

**IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 2026**

No.

**STEVEN BRADFORD
Petitioner,**

v.

**UNITED STATES OF AMERICA
Respondent.**

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

The Petitioner, Steven Bradford, respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeal for the Seventh Circuit which was entered in the above-entitled case on March 18, 2026.

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QUESTION PRESENTED

Whether the Court of Appeals for the Seventh Circuit committed reversible error when the court failed to find that the district court committed plain error when the district court impermissibly considered retribution for defendant's underlying criminal offense in imposing the 36-month term of reimprisonment in light of *Esteras v. United States*, 606 U.S. 185, 145 S.Ct. 2023, 222 L.Ed.2d 438 (2025).

PARTIES TO THE PPROCEEDING

STEVEN BRADFORD
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TABLE OF CONTENTS

QUESTION PRESENTED	i
PARTIES TO THE PROCEEDINGS.....	ii
TABLE OF CONTENTS	iii
TABLE OF AUTHORTITIES	iv
OPINION BELOW	v
JURISDICTIONAL STATEMENT	1
STATEMENT OF THE CASE	2
REASON FOR GRANTING THE WRIT	10
CONCLUSION	11
APPENDICES	12

TABLE OF AUTHORITIES

<i>Esteras v. United States</i> , 606 U.S. 185, 145 S.Ct. 2031, 222 L.Ed.2d 438 (2025)	1, 9
<i>Durrell v. United States</i> , 606 U.S. ____ (2025)	10, 11
<i>United States v. Durrell</i> , Slip Op. 23-3841 (6 th Cir. June 4, 2024).....	10
<i>United States v. Durham</i> , 967 F.3d 575, 580 (7 th Cir. 2020).....	10

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OPINION BELOW

The opinion of the United States Court of Appeals for the Seventh Circuit, entitled *United States v. Steven Bradford*, No. 24-2687, *slip opinion*, (Seventh Circuit March 18, 2026), included in the appendix attached hereto at page A1.

JURISDICTIONAL STATEMENT

The jurisdiction of this Court is invoked pursuant to Title 28, United States Code, Section 1254(1). On March 18, 2026, the United States Court of Appeals for the Seventh Circuit affirmed the district court's decision reimposing a sentence of 36-months of incarceration, the maximum term of reimprisonment, after finding defendant Bradford had violated a term of supervised release after considering retribution for the underlying criminal conviction, in violation of *Esteras v. United States*, 606 U.S. 185, 145 S.Ct. 2031, 222 L.Ed.2d 438 (2025), finding that the maximum possible sentence to incarceration was warranted, and that the district court's decision regarding reimprisonment should only be reversed if the term of reimprisonment is "plainly unreasonable." The sentence reimposed was affirmed on direct appeal in the case of *United States v. Steven Bradford*, 24-2687, slip opinion, (7th Cir. 2026) and attached as Appendix Item A-1. No petition for rehearing was filed.

STATUTORY PROVISION AND SUPREME COURT DECISION INVOLVED

Title 18, United States Code, Section 3583(c) enumerates the factors that a court must consider when deciding to impose supervised release. Eight of the § 3553(a) factors are listed, however, significantly, Section 3583(c) excludes § 3553(a)(2)(A), which covers retribution vis-à-vis the defendant's underlying criminal offense.

Held: A district court considering whether to revoke a defendant's term of supervised release may not consider § 3553(a)(2)(A), which covers retribution vis-à-vis the defendant's underlying criminal offense. *Esteras v. United States*, 606 U.S. 185, 204, 145 S.Ct. 2023. 2046, 222 L. Ed.2d 438 (2025)

STATEMENT OF THE CASE

On December 21, 2021, the assigned U.S. Probation Officer monitoring Mr. Bradford's continual compliance with the conditions of supervised release reported that Mr. Bradford had committed three (3) separate violations of supervised release: Violation No.1 (Grade B Violation, Mandatory Condition): The defendant shall not commit another federal, state, or local crime; Violation No. 2 (Grade B Violation, Mandatory Condition): The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon; and Violation No. 3 (Grade C Violation, Special Condition #3): The defendant shall pay any financial penalty that is imposed by this judgment. The Special Report prepared by the Probation Officer advised that the applicable, advisory range for these violations was 8-months incarceration. The Probation Officer recommended the district court impose a term of 14 months incarceration with no supervision to follow. The district court rejected this recommendation and ordered the matter continued pending the resolution of the pending state criminal charge for the same criminal conduct. By agreement of the parties, the district agreed to continue the court's consideration of the alleged violations to permit defendant Bradford the opportunity to present a defense to the pending state criminal charges or to determine if the charges would be dismissed after further investigation and review by the State Attorney's Office.

