE' of coercion because we have not charged force, fraud, or coercion in Count 1.**

   see In Limines August 16, 2022 (D.C. ECF. 312 at 62)

   The indictment also did not mention 'Advertisement'.

3. **See (APPENDIX G at 3 Advertising Offense/Conduct)**, specified that in a case of advertising, it is a defense as to the defendants knowledge of the persons age.

4. In a case of no force, fraud, or coercion [the only conduct that triggers 1591 punishment listed under subsection 1591(b)(1) 15 year mandatory min; "if the offense was not so affected by force, fraud, or coercion"(2020) 1591(b)(2) 10 year mandatory minimum. **See (APPENDIX G at 12)**, because the age of the person triggers the 10 mandatory minimum, such fact(knowledge-mens rea) needs to be proved beyond a reasonable doubt to the jury.

5. The Court confirmed (Six days) before trial Count 1:1591 carries a mens rea. See (D.C. ECF.312 at 24); the AUSA confirmed explicitly their intent ~~to~~ prove under Count 1, that is, to prove in the dysjunctive knowledge or disregard of the fact. See (D.C. ECF. 312 at 96).

6. My verdict form **(APPENDIX C at 2)** has no special findings as to enhancers. The enhancments all involve the nature: "Prohibited Sexual Conduct", defined under USSG 2A3.1 Criminal Sexual Abuse. see 2241; also see 18 USC 2246 deinitions for sexual act, in relvant part: dealing with minors under 16 years of age. See 18 USC 3559(e) 'minor' to mean a person under 17.Lastly, under USSG 2G1.3cmt.n.1 the definitions are all under USSG2A3.1, which is plainly carrying a different set of elements verses 'commercial sex act' as defined under 1591(e)(2020). I had a sixth amendment right to prepare a defense against such accusation before imposition of sentence; I had a right to jury findings. The enhancers don't apply and substantial punishment increase is not justified by facts found by jury beyond a reasonable doubt.

I MICHAEL L. DUNBAR DECLARE THE FOLLOWING TO BE TRUE IN SUPPORT OF PETITION ON THIS 2nd DAY OF MARCH 2026 M. Dunbar

STATEMENT OF THE CASE

1. Warrantless Arrest:

Petitioner, Michael Ladre Dunbar, was arrested by San Diego Police Department on May 7, 2020 at 1:15pm without a declaration of facts, a complaint being filed, or a magistrates permission. No crime took place. There was suspicion of human trafficking a minor. Mr.Dunbar was booked into San Diego county jail after the investigation in reckless disregard of the following facts discovered by San Diego District attorney investigator Luis Pena; through the investigation (i.e. interviews of allege victim MF [redacted] **[APPENDIX D]** and her mother Noriama Maldonado **[APPENDIX E]**); there was no evidence to support a prosecution. see Federal Complaint declarant's (Luis Pena's) explicit statement in **(APPENDIX F at 6)**:

> "I looked at everything on his phone...all your guy's conversations and kind of everything in that. And-- I couldn't book him and keep him in state custody..." (App F at 6)

Luis Pena factually did book petitioner in state custody without a complaint being filed. No attorney was provided. No prompt proceeding was provided. see San Diego County Jail Booking information (App F at 2), the arresting agency was not the government but the state. There was no government interest. Mr. Pena #(0A249), a state employee, obtained a search warrant with the sole purpose to, "examine" petitioner's phone to "confirm or disprove his involvement" in the california penal code violations (not governmnent statutes). see (App F at 4 of state search warrant). The warrant purpose was a fishing expedition and once Mr.Pena disprove petitioner's involvement (because he "couldn't book" him in state custody), petitioner should have been set free. Instead the initial warrantless arrest on May 7, 2020, that provided petitioner with no attorney, no proceedings, was circumvented through a federal prosecution by the same prosecuting person San Diego District Attorney personel, (Luis Pena) by filing of federal complaint (D.C. ECF.1 , on May 11, 2020) in reckless disregard of the following:

1 Luis Pena is a San Diego County Investigator (not U.S. Marshall); is 'state' badge # is recorded in Appendix F at.2.

During the investigation (on May 7, 2020), MF explained to Luis Pena how petitioner 'Michael' was in the picture, that is, that she had just recently met him, lied to him claiming to be 21 years old, they met at her job while she was working the drive through window at BurgerKing. see **(APPENDIX D at 2-3).**

In talking about the advertisements, she explained it was her who posted the ads. (App D at 4). "Michael had nothing to do with it"; she explained she always saw it on social medias and knows girls who do it. (App D at 7). Furthermore she showed law enforcement that she understood that the perception of advertising can be percieved as prostitution, but thats not what she does on ads (going on dates). (App D at 5). She calls what she does "escorting". see (Appendix D at 13).

In the stages of petitioners findings of a warrant sufficiency by a magistrate judge, no judge considered the true facts known to Luis Pena. Pena was focused on petitioners criminal history. see (APPENDIX D at 30). When MF continued to explain how much she was in her own control, the more law enforcement disregarded the truths. She explained how she had knowledge of Mr.Dunbar trying to retrieve a job in the month of May. Pena would interject petitioner doesn't work. (App D at 31). She explained her knowledge that Mr.Dunbar had alot of good things going for himself. Mr.Pena began bringing up petitioner's past history of arrest (without conviction-proving ill-will). Finally, MF explained she did not care about the past or Mr.Dunbar's business but only her's. She asserted, he did not benefit off her earnings or her situation. (App D at 33).

She not only explained petitioner did not benefit, but she stated how much money she makes, how she set's her prices by the 'time'. She again re-interated she looks at other girls ads (websites); she disagree's with their prices and set's her own. She explained how people fly her out. This information provided that she was experienced. see (App D at 34-35).

APPENDIX D at 34-35 shows law enforcement: MF created her own pricing; being "called out on it", MF stated the exact set prices listed on her advertisement. [not hearsay].

