IN THE SUPREME COURT
OF THE UNITED STATES

BRYAN R. HARRIS
PETITIONER-APPELLANT,
V.
UNITED STATES OF AMERICA
RESPONDENT-APPELLEE,

MOTION FOR EXTENSION OF TIME TO FILE WRIT OF CERTIORARI UNDER SUPREME COURT RULE 13.5 DUE TO DENIAL OF ACCESS TO COURTS AND DESTRUCTION OF LEGAL MATERIALS AND APPOINTMENT OF COUNSEL IS REQUESTED PURSANT TO 18. U.S.C. 3006A.

TO THE HONORABLE JOHN G. ROBERTS JR.
CHIEF OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE SIXTH CIRCUIT.

PURSUANT TO SUPREME COURT RULE 13.5 THE PETITIONER BRYAN R. HARRIS, RESPECTFULLY MOVES FOR A 20-DAY EXTENSION OF TIME TO AND INCLUDING MOTION FOR COUNSEL PURSANT TO 18 U.S.C. 3006A. WITHIN WHICH TO FILE A PRO SE PETITION FOR A WRIT OF CERTIORARI

THE JDGEMENT FOR WHICH REVIEW IS SOUGHT WAS ENTER ON FOBRUARY 27TH 2026. WHEN THE APPEAL COURTS OF OHIO DECLINED JURISDICTION TO HEAR PETITIONER'S APPEAL FROM THE 6TH DISTRICT COURT OF APPEALS. THE PETITION FOR WRIT OF CERTIORARI IS CURRENTLY DUE ON OR BEFORE MAY 27TH 2026.

PETITIONER IS INCARCERATED AND PROCEEDING PRO SE. HE IS DILIGENTLY WORKING TO PREPARE THE PETITION BUT REQUIRES ADDITIONAL TIME TO COMPLETE NECESSARY LEGAL RESEARCH, COMPOSE THE PETITION, AND ENSURE COMPLIANCE WITH THE SUPREME COURT RULES, INCLUDING RULE 33.

THIS IS PETITIONER'S FIRST REQUEST FOR EXTENSION OF TIME. THE EXTENSION IS NOT REQUESTED FOR PURPOSES OF DELAY BUT TO ALLOW SUFFICIENT TIME FOR MEANINGFUL AND COMPLETE PRESENTATION OF LEGAL ISSUES. THE ISSUES TO BE RAISED IN THE PETITION ARE OF PARAMOUNT IMPORTANCE AND PRECEDENTIAL VALUE.

NEED FOR THE LENGTH OF EXTENSION

THE TRANSCRIPT OF THE RECORD JUDMENT OF THE DISTRICT COURT, ALONG WITH THE OPINON AND JUDMENT OF THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT (VOLS, I AND II), WERE PREPARED BY THE CLERK OF THE SIXTH CIRCUIT COURT OF APPEALS. THESE RECORDS, PREREQUISITES TO THE FILING OF A PETITION FOR WRIT OF CERTIORARI.

RELIEF DUE TO DENIAL OF ACCESS TO COURTS AND DESTRUCTION OF LEGAL MATERIALS:

THE INSTITUTION CLOSED ITS LIBRARY FOR APPROXIMATELY 36 DAYS FOR REMODELING. DURING THIS TIME, INMATES WERE DENIED ACCESS TO STORE LEGAL FILES. UPON REOPENING INMATES WERE INFORMED THAT ALL FILES SAVED ON INSTITUTIONAL COMPUTERS HAD BEEN PERMANENTLY DELETED. NO PRIOR NOTICE WAS GIVEN TO INMATES TO PRESERVE, PRINT, OR TRANSFER THEIR FILES. THE DESTROYED FILES INCLUDED LEGAL DOCUMENTS DRAFTS, RESEARCH AND FILINGS RELEVANT CONTEMPLANTED LITIGATION.

AFFIDAVIT TO SUPPORT IS ATTACHED.