On September 9, 2022, the assigned U.S. Probation Officer monitoring Mr. Bradford's continual compliance with the conditions of supervised release reported that Mr. Bradford had committed three (3) separate, additional violations of supervised

release: Violation No. 4 (Grade B Violation, Mandatory Condition): The defendant shall not commit another federal, state, or local crime; Violation No. 5 (Standard Condition #7, Grade C Violation): The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any controlled substance or any paraphernalia related to any controlled substances, except as proscribed by a physician; and Violation No. 6 (Special Condition #2, Grade C Violation): The defendant is prohibited from the use of alcohol and is prohibited from frequenting bars, taverns, or other establishments whose primary source of income is derived from the sale of alcohol. The Supplement Special Report informed the district court that on August 21, 2022, Mr. Bradford had been involved in a motor vehicle accident and that he had been taken into custody after being charged with two counts of DUI, one count of failure to reduce speed to avoid an accident, one count of no proof of insurance and one count of street racing. The Special Report further advised that on August 23, 2021, formal criminal charges were filed in the Circuit Court of Cook County charging defendant Bradford with reckless homicide, aggravated driving under the influence of alcohol, failure to reduce speed to avoid an accident, no proof of insurance and street racing.

Upon review of this Supplemental Special Report, the district court issued an order directing defendant to Show Cause why his supervised release should not be revoked. The district court further ordered defendant to file a "statement to explain why" he "opposes the revocation of his supervised release." The district court set an in-person hearing for September 27, 2022. Thereafter, the district court ordered Mr.

Bradford to be transported from the Cook County Jail to the Federal Courthouse in federal custody, to appear for the in-person hearing.

On July 12, 2024, the district court held an evidentiary hearing. Following hearing, the district court found that defendant Bradford committed supervised release violations 1, 2, 4, 5, and 6. Specifically, the district court found that defendant Bradford violated ; terms of supervised release because the evidence established: (1) he possessed a firearm while of supervised release and had been found guilty of this criminal offense after pleading guilty in state court; (2) that he was driving drunk; (3) he was involved in an accident while speeding and driving drunk; (4) that he used alcohol excessively; (5) that his conduct constituted a violation of a state or local law; and (6) he went to a bar to drink alcohol. Significantly, the district court also made specific findings that defendant Bradford “was involved in an accident while drunk and speeding,” “that the accident was serious,” and “that people were harmed,” while noting that the court was not specifically finding defendant “responsible for reckless homicide.”

The district court thereafter imposed a sentence of 36 months incarceration to punish defendant Bradford for the determined supervised released violations. In explaining its reasons for ordering the defendant to be reimprisoned for the maximum term of 36-months and not a term of reimprisonment within the applicable advisory guideline range of 8-14 months as recommended by the Probation Officer, the district court judge provided the following analysis of the 3553(a) factors:

This is maybe one of the most lopsided records I've ever seen. There are

lots and lots of aggravating factors. It's almost hard to know where to start.

Let me talk about the nature and history of the offense. You've got not one, not two, not three, not four, five offenses. Five violations falling into two different buckets. There is a firearm offense and a traffic offense. Let's talk about the firearm offense first. You are a felon. You knew you shouldn't have had a gun. You had a gun. That was bad. Felons can't have firearms for good reason. It's dangerous. You know, I could summarize everything that you had pled guilty to. There is a good summary of it, Docket No. 3. I'm holding it in my hand here. I've got the arrest report. Suffice it to say, you pled guilty to having a firearm. It was underneath the driver's seat. It's a handgun. There were live rounds with one live round in the chamber. And that was on December 17th, 2021. Putting that date in perspective, your supervised release began on July 8th, 2020. So, let's think about this. You get out of prison after, what, 210 months. You were in prison for 210 months, and you get out, and a year and a half later, you're rolling around town with a handgun. You got out of prison on July 8th, 2020, and you were arrested with a handgun on December 17th, 2021. A loaded handgun with a bullet in the chamber. That's extraordinarily bad conduct. It is a profound violation of the terms of supervised release. It's a very serious violation that took place way too soon. I need to impose a sentence that reflects the seriousness of you rolling around town with a

loaded handgun.