Luis Pena recieved information that provided MF was engaged in acts of commercial sex (possibly) in her own control and before she met Mr.Dunbar. He refused to release petitioner so he suggusted to MF that he's being nice to her so that he can manipulate her. MF asserted petitioner, did not manipulate her; in fact she was the manipulator. **(App D at 42)**; she asserted no one has a stronghold over her (App D at 40). She even explained how she was on a date with a guy and the guy tried to provide her with drugs ("lines of coke/meth" **[APPENDIX D at 45]**), She told him ,"I don't do that". Luis Pena put in his federal complaint an appearance that petitioner provided drugs to MF. (U.S. Dist. Ct Case No. 20-cr-1700TWR ECF. 1 at 5)[1]

Detective Jennifer questioned MF about her prices and time stating, "damn, girl you aint cheap", MF responded (confidently) "no I'm not". see (App D at 46). Again MF explained and started clapping!! on how she can retrieve money from men without sexual exchange. She states, she understands why the men come to her and their reasons, but that's not her reason, "I'm just here to get your money and to use you so you can leave." see **(APPENDIX D at 47)**

To corrborate MF acts, detective Jennifer and Luis Pena also interview Noriama Maldonado and Juan Diaz (her parents) in a seperate room. see**(APPENDIX E)**. :

The mother (Noriama) [a government trial witness] provided on May 7, 2020 to law enforcement she maintained screenshot (brady exculpatory evid) messeges of MF arranging dates with adult men to meet with her at motel rooms; this was in February 2020 (outside petitioner's indictment by grand jury dates). see **(APPENDIX E at 13-15)**. Noriama also confirmed her daughter MF had moved out around this time, proving she was no runaway but had been living on her own for months. Luis Pena mislead the magistrates as he had corroborating information.

[1] LUIS PENA'S "late" filed complaint [May 11, 2020; he made warrantless arrest May 7, 2020] was made in reckless disregard of the truth. see (Dist. Ct ECF. 183). Mr. Dunbar had a right for a magistrate to be informed information provided on 5/7/20, showed MF explicitly stating DUNBAR did not give her advice on "The Game".

Ms. Maldonado explained how in February she practically hacked MF phone and came across her conduct. (App E at 2-5); MF was telling other adult men that she was 21 years old. She explained that MF stopped working at ihop, and wanted to move out. MF admitted to her mother she uses "websites" to 'promote and advance'...thats were she was getting money from. (App E at 9). Noriama explained she had access to MF money transactions and saw amounts from $60.00 to $150.00 coming in. Also see (App E at 19-21) Noriama explains she has access to transactions and can turn over this evidence of accumalations of monies on MF's own accord (Brady evidence).

Juan Diaz (Noriama's boyfriend) was present during the interviews. He confirmed MF username account looked up by detective Adam Wells called "RicanDoll". (App E at 18); he also confirmed MF's fake user social media accounts. Mr.Diaz explained in observation of MF accounts he observed her engaged in 'promisicious activities' and provocative dancing. (App E at 16). Nonetheless, detective Adam Wells asserted he would obtain this brady evidence (i.e. screenshots of arranged dates, money transactions, user accounts) as Noriama Maldonado (MF mother) confirmed, she has everything. (App E at 14-15).

MF corroborated that in Febraury 2020 she was factually confronted by her mother Noriama about prostitution. **(APPENDIX D at 24-26).** No monies was found on Mr.Dunbar; and MF explained all her monies was in a shoebox at her residence. (App D at 27); she explained she used her money for her rent, her child, clothes. In sum, MF parents explained in February she admitted her conducted; at the time of warrantless arrest of Mr.Dunbar, she not only admitted her conduct but explained to law enforcement that she can't be manipulated because she's a manipulator and manipulates men for their money. see **(APPENDIX D at 42).** None of these facts known to Luis Pena went to a magistrates judge for a independent decision for finding of probable cause.

STATEMENT OF THE CASE

2. Federal Pretrial

The PSR #75 asserts petitioner was released; petitioner's liberty was seized on May 7, 2020 and he has never been released back to his liberty since. On May 11, 2020, Luis Pena filed a federal complaint after seeing he could not prosecute petitioner for the initial decision to make a warrantless arrest on May 7th. The federal complaint was in reckless disregard of the true facts known to the arresting officer, misleading, and omitted relevant information. see(D.C. ECF. 167, 168, and 183 Requesting Evidentiary Hearings.

Petitioner had not recieved a counsel to represent him until coming to federal authorites MCC San Diego holding. He did not waive the indictment process as he sought a preliminary hearing. However, the record shows appointed counsel Carlos Ruan attempted to waive petitioners grand jury proceeding without his consent. The government filed an information. see (D.C. ECF.14 filed June 5, 2020). Petitioner was suppose to have a preliminary hearing set for May 19, 2020, but on the court's own motion, he was precluded from making a record through such proceeding.
The court used Chief Judge order No.27 to stop proceeding due to COVID-19. However, such order held no weight when Carlos Ruan attempted to waive the preliminary hearing. The court set a immediate proceeding. Carlos Ruan did not appear on June 9, 2020 and petitioner relieve him after that proceeding.

Mr.Dunbar wanted motions filed to dismiss the case based on the true facts as he known them to be. No attorney would in a compulsory process go and obtain favorable witness (D.C. ECF. 191 Paloma Bringas), Burger King video of drive thru where petitioner met MF (see Subpoena duces tecums filed by petitioner D.C. ECF. 192). Eventually Mr.Dunbar proceeded pro se after seeing no attorney would get private investigator, experts. He explained to the court he felt force to proceed pro se. see June 23, 2022 proceed (D.C. ECF. 328 at. 7-8)[1].

[1] Six days before trial petitioner furthermore explained he felt forced to proceed pro se. see(D.C. ECF.312 at 84-85)

The Faretta inquiry was held in July 2021 when allowing petitioner to proceed pro se. Petitioner relinqished his pro se status and allow counsel Carolyn Oliver to presume the role of lead cousel on October 1, 2021 (D.C. ECF.145). However shortly after, petitioner wrote a letter to Judge Sammartino requesting to relieve Carolyn Oliver (D.C. ECF. 152) on November 29, 2021. On December 10, 2021 Ms Oliver was relieved , Dunbar proceeded pro se without another Faretta inquiry, and stand by counsel Scott Pactor was appointed.

Before trial petitioner enagaged in plea negotiations. The government expressly offered and represented, under 'Justice Manual Rules For Prosecutors an imprisonment result in **"no more than 78 months BOP imprisonment".** The 18 U.S.C. 3553(a) factors and case facts was considered by the prosecution and it's supervisor's. see **(APPENDIX C at.8-12** PLEA). Stand by counsel informed Mr.Dunbar to stop pleading and proceed to trial with assurance that petitioner would have his experts on his defense presentation team. see **(APPENDIX H at 15** Emails); also see (D.C. ECF. 284-5 PageID:2728, filed September 1, 2022), there Mr.Dunbar requested prior counsel, Sammer A. Zakhour, for clarity on facts justifying under a 10 year mandatory minimum sentence.

Petitioner proceeded to trial for jury findings of facts to exactly what's alleged in his indictment [hence, indictment doesn't contain a declaration of facts]. see (D.C. ECF. 221 PageID:2040 [point XVI][1], filed July 14, 2022 "Ensure the Government Proves All Allegations In Indictment"). Petitioner specifically pointed out the grand jury found a mens rea element as to age of the person being trafficked, that is, that Mr.Dunbar had knowledge and reckless disregarded the fact as to her age status. see Count 1 of the indictment (D.C. ECF. 17). Under Count 2, the indictment alleged 'prostitution' and "any" sexual activity (covering all [including illicit phrase]). The trial court granted petitioner's request at in limines (D.C. ECF.312 at91).