DENIAL OF ACCESS TO COURTS:

THE ACTIONS OF THE INSTITUTION VIOLATED PETITIONER'S CONSTITUTIONAL RIGHT TO ACCESS THE COURTS UNDER THE FIRST AND FOURTEETH AMENDMENTS, AS RECOGNIZED IN BOUNDS V. SMITH 430 U.S. 817 AND LEWIS V. CASEY 518 US. 343. THE DESTRUCTION OF PETITIONER'S LEGAL MATERIALS CAUSED ACTUAL INJURY INCLUDING: MISSED DEADLINES LOST CLAIM INABILITY TO FILE. DIFFICULTY ACCESSING LEGAL MATERIALS, MENTAL HEALTH CONCERNS DIFFICULTY UNDERSTANDING LEGAL PROCEDURES.

DUE PROCESS VIOLATIONS:

THE STATE DEPRIVED PETITIONER OF PROPERTY (LEGAL WORK PRODUCT) WITHOUT DUE PROCESS OF LAW BY: FAILING TO PROVIDE NOTICE, FAILING TO PROVIDE AN OPPORTUNITY TO PRESERVE FILES. PERMANENTLY DESTROYING MATERIALS WITHOUT JUSTIFICATION AND WRONGFUL DESTRUCTION OF PROPERTY.

VIOLATIONS OF OHIO LAW:

THE DESTRUCTION OF STORE LEGAL MATERIALS MAY CONSTITUTE UNLAWFUL DESTRUCTION OF RECORDS

UDER OHIO LAW. INCLUDING ORC 149.351 WHICH PROHIBITS THE UNAUTHORIZED DESTRUCTION OF RECORDS.

WHEREFORE, PETITIONER RESPECTFULLY REQUEST THAT THE COURT GIVE PETITIONER EXTENSION OF TIME TO FILE WRIT OF CERTIORARI APPOINT COUNSEL PURSANT TO 18. U.S.C. 3006A AND GRANT ANY OTHER RELIEF THE COURT DEEMS JUST AND PROPER.

RESPECTFULLY SUBMITTED

PRO SE

BRYAN HARRIS #601-795
LAKE ERIE CORRECTIONAL
501 THOMPSON RD
CONNEAUT, OH 44030

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT ON APRIL 2026 I SERVED A TRUE AND CORRECT OF THIS MOTION FOR EXTENSION OF TIME AND REQUEST FOR APPOINTMENT OF COUNSEL PURSANT TO 18. U.S.C. 3006A. UNITED STATES CLERK OF COURTS 1 FIRST STREET N.E. WASHINGTON. D.C. 20543

RESPECTFULLY SUBMITTED

PRO.SE.

BRYAN HARRIS #101-795
LAKE ERIE CORRECTIONAL
501 THOMPSON RD
CONNEAUT. OH 44030

No. 25-3064

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

BRYAN R. HARRIS,

Petitioner-Appellant,

v.

UNITED STATES OF AMERICA,

Respondent-Appellee.

ORDER

Before: COLE, Circuit Judge.

Bryan R. Harris, a federal prisoner proceeding pro se, appeals the district court's judgment denying his motion to vacate, set aside, or correct his sentence, filed pursuant to 28 U.S.C. § 2255. Harris has filed an application for a certificate of appealability (COA) and a motion to supplement his COA application. He also moves this court to appoint him counsel and to grant him leave to proceed in forma pauperis (IFP). For the following reasons, we grant the motion to supplement the COA application, deny the COA application, and deny as moot the motions to appoint counsel and for leave to proceed IFP.

In 2023, Harris pleaded guilty to possessing with intent to distribute methamphetamine, being a felon in possession of firearms and ammunition, and two counts of distributing crack cocaine. The district court sentenced him to 139 months of imprisonment. Harris did not appeal.

In 2024, Harris moved to vacate his sentence, raising three claims: (1) his attorney incorrectly advised him that he would be sentenced to only five years of imprisonment if he pleaded guilty; (2) his attorney should have requested DNA and operability testing of firearms found at his home; and (3) the district court violated his due process rights by muting him during his sentencing, conducted via Zoom, and failing to grant a sentence "reduction." He later supplemented his motion to include a claim that the district court did not correctly calculate his

criminal-history category. The district court denied Harris's § 2255 motion, finding that his first three claims were meritless and that his sentencing claim was procedurally defaulted. It declined to issue a COA.