I also have to consider the nature and history of the other offenses here, the traffic violation. I did not find that you killed somebody, but it sure looks to me like you were not a helpful presence in that little situation. You were roaring down the streets speeding, intoxicated, bloodshot eyes, unable to handle a Breathalyzer, unable to do field sobriety, unable to comport yourself appropriately. You're blazing down the street going way too fast. And lo and behold, you were involved in a car crash where someone died. Let me just pause on how horrible this is, folks. People driving around at night just enjoying the town. Do you ever think about that, Mr. Bradford? You were involved in this car accident, and two people are seriously injured, never going to be the same. One person is no longer here. There is an empty seat in the gallery today, Mr. Bradford. That's for the person who is not here because they died. Because of the car accident that you were in. When you were going way too fast. Drunk. I don't know who that person is. I don't know the person's name. It's in the record. I never met that person. That person isn't here in body, but the person is here in spirit. It's horrible. Horrible conduct. You were out on bond, too. You're roaring down the street drunk when you're out on bond for the firearm offense when you're on supervised release. So, let's tie a ribbon on this. You get out on supervised release in July of 2020 --excuse me -- in December of

2021, you are rolling around town with a firearm. It's loaded with a bullet in the chamber. And eight months after that, when you're out on bond, you're roaring down the street drunk and you're involved in an accident that has, what, five cars total, including your car. Four other cars. How horrible. How horrible for this officer, too, to come up on that scene and see two people who were totally unconscious, thought maybe they were dead. How horrible. I mean, the humanity of it all. You know, I've really shown an interest in the victims in this case. I know that one of the victims was able to survive, had life-threatening injuries for months, I think. I don't know how the person is doing now. But was in the hospital for a long time. I was worried about that person. Still am. So, you know, when you talk about the nature and history of the offense, we're way, way off the charts here, folks. You're rolling around town with a firearm, and then when you're out on bond for the firearm offense, you're roaring down the street, driving too fast drunk. And lo and behold, boom, someone dies and someone else has life-changing injuries. I need to impose a sentence that reflects the seriousness of the offenses.

You have five violations. They fall into two different buckets. It is true that under the guidelines a Grade B offense has a recommended advisory range of eight to 14 months, but that would be true if there was just one Grade B offense. And here we've got a lot of offenses. We've got the firearm

offense, violation No. 1. That's Grade B. I'm sorry. Let me back up.

Violation No. 1 about violating another federal, state, or local crime, that's Grade B. Violation No. 2 about possessing a firearm, that's Grade B. Even if you count those as one, we've still got violations 4, 5, and 6 for the traffic. Committing another federal, state, or local crime is a Grade B offense.

The alcohol-related offenses, violations 5 and 6, are Grade C. So, if you had just one Grade B offense, it would be eight to 14 months. You have three Grade C offenses -- I beg your pardon. You have three Grade B offenses, violation 1, 2, and 4. And you have two Grade C offenses, violations 5 and 6. Let me say that again. By the look of things, I have in front of me three Grade B offenses and two Grade C offenses. And I'm not saying you add it up, but I'm just saying it just goes to the seriousness of the situation. There is a lot of stacking going on here, a lot of compoundment.

Mr. Bradford. That's for the person who is not here because they died. Because of the car accident that you were in. When you were going way too fast. Drunk. I don't know who that person is. I don't know the person's name. It's in the record. I never met that person. That person isn't here in body, but the person is here in spirit.

I've got to think of deterrence. I think you might be undeterrable, Mr. Bradford. I don't know. You didn't learn your lesson after 210 months.

I've got to think about general deterrence. I have to be very clear to the public. You don't mess around when it comes to federal court. You don't mess around. You do not mess around when it comes to conditions of supervised release. You've got to comply, like it or not. I think deterrence weighs very powerfully in this case, the need for deterrence.

The hearing was thereafter continued until August 15, 2024, to allow the district court to evaluate whether another term of supervised release would be imposed following the 36-month term of incarceration imposed. On August 15, 2024, the district court held the continued sentencing hearing to address the court's decision on whether to also impose another term of supervised release following the 36-term of incarceration imposed as punishment for defendant's commission of the five (5) supervised release violations. The Final Judgment for Revocation of Supervised Release entered on September 13, 2024.

Defendant filed a Notice of Appeal and filed Bradford's Appellant's Brief on March 17, 2025. On June 25, 2025, the Supreme Court decided *Esteras v. United States*, 606 U.S. 185, 204, 145 S.Ct. 2023, 2046, 222 L. Ed.2d 438 (2026), which held, "A district court considering whether to revoke a defendant's term of supervised release may not consider § 3553(a)(2)(A), ["the need for the sentence impose to reflect the seriousness of the offense, to promote respect for the law, and provide just punishment"] which covers retribution vis-à-vis the defendant's underlying criminal offense.