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(1) ECF.221 PageID:2040 requested in the alternative to turn over grand jury transcripts to see what the grand jury actually heard.

In proceeding pro se to trial with the right to control the organization of defense trial strategy and preperation, the district court exercise it's supervisory powers and had stand by counel re-facilitate the avaliabilty of defense experts. see June 23, 2022 proceeding (D.C. ECF.328 at 4). Dunbar informed the court he and stand by had already arranged the avaliabilty of experts for the August 8, 2022 trial set date with Judge Sammartino. (D.C. ECF. 328 at 3).

Stand by counsels role was exceeded outside Mr.Dunbar's request. Additionally the district court ordered Mr.Pactor to facilitate petitioner's Rule 17-Subpoena Duces Tecums materials. see August 19, 2022 (three days before trial) proceeding (D.C. ECF. 313 at 10 granting material; (at 15) ordered stand by to facilitate). Due to the lack of prior counsels disclosure of discovery and the court's lack of order to compel the government to turn over discovery (D.C. ECF. 24 never answered), Mr.Dunbar filed multiple discovery motions. **(APPENDIX H at 16-17)** stand by counsel instructed petitioner on filing subpoena duces tecums; the court waited three days before trial to grant materials.

Mr.Dunbar at trial did not recieve none of his planned rule 17 materials or non of his defense experts appeared through the court's request of stand by counsel to facilitate such aspects of defense. The materials and experts was to be used by the defense to rebut the governments case and provide the jury with evidence to consider during deliberations.

The trial court precluded petitioners defenses from going to the jury. In 2020, 18 U.S.C. 2423(g) provided an affirmative defense to a defendant to show he reasonably believed a person to have reached the age of 18; Mr.Dunbar requested to show the jury he believed the person to have been 21 years of age. see **(APPENDIX G at 11 2020 2423(g))**. At the in limines the court (six days before trial confirmed) count 1:18 U.S.C 1591(a) carried a mens rea as to age. see (D.C. ECF. 312 at 24-25). The court explained this when precluding defense under 'reasonable belief' (D.C. ECF.209) and 18 U.S.C. 2423(g)(2020).[1]

[1] The grand jury presentor (AUSA KAtherine E.A. McGrath) affirmed intent to prove at trial, therefore petitioner had a right to depend on this explicit notification. see (D.C. ECF. 312 at 96)

During the trial, the court exclude Mr.Dunbar from showing the jury then trial exhibit Q (D.C. ECF. 299 at 215, Trial Day 2 cross-exam of MF [redacted]). The evidence excluded was MF [redacted] and Noriamas May 7, 2020 audio recorded and corroborated admissions. At in limines, petitioner made it clear to the court he wanted stand by counsel to cross-exam the allege victim. This was to ensure no prejudice and to ensure the entry of the evidence. However, in an ambushing method, stand by counsel said Mr.Dunbar had to be the one to cross-exam the allege victim and limited his role (duties) if petitioner did not cross her and made him do it.

Nonetheless, the jury was instructed to not have to consider Mr.Dunbar knowledge or recklessness as to her age charging 18 U.S.C. 1591(c). On Trial Day 3 (at the beginning), it was clear Mr.Dunbar did not review any jury instructions. Stand by counsel was suppose to review the electronic filed instructions with Mr.Dunbar the evening of trial Day 2. There was ex-parte email communications between all parties but petitioner on the change to the one fact that trigger's the 10 year mandatory minimum. [the persons age]. see **(APPENDIX G at 12,** San Diego Federal Defenders [2016] for Defenses in Sex Trafficking Cases).

In the In Limines proceeding the prosecution explicitly verified there was no "jencks material". (D.C. ECF.312 at 76). The prosecution [ASUA Katherine E.A. Mcgrath] was the only witness to the grand jury. She explicitly confirmed: **(1)** this case has no force, fraud, or coercion. see (D.C. ECF.312 at 62). The indictment in this case did not charge 1591(b)(1) or (2). Petitioner did not need to defend against the conduct listed under those subsection; likewise there was no planning to defending against the base offense given at sentencing.(1) see USSG 2G1.3(a)(2)(2021 Guidelines Manual)(2)

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(1) pursuant to Rosales-Mireles v. United States 585 U.S. 138 S.Ct. 201 L. Ed. 2d. 376, 2018 US LEXIS 3690 (2018) "Lower court erred not remanding for resentencing due to miscalculation of federal sentencing Guidelines ranges. Mr.Dunbar's substantial rights are affected under the plain error.

(2) see (APPENDIX G at 5)

The court explained petitioner can tell the jury,"in closing arguments you could certainly tell jurors, not only did you hear from the witness stand, but there is also this piece of evidence that confirms and corroborates that testimony." see (D.C. ECF.312 at 90). With this, petitioner offered himself as a witness; he entered the witness stand in front of the jury. However, without petitioner's request, stand by counsel interupted and requested a recess. During the recess he persuaded Mr.Dunbar not to testify by asserting his trial was doomed and again limited his role as stand by counsel by stating what he's not going to help with closing. Petitioner returned from the recess and did not testify.

Petitioner wanted to enter to the jury the May 7, 2020 audio recorded prior statements that in sum showed MF clapping about how she manipulates men for money without sexual exchange, sets her own prices, and confirmed she is a manipulator who can't be manipulated. It was unreasonable that stand by counsel (a license attorney) would stop a pro se decision from testifying when counsel knew petitioner trial strategy was to use the May 7, 2020 party admissions to persuade the jury in good faith.

Petitioner was found guilty from the prosecutions presentation of an advertisement, exlusions of defense evidence, exlusion of defense theory and affirmative defense. MF "expressed 'a desire not to particpate in the trial;" she asserted she didn't remember what happened and that she lied about her age." see (APPENDIX C at 6-7). MF still appeared three weeks later and testified that Mr.Dunbar sold her "a dream."[1] However on cross-examination of the AUSA's Human Trafficking Expert Chase Chiappino, it was discovered before the proceeding he was provided a Article on 'Ending the Game', which created the phrase selling the dream. He did not know where the phrase came from as an expert.[2] see(Trial Day 3, ECF. 300 at.527-29, Chase Chiappino testimony).

Petitioner was denied sentencing counsel (D.C. ECF. 361). The court answered all post trial motions on sentencing day and imposed three enhancers. On his first appeal he was prohibited from proceeding pro se to raise issues.

