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IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 2025

OWEN MASON DORNON, Petitioner,

v.

UNITED STATES OF AMERICA, Respondent

**ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

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I. QUESTION PRESENTED

Whether the Government may enforce an appellate waiver after failing to object when the district court advised the defendant that he had a right to appeal?

II. PARTIES TO THE PROCEEDING

Mr. Owen Dornon is the Petitioner. The United States of America is the Respondent in this matter.

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APPENDIX A – APPEALS COURT ORDER

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IV. TABLE OF AUTHORITIES

Cases:

<i>Hunter v. United States, 24-1063</i>	10,12,13
<i>United States v. Dornon, No. 25-4557 (March 26, 2026)</i>	5

Federal Statutes:

28 U.S.C. § 1254(1)	6
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Other:

Federal Rule of Appellate procedure 27	10
Supreme Court Rule 13	6

OPINIONS BELOW

The order issued by the United States Court of Appeals for the Fourth Circuit, *United States v. Dornon*, No. 25-4557 (March 26, 2026), is reproduced at Appendix A. The judgment of the United States Court of Appeals for the Fourth Circuit is reproduced at Appendix B. The final judgment order of the United States District Court for the Northern District of West Virginia is unreported and reproduced at Appendix C.

VI. JURISDICTION

This Petition seeks review of an order of the United States Court of Appeals for the Fourth Circuit, decided on March 26, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1). No petition for rehearing was filed, and this petition is timely under Supreme Court Rule 13.

VII. STATUTORY PROVISION INVOLVED

The Fifth Amendment to the United States Constitution provides, in relevant part: “No person shall be ... deprived of life, liberty, or property without due process of law....”

VIII. STATEMENT OF THE CASE

A. Proceedings before the district court.

This case involved letters sent by an intellectually disabled defendant. J.A. 223, 230.¹ Owen Dornon was born on March 21, 2000, in Parkersburg, West Virginia. He was in special education throughout school, though, and was the subject of an Individualized Education Plan. J.A. 203, 231. Other than washing dishes in a local restaurant, he has not worked and monthly received \$750 Supplemental Security Income since age 11. J.A. 231.

The mailings in this case occurred while Dornon was incarcerated in connection with an unrelated state case. J.A. 222-223. They were directed toward the judge who sentenced Dornon, West Virginia Circuit Judge Timothy Sweeny. J.A. 222.

On November 1, 2022, a grand jury sitting in the Northern District of West Virginia returned an indictment charging Owen Dornon with seven counts of mailing threatening communications, in violation of 18 U.S.C. §876(c). J.A. 11-17. Dornon appeared for an initial appearance and arraignment on November 30, 2022, pursuant to a writ of habeas corpus ad prosequendum. J.A. 2.

On February 4, 2025, Dornon appeared before United States Magistrate Judge Michael John Aloia in Clarksburg, West Virginia, for a plea hearing. J.A. 24-77. Dornon waived his right to appear before an Article III Judge and, pursuant to his

¹ References to “J.A.” indicates the joint appendix of the parties submitted in connection with the direct appeal to the Fourth Circuit.

written plea agreement, pled guilty to Count One of the Indictment charging him with Mailing Threatening Communications. J.A. 49.

Prior to sentencing, Dornon's counsel filed a sentencing memorandum requesting a downward variance below the applicable range of 30-37 months. J.A. 201- 215. Specifically, the defense requested a prison sentence of 12 months in prison. J.A. 202. This request was based on (1) Dornon's serious intellectual disability, a prominent mitigating factor, which contributed to the commission of the offense; (2) young age and lack of maturity that similarly played a role in the commission of the offense; and (3) Dornon's criminal history category of III which seriously overstated the nature of his actual criminal history and failed to represent his true risk of recidivism. J.A. 214.

At sentencing, the Government acknowledged the validity of Dornon's arguments in favor of a sentence below the applicable guideline range, but, in line with the plea agreement, the prosecutor recommended a sentence within the range. J.A. 101, 103. The district court rejected the recommendations of the parties and varied upward, imposing a sentence at the statutory maximum of 60 months' imprisonment.