On March 18, 2026, the Court of Appeals for the Seventh Circuit affirmed the

district court's 36-month reimprisonment finding that this Court's *Esteras* decision was not at issue because counsel for defendant had not specifically raised an "*Esteras* claim" and because the *Esteras* opinion "took no position on a sperate debate between the parties about the extent to which the statute authorizes district judges to consider "*retribution for the violation of the conditions of the supervised release.*" (*emphasis added by the court*). *United States v. Bradford*, 24-2687, slip opinion, (7th Cir. March 18, 2026).

REASONS FOR GRANTING THE WRIT

On June 30, 2025, in a certiorari summary disposition, the Supreme Court vacated the judgment in *Durrell v. United States*, 606 U.S. ____ (2025) and remanded the case to the United States Court of Appeals for the Sixth Circuit in light of *Esteras v. United States*, 606 U.S. ____ (2025). Appendix 2. The Court of Appeals for the Sixth Circuit had affirmed the reimposition of a 14-month sentence for a violation of supervised release rejecting defendant's argument on appeal that the district court relied on a prohibited sentencing consideration, namely, an sentence imposed that "reflect the seriousness of the offense," "promote response for the law," and "provide just punishment." *United States v. Durrell*, Slip Op. 23-3841 (6th Cir. June 4, 2024).

Appendix 3.

On March 18, 2026, the Seventh Circuit's opinion affirming the district court's imposition of a term of reimprisonment of 36-months, consecutive to the any sentence imposed for the underlying criminal conduct prosecuted by the state, reasoned that the Supreme Court's holding in *Esteras v. United States*, 606 U.S. 185, 145 S.Ct. 2031, 222 L.Ed.2d 438 (2025) was not controlling and that defendant's claim required only

“substantive review of a reimprisonment decision following a revocation of supervised release and an evaluation of whether the sentence imposes was “highly of unreasonable,” citing *United States v. Durham*, 967 F.3d 575, 580 (7th Cir. 2020).

Defendant submits the Court of Appeals for the Seventh Circuit committed plain error in light of the Supreme Court’s ruling in *Esteras v. United States*, 606 U.S. 185, 186 (2025) (holding that when a “defendant violates a condition of supervised release, courts must consider forward-looking sentencing ends, but not consider the backward-looking purpose of retribution.”) and the guidance provided by the Certiorari – Summary Disposition announced in *Durrell v. United States*, 606 U.S. ____ (June 30, 2025).

CONCLUSION

For the reasons noted herein, Petitioner respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Seventh Circuit entered in *United States v. Steven Bradford*, Slip Op. 24-2687, on March 18, 2026.

Respectfully submitted,

/s/Gregory T. Mitchell
Gregory T. Mitchell
Counsel of Record

APPENDICIES

United States v. Steven Bradford, Slip Op. 24-2687 (7th Cir. March 18, 2026)

United States v. Durrell, Slip Op. 23-3841 (6th Cir. June 4, 2024)

Durrell v. United States, 606 U.S. ____ (2025)

APPENDICIES

In the
United States Court of Appeals
for the Seventh Circuit

No. 24-2687

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

STEVEN BRADFORD,

Defendant-Appellant.

Appeal from the United States District Court for the
Northern District of Illinois, Eastern Division.
No. 20-CR-413 — **Steven C. Seeger**, *Judge*.

ARGUED DECEMBER 16, 2025 — DECIDED MARCH 18, 2026

Before BRENNAN, *Chief Judge*, and SYKES and TAIBLESON,
Circuit Judges.

SYKES, *Circuit Judge*. Steven Bradford appeals from an order revoking his supervised release and returning him to prison for 36 months—the maximum reimprisonment term and well above the advisory range under the Sentencing Guidelines. Bradford challenges the 36-month term, arguing that the district judge relied too heavily on the seriousness of

his supervised-release violations and not enough on the Guidelines range and policy statements.

This argument is meritless. District judges have wide discretion and considerable flexibility in revocation proceedings. Appellate review is highly deferential, and it's not our role to reweigh the factors the judge considered most relevant to the choice of a revocation sentence. The judge adequately explained his decision to impose a 36-month term of reimprisonment and justified it by reference to permissible factors. We affirm the judgment.

I. Background

Bradford was indicted in 2005 in the Northern District of Iowa for conspiracy to distribute heroin and related charges arising from his participation in a heroin-trafficking ring that caused the overdose death of a teenager. He pleaded guilty to the conspiracy count and was sentenced to 210 months in prison and 60 months of supervised release. Bradford completed his custodial sentence in July 2020, and jurisdiction over his case was transferred to the Northern District of Illinois for the purpose of overseeing his supervised release in that district.