1 see Trial Day 2 ECF. 299 at 184.
2 see Trial Day 3 ECF. 300 at. 527-29.

A. THE COURT SHOULD DECIDE WHETHER FARETTA'S RIGHT TO SELF-REPRESENTATION EXTENDS TO DIRECT APPEAL:

1. Legal Relevant Background:

Faretta v. California, 422 U.S. at 818-834 (1975), established that the Sixth Amendment includes a constitutional right to a criminal defendant to proceed pro se at trial. Grounded in the Sixth Amendment is one's right to make fundamental choices about one's defense. With intent to protect, stand by counsel is provided to the pro se defendant. The Supreme Court addressed the permissible role of stand by counsel and is instructive about how court's can protect" appellate process while respecting a defendant's choice to self-representation. see Mckaskle v. Wiggins, 465 U.S. 168 (1984).

Before Faretta, in Douglas v. California, 372 U.S. 353 (1963), it was recognized that the Sixth Amendment guarantees assistance of counsel and the Supreme Court understood a need for special protections for'first appeals' as of right under the Sixth Amendment. This meant conclusion that a 'first' appeal (direct/ interloctory) review appeal is an important stage in the criminal process for which [meaningful/ effective] counsel is necessary to protect (Mr.Dunbar's) rights to a meaningful appeal.

The Douglas case did not squarely address if under the Sixth Amendment 'right to counsel', could an appellant waive counsel and proceed pro se under faretta. The court did not address if a defendant has already proceeded pro se could he continue on review (first appeal).

2. Practical Concerns By Appellant Could Have Been Addressed Without Out Right Denying Appellant a Constitutional Right To Be Heard:

More recent Supreme Court rulings favor petitioner's standing, that is: a defendant who proceeds pro se at trial should be allowed to proceed pro se on his/her direct appeal; Faretta should continue, otherwise the lower court

violated petitioner's Sixth Amendment right to counsel and Faretta proper inquiry.

In 2022, the Supreme Court in People v. Delgadillo 521 P.3d 360, 302 Cal. Rptr. 3d 153, (2022) explained on appellant's 'first' appeal Wende procedures (review of the entire record) is applicable. see People v. Wende 25 Cal. 3d 436, 158 Cal. Rptr. 839, 600 P.2d 1071. (1979); the Wende procedure is a procedure compelled by the constitutional right to counsel under the Fourteenth Amendment. Wende at pp.439, 441, 158 Cal. Rptr. 839,600 P.2d 1071; see Pennsylvannia v. Fineley 481 U.S. 551, 554-57, 107 S.Ct. 1990 95 L. Ed. 2d 539 (1987).

In Ander's v. California 386 U.S. 738, 87 S. Ct. 1396, 18 L.Ed.2d 493 (1967)... counsel advised the court petitioner wished to file a pro se brief. Id. at. pp. 739-740, 87 S. Ct. 1396. After petitioner's filed brief, the court affirmed conviction; the U.S. Supreme Court reversed concluding that the procedures was inadequate under the fourteenth Amendment. at p.741, 87 S. Ct. 1396 (ander's).

In this case [Ninth Circuit No. 23-50036], petitioner filed: Docket Entries **"Relieve Appointed Counsel;Leave to Proceed Pro Se" #23, 08/03/23; "Request For Relief of Attorney and Time Extension" #26, 08/07/23**; The motion cited Circuit Rule 4-1(c), Ander's v. California, and U.S. v. Griffy(9th Cir. 1990). The court made petitioner (while he had an attorney) file a outline of arguments in it's decision to allow him to proceed pro se or not. Peitioner already carried an entire proceeding before the district court and was denied counsel at the punishment stage as proof to proceed pro se. see (D.C. ECF.361). The Ninth Circuit cited Martinez v. Court of Appeal of California, 528 U.S. 152, 163 (2000)(holding there is no constitutional right to self-representation on appeal and explaining to ensure the "fair and effecient administration of justice"). **see (APPENDIX B at 2);**

but see United States v. Zuberi, LEXIS 26985 (9th Cir. Oct 16, 2025) explaining under 9th Circuit Rule 4-1(d) "Self-Representation will not be permitted in direct criminal appeals, except in the unusal case where the court determines that allowing the defendant to proceed pro se is the best interest of the defendant, and would not undermine a just orderly resolution of the appeal".

The Ninth Circuit recieve letters (declarations) from appointed counsels asserting, "I do not believe it is in his best interest for me to continue as his counsel." **see (9th Cir. 23-50036, Dkt.Enty #33 at 3 by Vicki Buchanan).**

Ninth Circuit Case No.23-50036, Dkt.Entry #54 was a declaration by appellant asserting a right to be heard through Ander's brief.[1] id at 3 (filed August 27, 2024). The motion explained appellant's best interest on direct appeal. Additionally, Court appointed counsel Gretchen Fusilier filed Dkt.Entry #55 at 5 explaining that her representation "does not serve his best interests"; or "interests". Attorney Fusilier filed this September 2, 2024. The Ninth circuit request I voluntarily dismiss my appeal if I dont want to proceed with counsel. **(Dkt.Entry #56)ORDER).**

3. The Sixth Amendment Errors Below and The Core Rationales Favor In Recognizing a Pro Se Right on Direct Appeal:

In this case, Faretta emphasized petitioner's dignity and autonomy in choosing the manner of defense. Mr.Dunbar filed multiple motions on discovery for/ and in preperation of trial. see (D.C. ECF. 24"Compel Discovery; 107 Subpoenas Private CPS info; 191 "Deposition of Material Witness"; 192 "Subpoena Duces Tecums-Rule 17"; 210 & 255 Request for Hearing on Rule 17 materials; 223 "Ex-Parte Request for Funds to Secure Human Trafficking Expert 82 "Motion to Dismiss (Raising Defenses).

This meaningful autonomy is no less valued on direct appeal (review),

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1 see APPENDIX I at 4

where petitioner faces the lose of liberty from an adverse judgment. Put simply, our justice system allowed Mr.Dunbar to proceed pro se and carry criminal process proceedings adequately. Those proceedings comes with it interloctory review (direct appeal), which Mr.Dunbar has proven to be able to raise claims. It's only fair he have his claims heard, raised, and answered adequately, not swiped and procedurally barred through another person when such person has declarized it was not in Mr.Dunbar's best interest for their representation.[1]

Pursuant to Douglas, petitioner's direct appeal is an important stage of the criminal process. Counsel is constitutionally required. If counsel is required under the sixth amendment (unless waived), the corresponding right to waive presence of counsel and proceed pro se follows from the same reasoning that supports Faretta at trial: 'a competent defendant's choice to control his own defense should not be foreclosed merely because appeal work is typically legalistic. Mr.Dunbar was competent at trial, mentally efficient. see Indiana v. Edwards, 554 U.S. 164 (2008)(recognizing states may insist on representation at trial for certain defendant's lacking mental capacity to conduct proceedings; Faretta is not absolute and that safeguards exists (but for those mental deminished) to protect the integrity of the process.