Harris now seeks a COA on claim one, claim two, to the extent that counsel failed to request DNA testing on the firearms, and claim three, to the extent that the district court muted him during sentencing. He has forfeited appellate review of three claims that he raised below but did not address in his COA application: counsel's failure to request operability testing, the district court's failure to impose a reduced sentence, and the calculation of his criminal-history category. *See Jackson v. United States*, 45 F. App'x 382, 385 (6th Cir. 2002) (per curiam); *Elzy v. United States*, 205 F.3d 882, 886 (6th Cir. 2000).

Harris also raises several new claims in his initial and supplemental COA application. He claims that counsel performed ineffectively by failing to move to suppress the firearms found at his home and by failing to discuss the presentence report with him. He also claims that the district court abused its discretion by sentencing him above the applicable guidelines sentencing range and failing to grant an additional one-point reduction to his offense level under USSG § 3E1.1(b), for accepting responsibility. Harris did not present these claims to the district court in either his initial or his supplemental § 2255 motion, and this court will not consider them for the first time on appeal. *See Thomas v. City of Memphis*, 996 F.3d 318, 330 n.4 (6th Cir. 2021); *Ratliff v. United States*, 999 F.2d 1023, 1027 n.4 (6th Cir. 1993).

A COA may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). A petitioner may meet this standard by showing that reasonable jurists could debate whether the petition should have been determined in a different manner or that the issues presented were "adequate to deserve encouragement to proceed further." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983)).

I. Ineffective Assistance of Counsel (Claims 1 and 2)

An ineffective-assistance claim requires a petitioner to show that counsel's performance was deficient and that the deficient performance prejudiced the defendant. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). Because Harris pled guilty, he could show prejudice with respect to his first claim only if there were "a 'reasonable probability' that, but for his counsel's error, he wouldn't have pled guilty and instead would have gone to trial." *United States v. Singh*, 95 F.4th 1028, 1033 (6th Cir. 2024) (quoting *Hill v. Lockhart*, 474 U.S. 52, 59 (1985)), *cert. denied*, 145 S. Ct. 167 (2024). With respect to his second claim, he "must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Strickland*, 466 U.S. at 694.

A. Counsel's Alleged Sentencing Prediction (Claim 1)

At his plea hearing, Harris stated under oath that no one had promised him anything in exchange for pleading guilty and that he understood that he could receive "up to 20 years" of imprisonment for three of the charges to which he was pleading guilty and up to 10 years of imprisonment on the fourth charge. Harris is bound by those statements, *see Ramos v. Rogers*, 170 F.3d 560, 566 (6th Cir. 1999); *see also United States v. Pitts*, 997 F.3d 688, 701 (6th Cir. 2021), which show that he intended to plead guilty with full knowledge of the potential for a lengthy sentence. The district court also explained the sentencing process, noting that the United States Sentencing Guidelines would provide a sentencing range that would be used as a "starting point," and that it would consider the factors listed in 18 U.S.C. § 3553(a) when deciding on a reasonable sentence. And Harris acknowledged that he would not be able to withdraw his guilty plea if the district court imposed "a sentence which [he] did not expect or otherwise [was] dissatisfied with." In light of this record, reasonable jurists could not debate the district court's conclusion that he failed to show prejudice, because even if Harris's attorney "erroneously promise[d] a certain sentencing outcome," Harris "was accurately advised during the plea colloquy." *United States v. Carson*, 32 F.4th 615, 622 (6th Cir. 2022).

B. Counsel's Failure to Request DNA Testing (Claim 2)

Harris also argued that counsel should have requested DNA testing on "the third gun that was found" at his home, which would have proven that he "never [saw] or touch[ed] the third gun." He contended that this testing would have prevented the district court from applying a two-point sentencing enhancement based on a finding that his offenses involved three or more firearms.

At sentencing, defense counsel challenged the probation office's recommendation to impose a two-level enhancement under USSG § 2K2.1(b)(1)(A), which applies to offenses involving three to seven firearms. He argued that people other than Harris lived in the house in which the firearms were found and that the evidence was insufficient to attribute the firearms to him. The government countered that argument, however, pointing out that Harris admitted during a post-arrest interview that anything found in the house, including three firearms located inside, belonged to him. In light of that concession, reasonable jurists could not debate the district court's conclusion that Harris did not show prejudice, because there was not "a reasonable probability" that DNA testing would have affected the outcome of his sentencing proceeding. *Strickland*, 466 U.S. at 694.