In December 2021 Bradford was arrested and charged in Cook County Circuit Court with unlawfully possessing a firearm as a felon and driving with an open container of alcohol in violation of Illinois law. In the wake of this arrest, his federal probation officer sought revocation of his supervised release because he had violated several court-imposed conditions—including, as relevant here, conditions requiring him to refrain from committing crimes or possessing a firearm.

No. 24-2687

3

The district court put the revocation proceedings on hold to allow the state-court case to proceed. A state judge released Bradford on bond, and in August 2022 he was arrested again—this time for drag racing while drunk, causing the death of an innocent motorist. More specifically, a police officer in the Chicago suburb of Oak Lawn observed a gray Dodge Charger drag racing a red Honda at a high rate of speed late at night. The race ended in a multi-vehicle crash. Several uninvolved vehicles were hit; a passenger in one of these cars was killed and two others were seriously injured.

Bradford was the driver of the Dodge Charger. He told the arresting officer that he had been drinking at a nearby bar just before the race. Test results showed that he was quite drunk: his blood-alcohol level was .135, well above the legal limit.

Significant state charges followed. The Cook County State's Attorney's Office indicted Bradford for reckless homicide, drag racing, aggravated driving while under the influence of alcohol causing death, and additional counts of aggravated driving while intoxicated causing bodily harm. His federal probation officer again sought revocation of his supervised release, citing his violation of conditions requiring him to refrain from committing crimes, using alcohol, or frequenting bars.

After this second arrest and revocation report, the federal proceedings restarted. The district judge held a hearing at which Bradford admitted some of the violations stemming from the two arrests. After hearing testimony from the Oak Lawn police officer who had witnessed and investigated the drunken drag race, the judge found that Bradford had committed the remaining violations we've just mentioned.

Before the hearing the probation officer submitted a presentence report reflecting the 36-month statutory maximum term of reimprisonment and an advisory Guidelines reimprisonment range of 8 to 14 months based on the most serious violations—Grade B—and Bradford’s criminal-history category of III. Without objection from the parties, the judge adopted the presentence report’s calculations. Bradford’s counsel, joined by the probation officer, recommended reimprisonment of 14 months, the upper end of the Guidelines range. The government argued for the statutory maximum of 36 months.

The judge then engaged in a lengthy evaluation of the factors relevant to the reimprisonment decision as specified in 18 U.S.C. § 3583(e), which cross-references § 3553(a). He began by explaining that “[t]his is maybe one of the most lopsided records I’ve ever seen. There are lots and lots of aggravating factors.” The judge’s remarks focused primarily, though not exclusively, on the number and severity of Bradford’s violations of the conditions of supervised release and the significance of his criminal history.

Regarding the 2021 violations, the judge commented on the seriousness of Bradford’s conduct and how quickly he had reoffended after his release: “You got out of prison on July 8, 2020, and you were arrested with a handgun on December 17, 2021. A loaded handgun with a bullet in the chamber. ... It’s a profound violation of the terms of supervised release. It’s a very serious violation that took place way too soon.”

Turning to the 2022 violations, the judge explained that Bradford had engaged in a high-speed, drunken drag race that ended in a multi-vehicle crash, killing an innocent person and leaving two others with life-changing injuries. The judge

No. 24-2687

5

commented: “You were roaring down the streets speeding, intoxicated,” and as a result, “[o]ne person is no longer here” and “two people [were] seriously injured, never going to be the same.” The judge explained that while he had not found Bradford responsible for the fatality, his conduct was nonetheless “horrible,” and it occurred while he was on federal supervision *and* state release on bond for the firearm arrest.

The judge also commented that he was “not impressed” with Bradford’s criminal history and expressed concern that he had not “learned [his] lesson after 210 months” in prison for the heroin-trafficking conviction. The judge then took note of the fact that Bradford’s drug-dealing conspiracy had caused the overdose death of a teenager. In this part of his analysis, the judge read from the victim-impact statements submitted by the victim’s parents in which they described the devastating loss of their son.

Moving on, the judge summarized his already-stated views on the severity of Bradford’s violation conduct and criminal history, and briefly touched on the need for deterrence and protection of the public. He also discussed the Guidelines range of 8 to 14 months and explained that he had reviewed the probation officer’s presentence report “both for aggravating factors and mitigating factors.” But he said that he did not see “a lot of mitigating factors” and that any mitigating factors were “substantially outweighed by all the aggravating factors.”