The district court allowed petitioner to proceed pro se without holding another Faretta hearing [Faretta was held in July 2021; petitioner allowed Carolyn Oliver to be Lead Counsel based on promises]. Immediately petitioner observed counsel had no intent of putting him in a favorable position, wrote a letter to Judge (D.C. ECF.147) and requested a hearing to have counsel relieved (D.C. ECF.152). The court relieved counsel and had petitioner proceed pro se.see (D.C. ECF. 154); No Faretta was held.

Stand by counsel Scott Pactor was appointed. On June 23, 2022,

[1] The declarations by both appellate appointed counsels supported the "unusal case" language of 9th Circuit Rule 4-1(d).

Mr.Dunbar informed the district court (new trial judge-who never held a Faretta inquiry with petitioner himself) that he felt "forced" to proceed pro se due to prior attorney's lack of retrieving avaliable exculpatory (as described in the statement of facts) brady evidence, experts, and private investigators. see (D.C. ECF. 328 at 7-8).

Eventhough petitioner was granted self-representation in the trial court, that is, to control the organization of his defense, the court still positioned stand by counsel in control of organizing important evidence of Mr.Dunbar's defense presentation. The court ordered stand by counsel to facilitate petitioners experts avaliability after Mr.Dunbar explicitly informed the court his experts were already 'facilitated' (avaliable) for the August 8, 2022 trial date set with Judge Sammartino. see (D.C. ECF. 328 at 4). On August 19, 2022 (three days before trial), the court unreasonably granted petitioner's Rule 17 [Subpoena Duces Tecums], eventhough petitioner requested multiple hearings on the materials (under Nixon)[1] long before three days of trial. The court also had stand by counsel facilitate that material. see (D.C. ECF.313 at 15). Under the district courts oral orders to stand by counsel (not pro se Mr.Dunbar), no experts or Rule 17 defense discovery evidence was made avaliable for trial.

4. This Cases Procedural Facts, The Sixth Amendment Right To Counsel under Faretta, McKaskle v. Wiggins, Ander's, Delgadillo(2022), and other Conflict Precedents Warrants Resolution:

Petitioner has a Sixth Amendment right to counsel at every critical stage of the criminal process; that should include the one (first) review interloctory stage [direct appeal]. Proceeding pro se, petitioner had a right to have recoreded errors reviewed (i.e. Late Grant of Rule 17 material, Denial to obtain favorable witness ECF.191 or obtain exculpatory impeachment material ECF.107, denial of affirmative defense under (2020) 18 USC 2423(g) or ECF.209), [reasonable belief 20.24 of Ninth Circuit Jury Instruction Manual 2022].

[1] Standards For Granting Trial Discovery via Rule 17. see Supreme Court ruling:

It was Mr.Dunbar who was to control stand by counsel by requesting his assistance. The court requested stand by counsel to facilitate and thereby ruin Mr.Dunbar's trial presentation. Then the court removed stand by counsel and denied petitioner anymore assistance. see (D.C. ECF.361).

This court should resolve whether the Sixth Amendment compels a right to proceed pro se on direct (first appeal) especially when like in petitioner's case, trial-proven Faretta waiver's are involved. It's necessary to explain why a defendant's constitutional recognized right can be waived, self-representation accepted at trial, but doesn't extend at least in some form to one's direct appeal (first appeal). [Ander's Brief]; see (9th Cir. Dkt. Entry 23 at 3.)

Conclusively, petitioner ask the Supreme Court to grant certiorari; his due process rights under the Sixth and Fourteenth Amendments are being overlooked in the lower courts decision. Procedural rights are guranteed to criminal defendants with respect to representation and precedents need to be respected and consistent. The use of discretion by a court affects not only Mr.Dunbar, but numerours defendants nationwide. [APPENDIX.I entirety] clearly provides Mr.Dunbar requesting an opportunity to be heard (at minimum) through an Ander's brief. [APPENDIX Bat.2;5 order denying that request is just plainly and blatantly a disregard to not provide petitioner with an opportunity for possible relief and seal his fate.

No court can ignore the principle from Gideon v. Wainwright, which in a serious case, indigent defendant charged with a serious crime "requires counsel" 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed. 2d 799 (1963). Under the 'equal protection clause',which conferred to appointed counsels as well, the Douglas v. California court showed a first appeal is a critical stage; just as sentencing is a critical stage.see Mempa v. Rhay, 389 U.S. 128, 134, 88 S.Ct. 254, 19 L. Ed. 2d 336 (1967). Appointed appellate counsel ignored my notice (letters) of the district courts denial of request for counsel at that stage. (D.C. ECF.361). Writ of Certiorari shall be granted to petitioner.

REASONS FOR GRANTING THE PETITION

B. THE COURT BELOW AFFIRMED CONVICTION AND SENTENCE IN VIOLATION OF THE EX-POST FACTO CLAUSE

1. Constitutional Law

See United States Constitution Article.1 subsection 9, clause 3 'The Ex Post Facto Clause', providing that "no state shall...pass any... ex post facto law." (section 10). Ex Post facto laws include "every law that changes the punishment and inflicts a greater punishment, than the law annexed to the crime when committed." Miller v. Florida, 482 U.S. 423 (1987)(quoting Calder v. Bull, 3 U.S. (3 Dall.) 386(1798); also see Bouie v. City of Columbia, 378 U.S. 347 (1964)(retroactive enlargement of criminal statutes by judicial construction violates due process/ ex post facto principles).

A law violates the Ex Post Fact Clause "if it crimnalizes conduct that was not a crime when it was committed, increases the punishment for a crime beyond what it was at the time the act was committed, or (like here) deprives a person of a defense available at the time (18 U.S.C 2423(g) (2020)) the act was committed." Rise v. Oregon, 59 F.3d 1556, 1562 (9th Cir. 1995).

2. Application to This Case:

The Ninth Circuit affirmed the Southern District of California's conviction and sentence in it's May 9, 2025 memorandum. (APPENDIX A at 2). The court cited and reasoned the new law of 18 U.S.C. 2423 affirmative defense (2022) only applied to specific defendants based on the new law language under subsection (i).

