

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES
OF AMERICA

JUSTIN DEWAYNE DICKERSON
Petitioner-Defendant

v.

UNITED STATES OF AMERICA
Respondent

On Petition for Writ of Certiorari from the
United States Court of Appeals for the Fifth Circuit.
Fifth Circuit Case No. 25-60552

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

Whether the district court ordered a substantively unreasonable sentence by ordering the subject 24-month federal sentence to run consecutively to a 20-year Mississippi state court sentence.

PARTIES TO THE PROCEEDING

The parties to this proceeding are:

JUSTIN DEWAYNE DICKERSON, Petitioner-Defendant,

and

UNITED STATES OF AMERICA, Respondent.

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I. OPINIONS BELOW

On November 6, 2024, the Grand Jury returned an Indictment against Mr. Dickerson in the United States District Court for the Southern District of Mississippi. The Indictment charged him with threatening to assault, kidnap or murder United States Magistrate Judge Michael Parker with intent to impede, intimidate, interfere or retaliate against Judge Parker in relation to his duties as a magistrate judge, in violation of 18 U.S.C. § 115(a)(1)(B) and (b)(4). The district court case number is 3:24cr105-CWR-ASH.

Mr. Dickerson accepted responsibility for the crime by pleading guilty on March 3, 2025. The sentencing hearing followed on October 6, 2025.

The district court sentenced Mr. Dickerson to serve 24 months in prison, to run consecutively to an undischarged Mississippi state court sentence. The court also sentenced him to serve a three-year term of supervised release after completing his prison sentence. The court entered a Judgment reflecting this sentence on October 8, 2025. The district court's Judgment is attached hereto as Appendix 1.

On October 14, 2025, Mr. Dickerson filed a Notice of Appeal to the United States Court of Appeals for the Fifth Circuit. The Fifth Circuit case number is 25-60552. On May 28, 2026, the Fifth Circuit filed an Order affirming the district court's rulings. It filed a Judgment on the same day. The Fifth Circuit's Order and

Judgment are attached hereto as Appendix 2. This Petition for Writ of Certiorari followed.

II. JURISDICTIONAL STATEMENT

The United States Court of Appeals for the Fifth Circuit filed both its Order and its Judgment in this case on May 28, 2026. This Petition for Writ of Certiorari is filed within 90 days after entry of the Fifth Circuit's Judgment, as required by Rule 13.1 of the Supreme Court Rules. This Court has jurisdiction over the case under the provisions of 28 U.S.C. § 1254(1).

III. STATUTE INVOLVED

(a) Factors to be considered in imposing a sentence.--The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider--

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the need for the sentence imposed--

(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal conduct;

(C) to protect the public from further crimes of the defendant; and

(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

(3) the kinds of sentences available;

(4) the kinds of sentence and the sentencing range established for--

(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines--

(i) issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, subject to any amendments made to such guidelines by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

(ii) that, except as provided in section 3742(g), are in effect on the date the defendant is sentenced; or

(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code, taking into account any amendments made to such guidelines or policy statements by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28);

(5) any pertinent policy statement--

(A) issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28, United States Code, subject to any amendments made to such policy statement by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

(B) that, except as provided in section 3742(g), is in effect on the date the defendant is sentenced.

(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(7) the need to provide restitution to any victims of the offense.

18 U.S.C.A. § 3553(a).

IV. STATEMENT OF THE CASE

A. Basis for federal jurisdiction in the court of first instance.

This case arises out of a criminal conviction entered against Mr. Dickerson for threatening a United States Magistrate Judge, in violation of 18 U.S.C. § 115. The court of first instance, which was the United States District Court for the Southern District of Mississippi, had jurisdiction over the case under 18 U.S.C. § 3231 because the criminal charge levied against Mr. Dickerson arose from the laws of the United States of America.

B. Statement of material facts.

1. Mr. Dickerson's background.

Mr. Dickerson did not have the typical “American dream” childhood. His parents never married, and they split up when he was about one year old. He was raised primarily by his mother, who was disabled because of knee and back problems. As a child, Mr. Dickerson was sexually abused by his half-brother and physically abused by his father. He did not report the sexual abuse to his mother because “she lets lots of things slide.”

As indicated by his Presentence Investigation Report, Mr. Dickerson had trouble learning as a child. “[F]rom a young age, the defendant experienced difficulty comprehending information while in school.” “He was evaluated at Region VIII and tested in Brookhaven for this difficulty learning.” Medical

professionals diagnosed him with Attention Deficit Disorder and Attention Deficit Hyperactivity Disorder. As a result, he was enrolled in the special education program.