The judge then revoked Bradford’s supervised release and imposed a 36-month term of reimprisonment, the statutory maximum. This appeal followed.

II. Discussion

A district judge may revoke an offender's term of supervised release and impose a term of reimprisonment after finding by a preponderance of the evidence that the offender has violated the conditions of his supervised release. *See generally* § 3583(e)(3). Bradford does not challenge the revocation decision; he focuses solely on the 36-month term of reimprisonment. He argues that the judge gave too much weight to the seriousness of his supervised-release violations—especially his conduct in connection with the drag-racing accident—and too little weight to the Guidelines' policy statements, the advisory sentencing range, and the recommendation of his probation officer. More generally, he argues that the judge's choice to impose the maximum term of reimprisonment disregarded the "breach of trust" theory of supervised-release revocation.

The Sentencing Commission has issued policy statements classifying supervised-release violations by level of seriousness—Grades A through C—and establishing advisory sentencing ranges that increase based on the seriousness of the violation and the defendant's criminal history score. *See generally* U.S.S.G. ch. 7C. As relevant here, the policy statements also explain that the Commission has endorsed a "breach of trust" theory of revocation sentencing that centers on sanctioning the offender "for failing to abide by the conditions of the court-ordered supervision" rather than treating the conduct that triggered revocation as if it were "new federal criminal conduct." U.S.S.G. ch. 7, pt. A, introductory cmt. 3(b). To that end, the policy statements advise district judges to "sanction primarily the defendant's breach of trust, while taking

No. 24-2687

7

into account, to a limited degree, the seriousness of the underlying violation and the criminal history of the violator.” *Id.*

It has long been understood, however, that the Guidelines range and policy statements are just recommendations; they are nonbinding and meant to inform rather than limit judicial discretion in revocation proceedings. *United States v. Dawson*, 980 F.3d 1156, 1162 (7th Cir. 2020). Still, in keeping with the Commission’s “breach of trust” theory, our cases have recognized that revocation of supervised release is not meant to “punish a defendant’s violation as if it were a new federal crime, but rather to sanction the defendant’s breach of the court’s trust—that is, his or her failure to comply with court-ordered conditions arising from the original conviction.” *Id.*

It’s also true, however, that district judges have particularly broad discretion when revoking supervised release. “[W]e give greater deference to a sentencing court revoking supervised release than we do to a court imposing a sentence for an original offense.” *United States v. Snake*, 140 F.4th 379, 384 (7th Cir. 2025). Even before the Supreme Court’s decision in *Booker* made the Sentencing Guidelines advisory for all purposes,¹ “sentencing courts had more than [the] usual flexibility [when] applying the Sentencing Commission’s recommended policy statements in the revocation context.” *Id.* (quotation omitted). Accordingly, appellate review of supervised-release revocation is especially deferential. *Id.*

In addition to these general principles, we’ve also explained that emphasizing the seriousness of the defendant’s supervised-release violations is entirely consistent with the “breach of trust” theory of revocation proceedings. *Dawson*,

¹ *Booker v. United States*, 543 U.S. 220 (2005).

980 F.3d at 1162. After all, “a more serious violation likely reflects a more serious breach of trust.” *Id.* “Indeed, Congress *requires* district courts to consider the nature of a defendant’s supervised release violation to at least some extent.” *Id.* More specifically, to determine the length of a reimprisonment term, § 3583(e) instructs judges to consider a subset of the § 3553(a) factors that govern the court’s initial sentencing decision—specifically, § 3553(a)(1) (the nature and circumstances of the offense and the defendant’s history and characteristics); § 3553(a)(2)(B) (the need for deterrence); § 3553(a)(2)(C) (the need to protect the public); § 3553(a)(2)(D) (the defendant’s need for training, medical care, or correctional treatment); § 3553(a)(4)–(5) (the applicable Guidelines range and pertinent policy statements); § 3553(a)(6) (the need to avoid unwarranted sentence disparities); and § 3553(a)(7) (restitution). We’ve held that the nature and circumstances of the defendant’s violations of supervised release fit comfortably within these statutory factors. *Dawson*, 980 F.3d at 1162–63; *United States v. McClanahan*, 136 F.3d 1146, 151 (7th Cir. 1998).