Petitioner requested the trial court to allow him to take on the burden (not the government) and prove he reasonably believe the person he was hanging out with at her apartment for three days was 21 years old and not a minor. He made this request based on his indictment charge under

Count 2: 18 U.S.C. 2423(a) [2020]. The statute 2423, in 2020 provided an affirmative defense in which it was on the defendant to take on the burden of proof. The statute specifically gave instructions at that time under subsections (f)(2), explaining commercial sex act to be the nature in which a defendant to be charged. Under (2020) definition for commercial sex act, it was defined under 1591(e). Petitioner was charged with the substantial offense of commercial sex act in count 1.

Also at in limines, Mr.Dunbar explained the defense came after the United States v. Taylor, 239 F.3d 994, 997 (9th Cir. 2001) precedent. Congress created the affirmative defense in 2003, in which since no reported case has been able to raise the defense. Petitioner had the facts in support for the defense in good faith. Those facts were:

1. MF [redacted] **lied to petitioner and coroborated by her mother (Noriama Maldonado) three other adult men claiming to be 21 years old.**
2. MF [redacted] **had an apartment** (with a new born child under her care; only adults can get apartments).
3. MF [redacted] **was able to enter into a 21 adult night club** (that sold alcohol) see Trial Day 2 transcripts ECF.299 at 219
4. MF [redacted] **was able to register into a hotel (Arizona,Tempe Ramada Inn).** see Trial Defense Exhibit G, ECF.300 at 583-84 entered [1]
5. **There was no parent over** [redacted]**; she testified she been living on her own since January 2020; Governments trial EXH20** satelite showed petitioner met MF [redacted] in Arizona and entered her number in his phone on April 28, 2020. See Trial Day 2 ECF.299 at. 347-49.

The district court excluded Defense audio evidence of party admissions of MF [redacted] and her mother Noriama Maldonado. Both of them made statements to law enforcement that proved MF [redacted] was under her own control and has been arranging dates with men through the internet since February 2020. see Trial Day 2 ECF. 299 at 215, 278-81. The court precluded the jury from viewing defense evidence that would support (2020) affirmative defense. [May 7, 2020]

Nonetheless, petitioner requested the reasonable belief defense in (D.C. ECF. 209) as well; the Ninth Circuit Jury instruction Manual for 2022 offered 20.24 reasonable belief defense. The district court did not provide any defense theory for the jury to consider and then the Ninth Circuit used the 2022 new law affirming conviction and sentence.

[1] Stand by counsel unreasonably disregarded reciting to the jury the Hotel registration reciete shows any reasonable juror would believe a person to NOT be a minor.

3. The Error . Effects and The Ex Post Facto Doctrine Protection Principles:

This case presents a clear occasion for the court to reaffirm that courts cannot bless retroactive laws that tend to deprive defenses or increase punishment, whether by judicial construction or statute. The Ninth circuit failed to apply ex post facto principles. Under Wende procedures, or even through adequate appointed counsel or seeks relief for their client, it should not have went unmised that the 2018 guidelines manual applies to petitioner (not 2021 which set forth exact offense levels); or that the (2020) 18 U.S.C. 2423(g) defense should have been vehemently argued for at least 5 minutes at oral arguements on April 10, 2025. It's the lack of defense that created a lack of supporting record for petitioner in this case.

Petitioner is not a licensed counsel or a counsel at all, but the information law enforcment recieved on the day of his warrantless arrest should of set him free then. Such information was supported by screenshot messages maintained by allege victims mother (Noriama). A direct appeal, can't violate the ex post facto principles just to bury all cumalitive errors in the lower courts actions in obtaining a conviction.

The Ex Post facto doctrine is offended when the Ninth Circuit judicially wrote a memorandum based on new law in disregard of the actual law (2020 18 U.S.C. 2423(g)) that he argued for as a defense. The reviewing court is suppose to protect against a continuing unlawful punishment. Petitioner had a right to have the jury hear evidence he believed in good-faith supported his release from imprionment; he had a right for that same defense to stand against un-notified enhancements (not considered by a jury).

The doctrine protects against fair notice and finality interests that undergird the criminal law. The jury did not consider one defense theory. In a case that had no force, fraud or coercion (at the time of grand jury passing)(affirmed by AUSA at in limines), the court was to ensure the government proved I knew the persons age beyond a reasonable doubt.

REASONS FOR GRANTING THE PETITION

C. WHETHER THE LOWER COURTS ERRED IN VIOLATION OF A DEFENDANTS SIXTH AMENDMENT RIGHT TO JURY BY INCREASING PUNISHMENT THROUGH JUDICIAL FACT-FINDING AND NOT APPLYING PRINCIPLES OF SUPREME COURT PRECEDENTS:

1. The Law of Apprendi, Alleyne, and it's Progenitor[s]

"Any fact that raises the statutory 'maximum' must be submitted to a jury and found beyond a reasonable doubt. Apprendi, 530 U.S. at 490 (2000). This rule was extented to: "any fact that increases a defendant's mandatory 'minimum' sentence must be submitted to a jury and found beyond a reasonable doubt. Alleyne v. United States, 570 U.S. 99, 133 S.Ct. at.108 (2013).

The newest Supreme Court decision in Erlinger v. United States, 602 821, 144 S.Ct. 1840, 219 L. Ed. 2d 451 (2024) enforced the foundations (reasoning[s]) behind Apprendi and Alleyne. The fifth and Sixth Amendments requires an unanimous jury to make specific findings of facts [not a judge]. id at Erlinger, 602 U.S. at 835-36. Erlinger court stated, "this case is as nearly on all FOURS with Apprendi and Alleyne as any we might imagine." see Erlinger, 602 U.S. at 835.

In this case, petitioner faced no Force, Fraud, or Coercion conduct that he needed to defend against by explicit notice[s]: (1) Petitioner's indictment did not charge (like other defendant[s]) 1591(b)(1) or (2). The AUSA explicitly stated Six Days before trial:

> **AUSA KATHRINE E.A. MCGRATH: Allow me to clarify my comments your honor we are not attempting to assert any coercion in this case, because we have not charged force,fraud, or coercion.**
> motions in limines(D.C. ECF 312 at 62)
> Transcripts

The Sixth Amendment provides a defendant gurantee right to defend against punishment[s]. (APPENDIX C at 12)provides the plea and "no more than 78 months imprisonment" considered under the 18 U.S.C. 3553(a) factors by the government and it's supervisors. For multiple reasons, stemming from stand by counsels gurantees of defense experts (APP H at 15), petitioner exercised his sixth amendment to jury findings of facts. The jury did not find FACTS to support Lifetime registration, enhancements, or base offense level.