II. Due Process/Muting During Sentencing (Claim 3)

Finally, Harris contends that the district court violated his right to due process by muting him during his sentencing hearing, which was conducted via Zoom, effectively excluding him from the courtroom. Federal Rule of Criminal Procedure 32 requires district courts to "address the defendant personally [at sentencing] in order to permit the defendant to speak or present any information to mitigate the sentence." Fed. R. Crim. P. 32(i)(4)(A)(ii). "So district courts commit error if they do not 'unambiguously' instruct defendants 'personally' that the defendants have the right to speak about the proper sentence." *United States v. Holt*, 116 F.4th 599, 613 (6th Cir. 2024) (quoting *United States v. Carter*, 355 F.3d 920, 924 (6th Cir. 2004)).

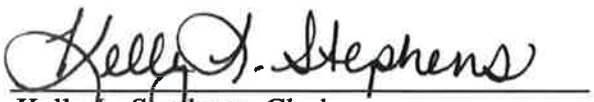
With the parties' consent, the district court conducted Harris's sentencing via Zoom. During the hearing, defense counsel raised multiple objections to the presentence report. Harris himself then requested, and received, permission to address the court. He spoke at length about

the operability of the firearms found in his home, the ownership of the firearms, and the general circumstances of his arrest. After ruling on the parties' objections to the presentence report and announcing the guidelines range, the district court asked defense counsel if he would like to speak in mitigation. After a brief pause, the district court informed counsel that he was "muted." Counsel then apparently unmuted himself and began to speak. The district court asked Harris if he personally wished to speak in mitigation, and Harris responded "[n]o." After the prosecutor spoke, the district court began discussing the guideline calculations and § 3553(a) sentencing factors, at which point Harris began speaking as well. The district court ordered the courtroom deputy to mute Harris. This is the only time that the district court muted Harris, and defense counsel was able to speak on Harris's behalf later in the proceeding.

In sum, Harris spoke extensively during the sentencing proceeding, and the district court expressly asked him if he wanted to allocute. Harris declined. The district court muted Harris only when he began speaking over the judge. On this record, reasonable jurists could not debate the district court's conclusion that its decision to briefly mute Harris did not violate his due process rights during sentencing.

For the foregoing reasons, Harris's motion to supplement the COA application is **GRANTED**, his COA application is **DENIED**, and his motions to appoint counsel and proceed IFP are **DENIED** as moot.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk

United States Court of Appeals for the Sixth Circuit

U.S. Mail Notice of Docket Activity

The following transaction was filed on 09/23/2025.

Case Name: Bryan Harris v. USA
Case Number: 25-3064

Docket Text:
ORDER filed: Harris's motion to supplement the COA application [7386319-2] is GRANTED, his COA application is [7335843-2] DENIED, and his motions to appoint counsel [7315111-2] and proceed IFP [7332214-2] are DENIED as moot. R. Guy Cole, Jr., Circuit Judge.

The following documents(s) are associated with this transaction:
Document Description: Order

Notice will be sent to:

Mr. Bryan R. Harris
Lake Erie Correctional Institution
P.O. Box 8000
Conneaut, OH 44030

A copy of this notice will be issued to:

Ms. Sandy Opacich
Mr. Daniel R. Ranke

On No. 25-3064

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

BRYAN R. HARRIS,

Petitioner-Appellant,

v.

UNITED STATES OF AMERICA,

Respondent-Appellee.

ORDER

Before: NORRIS, BLOOMEKATZ, and HERMANDORFER, Circuit Judges.

Bryan R. Harris petitions for rehearing en banc of this court's order entered on September 23, 2025, denying his application for a certificate of appealability. The petition was initially referred to this panel, on which the original deciding judge does not sit. After review of the petition, this panel issued an order announcing its conclusion that the original application was properly denied. The petition was then circulated to all active members of the court, none of whom requested a vote on the suggestion for an en banc rehearing. Pursuant to established court procedures, the panel now denies the petition for rehearing en banc.

ENTERED BY ORDER OF THE COURT

Kelly L. Stephens

Kelly L. Stephens, Clerk