Accordingly, weighing the seriousness of the defendant’s supervised-release violations “comports with Congress’s design for revocation sentences.” *Dawson*, 980 F.3d at 1164. And doing so is not inconsistent with the Commission’s “breach of trust” theory of supervised-release revocation. On the contrary, “[a] serious violation correlates to a severe breach of trust, so a court *should* consider the nature of a violation when choosing its revocation sentence.” *Id.*

Returning now to Bradford’s case, he has not framed his argument as a claim of procedural error. He does not contend that the judge violated § 3583(e), miscalculated the Guidelines

No. 24-2687

9

range, or failed to explain the reasons for his choice of a reimprisonment term. And we note more specifically that he has not raised a claim of *Esteras* error.

In *Esteras v. United States*, 606 U.S. 185 (2025), the Supreme Court considered the extent to which district courts may consider § 3553(a)(2)(A) when imposing a term of reimprisonment after revoking a defendant's supervised release. As we've just explained, § 3583(e), which governs supervised-release revocation, requires district courts to consider many of the § 3553(a) factors that apply to the initial sentencing decision—but not all. Absent from the list is § 3553(a)(2)(A), which directs district courts to consider “the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment.”

As the Court explained in *Esteras*, this subsection of § 3553(a) encompasses the core “retributive purposes” of criminal sentencing. 606 U.S. at 192. Before *Esteras*, a circuit split had arisen regarding the extent to which district courts may consider § 3553(a)(2)(A) in supervised-release revocation proceedings. *Id.* at 190 n.1. *Esteras* resolved the conflict, holding that the “natural implication” of the omission of § 3553(a)(2)(A) from the § 3583(e) list is that Congress did not intend for courts to consider it. *Id.* at 195. It follows, the Court concluded, that district courts may *not* consider § 3553(a)(2)(A) when revoking supervised release. *Id.*

Importantly, the Court addressed “*only* whether § 3583(e) precludes the court from considering retribution *for the underlying criminal conviction*” when revoking supervised release. *Id.* at 194 n.5 (emphases added). The Court emphasized that it took no position on a separate debate between the parties about the extent to which the statute authorizes district judges

to consider “retribution *for the violation of the conditions of the supervised release.*” *Id.*

Esteras was decided on June 20, 2025, the date on which Bradford’s reply brief was due. In his opening brief, he did not make an *Esteras*-type argument that the district judge impermissibly considered § 3553(a)(2)(A). That is, he did not argue that the judge impermissibly considered retribution for his underlying criminal offense in imposing the 36-month term of reimprisonment. He did not file a reply brief; nor did he respond to the government’s Rule 28(j) letter flagging the Court’s decision in *Esteras*. Oral argument confirmed that Bradford is not raising an *Esteras* claim.

Instead, his challenge to the 36-month term is best understood as a claim of substantive error. He maintains that the judge gave short shrift to the Guidelines and the recommendation of his probation officer and overweighted the seriousness of his supervised-release violations, effectively “ignoring” the “breach of trust” theory of supervised-release revocation. This is a challenge to the substance of the judge’s decision—i.e., the weight he assigned to permissible § 3553(a) factors.

Substantive review of a reimprisonment decision is “highly deferential.” *United States v. Durham*, 967 F.3d 575, 580 (7th Cir. 2020) (quotation omitted). We will reverse only if the term of reimprisonment is “plainly unreasonable.” *Id.* (quoting *United States v. Boultinghouse*, 784 F.3d 1163, 1177 (7th Cir. 2015)); see also *United States v. Childs*, 39 F.4th 941, 945 (7th Cir. 2022).

Reviewed against this lenient standard, Bradford’s 36-month term of reimprisonment is easily affirmed. To repeat,

No. 24-2687

11

it's well understood that the Guidelines range and policy statements are merely recommendations. It's also well established that "[p]robation officers' sentencing recommendations do not bind district courts." *Dawson*, 980 F.3d at 1166. And as we've already explained, our cases hold that § 3583(e) permits courts to consider the seriousness of an offender's supervised-release violations. *Id.* at 1164. Finally, district judges have even broader discretion and flexibility in the context of supervised-release revocation than they do in their original sentencing decisions. *Snake*, 140 F.4th at 384. This ample discretion includes the option to reject a Guidelines range that, in the court's judgment, does not adequately reflect the gravity of the offender's violations or the need for deterrence and public protection. *Durham*, 967 F.3d at 580.

In accordance with these principles and on this record, the judge's imposition of the maximum term of reimprisonment was well within his discretion. It certainly cannot be said that the 36-month term is plainly unreasonable.

AFFIRMED

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United States v. **Durrell**

Court: U.S. Court of Appeals — Sixth Circuit

Writing for the Court: McKEAGUE, Circuit Judge.