2. The Three Enhancer[s] Raised Petitioner's Statutory MINIMUM without Jury Findings under Alleyne:

The 'Justice Manual Rules For Prosecutors' explains that pleas cannot be offered without justification of facts. The plea provided the government and it's supervisor attorney's reviewed the 18 U.S.C. 3553(a) factors and facts and petitioner needed to be imprisoned "No More Than 78 Months in BOP custody". see (APPENDIX C at. 8-12).

Petitioner's verdict form provides the jury only found him guilty of of 18 U.S.C. 1591(a) and 18 U.S.C. 2423(a). Plain language of the USSG reads: Base offense Level 24 under 2G1.3(a) (2018 guidelines Manual); however instead the district court used the 2021 guidline manual to impose penalty which set forth multiple base offense levels. see (APPENDIX G at 4, 2018 USSG Manual).

Nonetheless, using the 2021 guideline manual, because petitioner was convicted for 18 U.S.C. 2423(a), 2G1.3(a)(3) applied, providing a base offense level of 28, not 30 as the district court imposed asserting petitioner was convicted of 18 U.S.C. 1591(b)(2). He was not, and the AUSA explicit notification at in limines hearing provided Mr.Dunbar the absolute right to not have to worry about defending against such penalty. Petitioner's base offense level should have been 28.

Petitioner's criminal history category was scored at 4 total points. With a CHC of 4 and OL of 28, Mr. Dunbar guidelines was 97-121 months. The lower court excluded all requested defense theories from the jury, audio evidence at sentencing (D.C. ECF.368), sentencing counsel(D.C. ECF.361), and all mitigation downward departure requests(i.e. voluntary programs engaged, COVID-19 lockdowns/ waiver of hearings, 3B1.1). In sum, the guidelines did even reach the 10 year minimum; the jury did not find [on verdict form] the one fact that triggers a 10 year minimum punishment. (APPENDIX G at.12)

Additionally, the United States Sentencing Commission eliminated the two additional points the lower court added to petitioner's criminal history for being on probation in a DUI case. The two points are eliminated under USSC Amendment 821 'status points' 4A1.1(e). Furthermore, the lower court counted petitioners PSR# 58 and PSR#60 as two seperate points. The court found there was an intervening arrest. However, under Ninth Circuit precedent United States v. Leal-Felix, 665 F.3d 1037 (9th Cir. 2011)(en banc) the Ninth Circuit explained, (" an arrest is commonly used as it is defined: 'the taking or detainment (of a person) in custody by authority of law... imprisonment'"). id at 1041. Here, Mr. Dunbar in PSR#58, was ticketed as a promise to appear. He was never imprisoned. PSR#58 was added to the Maricopa County docket sheet with case (PSR#60) almost a year later. It was at that time petitioner was sentence, convicted all by the same judge, the same day, for both PSR#58 and #60. There was no intervening arrest. Therefore both criminal histories count as one total point and the two additional point are eliminated, effectively making petitioner's CHC to equal 1 point, category 1, with an offense level 28. His guidelines corrected, are more accurate with the governments plea, that is, 78-97 months imprisonment. The Ninth Circuit erred not vacating sentence and remanding with instructions.[1]

It's important to understand the cumalative errors calculating petitioners offense level and criminal points before enhancer's; it's necessary under Booker decision, to see Mr. Dunbar's guidelines did not "recommend" him to be imprisoned to 10 years based on facts. One major fact is that the grand jury found no force, fraud , or coercion, verified by the AUSA herself (the presentator). A victims condition (age) triggers- 10 year imprisonment.[2]

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[1] Petitioner prays for relief by vacateur and remand "with instructions. Instructions are necessary when moving papers are not rebutted and theres no factual dispute.

[2] The district court ommitted the one fact justifying a 10 year punishment. from the jurys finding of fact process.

The court imposed USSG 2G1.3(b)(2)(B)"unduly influence a minor to engage in prohibited sexual conduct". The court adopted the PSR's recommendation under application note 3(B)"in which the participant is at least 10 years older than the minor...". The court did not accept none of the May 7, 2020 admissions by Noriama and MF that came with corroborating screenshot text messeges -which showed MF acted on her own accord before meeting Mr.Dunbar, she lied to at least three other adult men (proving three others reasonably believe her to be an adult), she was living on her own with a child under her care (not homeless). She had a job, which is where she met Mr.Dunbar, or the facts that she lied to Mr. Dunbar claiming to be 21 years old, was able to rent hotel rooms in her true name. The presumption was rebutted but not accepted.[1]

Nothing in the record shows Mr.Dunbar intentionally induced MF with Drugs, or with alcohol, and she did dates based on these acts. She never testified that she was under the influence going on dates. She explained she told Mr.Dunbar she was 21 years old. They hung out at her apartment, she would be walking around drinking a glass of"wine" (Trial Day 2 ECF. 299 at 254). No evidence provided that she was so vulunerable than the avergae victim of these types of cases. see United States v. Weischeder, 201 F.3d 1250, 1252 (9th Cir. 2000).

The court imposed another two point under USSG 2G1.3(b)(3)(B)"use of computer...engage in prohibited sexual conduct with the minor" The court adopted the PSR's recommendation explaining that because Mr.Dunbar's phone showed he posted an ad for her on May 2, 2020 the enhancement applies. This application is plainly wrong for one, because the only evidence (which was not charged in the indictment) used to obtain conviction was 'one' ad. That advertisement was from May 7, 2020, double counting exist. The jury used this evidence to convict. If you took the ad out the trial, the jury would have no corroborating evidence. see United States v. Reese, 2 F.3d 870, 895 (9th Cir. 1993)[2]

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1 The District Court Abused It's Discretion by unfairly excluding all defense support at trial and sentencing.

2 To increase punishment "Computer Use" enhancer was applied. An advertisement was what the government used in support of obtaining conviction. [impermissible Double-Counting occurred].

Secondly, Prohibited Sexual Conduct is specifically defined under 2G1.3 guidelines. see Application Notes (1) explaining to the reader to see USSG 2A3.1 Criminal Sexual Abuse guidelines. Also see "Commercial Sex Act, defined under 18 U.S.C. 1591(e)(3). Petitioner is notified to defend against commercial sex act, not prohibited sexual conduct. These have two different element factors.[1] For example petitioners case specifically surrounds the nature of Pimp and Prostitution, not personal sexual desires or gratifications (as the district court strategically used these types of verbage in applying enhancers without jury fact findings). see [Sent. Transcripts ECF. at].

Third, under criminal sexual abuse and for purposes of 'Federal Law' [18 USC 3559(e) "minor is person under age of 17"]; for the purpose of USSG 2G1.3(b)(4)(A) "Sex Act" enhancement: the district court plainly erred because under the guidelines there's specific instructions to the applicator to review the definitions. Sex act is defined also under criminal sexual abuse, that is, 18 USC 2246 definitions. There, 2246(d) reads the age limit to be 16 years old, which reflects federal law under 3559(e).