The Court filed a Judgment in a Criminal case reflecting the sentence of 60 months in prison, to run consecutively to the term of imprisonment imposed by Judge Sweeney, followed by a term of supervised release for three years. J.A. 122-127.

B. The United States Court of Appeals for the Fourth Circuit.

On October 16, 2025, Dornon filed his notice of appeal. J.A. 8, 173. He filed an opening brief with the Fourth Circuit on January 22, 2026, raising the issue whether the imposition of a 60-month sentence was substantively unreasonable, in light of the mitigating factors presented at sentencing.

The Government moved to dismiss the appeal citing Federal Rule of Appellate procedure 27 and Local Rule of Appellate Procedure 27(f) due to the presence of a waiver provision in the plea agreement.

On March 2, 2026, Dornon responded that he should be permitted to proceed with his appeal. The issue presented by the Government's motion to dismiss – whether the Government may enforce an appellate waiver after failing to object to the district court's advisement of appellate rights – is precisely the same issue pending before this Court in *Hunter v. United States*, 24-1063, since the prosecutor handling Dornon's case before the district court did not object to the district court's statement about Dornon's right to appeal, as the prosecutor failed to do in *Hunter*.

The response explained that (1) Hunter's case arises out of the Fifth Circuit; (2) Hunter filed a Petition for a Writ of Certiorari on April 4, 2025; (3) this Court granted the petition on October 10, 2025, 2025 WL 2885281; and (4) Hunter's case has not been decided.

In an Order issued on March 26, 2026, the Fourth Circuit refused to hold the case pending the decision in *Hunter*, simply stating:

Dornon does not challenge the validity or scope of his appellate waiver. And, after reviewing the record, we conclude that Dornon knowingly and voluntarily waived his right to appeal and that the sentencing issue he raises falls squarely within the scope of the waiver. We also find no reason to defer ruling on the motion until the issuance of *Hunter*. Although the district court advised Dornon that defendants generally have the right to appeal, it went on to say that Dornon had waived most of his appellate rights through the waiver in his plea agreement. The court further advised that there were limited exceptions to the waiver and then outlined the steps to appeal if Dornon desired to do so. Because the district court accurately advised Dornon of his limited appellate rights and the sentencing issue Dornon raises is squarely foreclosed by his knowing and voluntary appellate waiver, we grant the Government's motion to dismiss and dismiss the appeal.

Appendix A at p. 2-3.

IX. REASONS FOR GRANTING THE WRIT

The outcome of this case depends upon this Court's resolution of the issue presented in *Hunter v. United States*. This case presents the same question and involves similar facts. In both cases, the defendants entered a plea agreement containing a general appellate waiver, the district court told the defendant he had the right to appeal, the Government did not object, and the court of appeals later enforced the waiver to dismiss the appeal.

In connection with his appeal to the Fourth Circuit, Dornon made the same argument advanced in *Hunter*—that the Government's failure to object forfeits its ability to enforce the waiver. The Fourth Circuit rejected it in a short order.

The Court's decision in *Hunter* will resolve this case. If the Court holds that the Government cannot enforce an appellate waiver under these circumstances, the judgment below cannot stand and Dornon's appeal must be reinstated. If not, further review is unnecessary. There is nothing about this case that complicates that analysis.

Therefore, this is a case this Court should hold and then remand after *Hunter*. The Fourth Circuit dismissed the appeal solely on the waiver and never reached the merits. There is nothing about Dornon's case that would prevent this Court from applying whatever it decides in *Hunter*. The Court should hold this petition pending *Hunter* and, if appropriate, grant, vacate, and remand.

X. CONCLUSION

For these reasons, Dornon respectfully requests that his petition for a writ of certiorari be held pending the decision in *Hunter v. United States* and, if appropriate, grant, vacate and remand.

Respectfully submitted,

OWEN DORNON

By counsel,

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