Docket Number: 23-3841

Decision Date: 04 June 2024

Parties: UNITED STATES OF AMERICA, Plaintiff-Appellee, v. ROBERT PAUL DURRELL, Defendant-Appellant.

1

**UNITED STATES OF AMERICA, Plaintiff-Appellee, v. ROBERT PAUL
DURRELL, Defendant-Appellant.**

No. 23-3841

United States Court of Appeals, Sixth Circuit

June 4, 2024

NOT RECOMMENDED FOR PUBLICATION

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OHIO

Before: SUTTON, Chief Judge; McKEAGUE and BUSH, Circuit Judges.

OPINION

McKEAGUE, Circuit Judge.

Robert Durrell appeals the district court's decision to revoke his supervised release and sentence him to 14 months in prison. But binding precedent squarely forecloses **Durrell's** argument. We **AFFIRM**.

I.

Robert Durrell started a term of supervised release in 2019 after serving a federal prison sentence. **Durrell's** supervised release was conditioned on his refraining from committing more crimes. But just a few years later, he robbed a convenience store at gunpoint.

The district judge revoked **Durrell's** supervised release after **Durrell** admitted to violating his release conditions. The government asked for a sentence at the top of the guidelines range, citing the serious nature of **Durrell's** violation. It also made deterrence and public-safety arguments. The district judge agreed with the government's arguments and sentenced **Durrell** to

2

14 months' imprisonment. She added that the sentence "reflects the seriousness of [**Durrell's**] conduct and shows respect for the law." Hr'g Tr., R.18 at PageID 89. **Durrell** now appeals.^[1]

II.

Durrell's sole argument on appeal is that the district judge relied on a prohibited sentencing consideration. Under 18 U.S.C. § 3583(e), district courts must consider certain factors when revoking a defendant's supervised release. That statute cross-references most of the § 3553(a) sentencing factors but omits § 3553(a)(2)(A)-the factor directing courts to impose sentences that "reflect the seriousness of the offense," "promote respect for the law," and "provide just punishment." Thus, **Durrell** argues, the district judge erred by considering that factor.

But as **Durrell** acknowledges, we've already rejected his argument in binding caselaw. See *United States v. Lewis*, 498 F.3d 393 (6th Cir. 2007), *cert. denied*,

555 U.S. 813 (2008); *United States v. Esteras*, 88 F.4th 1163 (6th Cir. 2023), *reh'g en banc denied*, 88 F.4th 1170 (6th Cir. 2023) and 95 F.4th 454 (6th Cir. 2024). *Lewis* held that district courts can consider the § 3553(a)(2)(A) factor in supervised-release revocations. Among other things, it reasoned that § 3583(e)'s text didn't create an exclusive list of permissible considerations. *Lewis*, 498 F.3d at 399-400. Last year's *Esteras* decision reinforced *Lewis*'s reasoning and rebuffed arguments that intervening Supreme Court precedent undermined its holding.^[2] *Esteras*, 88 F.4th at 1167-68. Because *Lewis* and *Esteras* bind us, we cannot rule in **Durrell**'s favor. See *United States v. Ferguson*, 868 F.3d 514, 515 (6th Cir. 2017).

The district court's order is **AFFIRMED**.

[1] **Durrell** didn't object to the district court's sentencing decision. That normally would trigger plain-error review on appeal. But the more forgiving abuse-of-discretion standard applies here because the district court never afforded **Durrell** an opportunity to object during his hearing. See *United States v. Bostic*, 371 F.3d 865, 872-73 (6th Cir. 2004).

[2] In two post-*Lewis* (but pre-*Esteras*) opinions, the Supreme Court noted that courts cannot consider the need for "retribution" when imposing an initial supervised-release term. *Tapia v. United States*, 564 U.S. 319, 326 (2011); *Concepcion v. United States*, 597 U.S. 481, 494 (2022). *Esteras* deemed the Court's observation consistent with *Lewis*'s rule. Although *Esteras* focused on *Tapia*, its logic applies equally to *Concepcion*. See *Esteras*, 88 F.4th at 1168.

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Durrell v. United States

Court: U.S. Supreme Court

Docket Number: 24-5456

Decision Date: 30 June 2025

Citation: Durrell v. United States, 24-5456 (Jun 30, 2025) 

Parties: DURRELL, ROBERT P. v. UNITED STATES

1

606 U.S. ____

DURRELL, ROBERT P. v. UNITED STATES

No. 24-5456

United States Supreme Court

June 30, 2025

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Sixth Circuit for further consideration in light of *Esteras v. United States*, 606 U.S. ____ (2025).

CERTIORARI -- SUMMARY DISPOSITION