Here, petitioner believed a girl to be 21 years old. At the time of warrantless arrest (May 7, 2020) the girls mother Noriama confirmed three other adult men also were lied to believing MF [redacted] to be 21 years old. Peitioner met this girl at her job while he was in the drive through as (as she testifed), "a regular customer" (Trial Day 2 ECF. 299 at 181). The AUSA explicitly affirmed no force, fraud, or coercion in this case (2 years after the arrest). The lifetime registration, enhancements, and sentence in totality is unconstituional and has placed Mr.Dunbar in prison for over the 2nd degree of a mandatory 15 year minimum; the government did not prove the one fact that would mandate the 10 year. SEE PHOTO OF 2016 FEDERAL DEFENDERS BOOK below:

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[1] USSG 2A3.1 is an offense under aggravated sex crimes. Specifically, Federal Law, when imposing a sentence under 3559 procedures states under subsec (e) "minor" is a person under 17.

"THE CONDITION OF THE VICTIM (relevant to this case based on indictment) IMPACTS THE MANDATORY MINIMUM SENTENCE, THE GOVERNMENT MUST PROVE THE AGE OF THE VICTIM; and/or(when indictment notice charges 1591(b))WHETHER FORCE, FRAUD, OR COERCION WAS EMPLOYED.see Alleyne v. United States, 133 S. Ct. 881 (2014); Burrage v. United States, 134 S.Ct. 881 (2014)."

(APPENDIX G at 3, For Advertisement Conduct): provides "1591(c) specifically excludes advertising offenses. This allows for the inference that the government must prove the defendant had knowledge of the victim's age. see Hamdan v. Rumsfeld, 548 U.S. 557, 580 (2006).

Section 1591 is not a categorical crime of violence for purposes of 18 U.S.C. § 924(c). *See United States v. Fuertes*, 805 F.3d 485, 499 (4th Cir. 2015), *cert. denied sub nom.*, *Ventura v. United States* (Feb. 29, 2016) ("because § 1591(a) specifies that sex trafficking by force, fraud, or coercion may be committed nonviolently-i.e., through fraudulent means-the offense does not qualify as a categorical crime of violence under the force clause.").

25.09.01 Sex Trafficking of Children or by Force, Fraud or Coercion (18 U.S.C. § 1591)

Section 1591 proscribes a number of offenses, which can generally be broken down into four categories: (1) advertising prostitution; (2) recruiting, enticing, harboring providing obtaining, maintaining, patronizing, or soliciting prostitution; (3) benefitting from prostitution; and (4) obstructing the enforcement of this law. The statute encompasses crimes involving minors and adults. What makes section 1591 complicated is that the offenses are based a combination of the actions of the defendant and the condition of the victim. This means not only must the defendant (1) advertise, (2) recruit, or (3) benefit from sex trafficking, but must do so with a victim who is (1) under fourteen years of age, (2) between fourteen and seventeen years old, or (3) was forced, defrauded, or coerced. Because the condition of the victim impacts the mandatory-minimum sentence, the government must plead and prove the age of the victim and/or whether force, fraud or coercion was employed. *See Alleyne v. United States*, 133 S. Ct. 2151 (2013); *Burrage v. United States*, 134 S. Ct. 881 (2014). The "commission of a sex act or sexual contact" is not an element the offense. *United States v. Hornbuckle*, 784 F.3d 549, 553 (9th Cir. 2015).

In "advertising" cases (which the indictment omitted (variance)); which here the government presented in obtaining conviction [Gov't Trial EXH. 1],[2] it is a defense that the defendant did not know the victim's age.[1]

In sum, the lower court excluded petitioner from presenting a defense, then the sentencing court imposed three enhancements that subjected Mr.Dunbar to substantial harm (imprisonment and lifetime registration). Supreme court precedents provided protections to the nation's defendants excersizes their Sixth Amendment right to jury (not judge) on facts that can justify punishment. Petitioner preys this court grants certiorari.

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[1] see APPENDIX G at 3 (citing Hamdan v. Rumsfeld, 548 U.S. 557, 580 (2006))

[2] see TRIAL DAY 1, ECF. 298 at. 49-51.

3. The Sixth Amendment Right to Jury Findings under Alleyne was not Harmless, Invites Continuing Errors In Sentencing Schemes Among our Nation calling for Supreme Court Retroactive Affirmation:

The three enhancements imposed is plainly contrary to Mr.Dunbar's Verdict Form.see (APPENDIX C at. 2). The enhancer's were based on judge found facts. Such facts are functionally elements of a greater offense [USSG 2A3.1 Criminal Sexual Abuse]; the Sixth Amendment requires that such facts be properly notifed to Mr.Dunbar so he can (1) prepare and present a defense, (2) submit special jury instructions, (3) ensure in his trial facts are found beyond a reasonable doubt. Alleyne, 133 S.Ct. at 2155-56. Petitioner's guidelines substantially changes without the enhancers after correcting his base offense level to 28 (with 2021 guidelines) or 24 (with (2018 guidelines manual); petitioners criminal history score needs to be corrected to one point (no intervening arrest). His guideline would be without enhancer's **78-97 months imprisonment (with 2021 Guidelines Manual).** The error is not harmless.

It's necessary to stop the inconsistent lower court disagreements and outcomes across the nation. Some courts allow judge found facts to be discretionary or enhancements get characterized as a sentencing discretion rather than as elements. Justice Thomas made clear in his opinion:

> **"because mandatory minimum sentences increases the penalty for a crime, ANY FACT that increases the mandatory minimum is an 'element' that must be submitted to the jury." Accordingly HARRIS is overruled.** see Alleyne (pp.111-17, 186 L.Ed.2d at 326-30)

Thus, petitioner's verdict form is silent on the enhancer's and his guidelines substantially alter's, this case is the appropriate vehicle for certiorari.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant a writ of certiorari to review the judgment of the court of appeals, vacate the judgment, and remand for proceedings consistent with this court's forthcoming decision, or otherwise grant appropriate relief. This case presents a clear occasion for the court to reaffirm that courts cannot bless increases in punishment, whether by change in law, statute, or judicial construction. It's also necessary for the nation to have understanding on if faretta continues on ones first appeal as of right, especially when a defendant has proved to be competent. Lastly, It needs clarity on the matter of a criminal defendant's defense theory going to the jury; in a case of no force, fraud, or coercion, a defendants defense against the one fact should be submitted to the jury.

Petitioner preys this honorable court grant relief.

Respectfully submitted,

Michael Dunbar

Date: March 2, 2026