Prior to the sentencing hearing, the district court recognized Mr. Dickerson's apparent inability to absorb information. At a motion hearing, it commented that things were "not registering" with him and were not "sinking in deep." At another point, the court stated, "I think you forgot what I said already." The undersigned also questioned his ability to understand concepts.

In addition to his diagnosed learning disabilities, Mr. Dickerson suffers from bipolar disorder, post-traumatic stress disorder and possibly schizophrenia. He takes Prozac and Lamictal to treat these conditions. To place the severity of these maladies in context, we note that the defense received 935 pages of mental health records from Brentwood Behavioral Health Services alone. He also was treated at the Mississippi State Mental Hospital as late as year 2019.

His mental condition was so questionable that the district court ordered a mental evaluation to determine Mr. Dickerson's competency. The bar for a finding of legal competence is rather low, and the evaluator determined that he was competent to stand trial in this case.

Notwithstanding the difficulties he faced since childhood, Mr. Dickerson

has never had problems with alcohol or drug abuse. Also, his criminal history does not reflect any violent crimes.

In year 2019, Mr. Dickerson illegally accessed child pornography on his telephone. He was convicted of the child pornography crime in Mississippi state court. The court sentenced him to serve 40 years in prison, with 20 years suspended. Id. He is expected to serve the 20-year sentence day for day, with an expected release date of September 16, 2039.

It is important to note that when Mr. Dickerson accessed the child pornography, he was barely a legal adult himself. He was only 18 years old and was a senior in high school at that time.

2. Mr. Dickerson's admitted crime.

As described above, Mr. Dickerson took responsibility for his actions by pleading guilty to threatening to injure or kill Magistrate Judge Michael T. Parker. Judge Parker previously presided over a civil suit filed by Mr. Dickerson. Apparently, he was unhappy because the suit was dismissed.

Mr. Dickerson made the threat via a handwritten letter addressed to Judge Parker, by way of the Clerk of the Court for the Southern District of Mississippi. The letter was dated May 31, 2024.

A Deputy United States Marshall questioned Mr. Dickerson about the letter. He told the Deputy Marshall that "he didn't really know what his intent was, and

his state of mind was ‘in and out of it’ due to being on heavy doses of psychological medications.” “He stated that the medications had been ‘messing with his mind.’” Mr. Dickerson further stated that he was prescribed psychological medications because he was hearing voices.

Mr. Dickerson told the Deputy Marshall that he did not intend to kill or harm Judge Parker. He could not personally carry out the threat because he will be the Mississippi State Penitentiary until year 2039. In that context, the Deputy Marshall asked if he had anyone that could potentially carry out the threat. He answered that he did not.

3. Facts arising from the sentencing hearing.

We begin by noting that when Mr. Dickerson moved from one prison facility to another, his doctors changed, as did his prescribed medications. The psychiatric medication that he was taking at the time of the sentencing hearing was not the same medication he was taking at the time of the subject threats.

As noted by the district court, Mr. Dickerson’s persona changed between the time of his plea hearing and his sentencing hearing. The court stated, “from the first time I actually met you in court to the last time that we were here, you do seem like a different person.” It further stated, “you seem a lot calmer now.” Mr. Dickerson attributed the positive changes to getting proper medications on a regular basis.

As allocution, Mr. Dickerson stated, “I feel like I have learned my lesson on making threats, even to judges. I am trying to change my life and do right, like my Lord Jesus Christ would want me to do.” The court asked, “whether or not you understand the seriousness of your Crime. Do you?” He responded, “Yes, ma’am.”

And Mr. Dickerson has a plan for his life after prison. He will work on obtaining a GED. He will find a job in the construction industry, a job for which he already has experience.

The sentence range under the United States Sentencing Guidelines was 21 to 27 months in prison. The defense asked for a within-Guidelines sentence, to be served concurrently with his 20-year state court sentence. The court accepted the within-Guidelines sentence request but rejected the plea to run the state sentence and the federal sentence concurrently. It ordered a 24-month prison term, to be served consecutively to the 20-year state court sentence. Defense counsel objected to running the two sentences consecutively.

V. ARGUMENT

A. Review on certiorari should be granted in this case.

Rule 10 of the Supreme Court Rules states, “[r]eview on writ of certiorari is not a matter of right, but of judicial discretion.” A district court’s discretion to run two sentences concurrently or consecutively should not be unchecked. Granting certiorari in this case will give the Court an opportunity to provide guidance on the issue. In that context, we present the following argument.

B. Standard of review.

Pursuant to *Gall v. United States*, 552 U.S. 38, 51, 128 S.Ct. 586, 169 L.Ed.2d 445 (2007), we engage in a bifurcated review of the sentence imposed by the district court. *United States v. Delgado–Martinez*, 564 F.3d 750, 752 (5th Cir. 2009). First, we consider whether the district court committed a “significant procedural error,” such as miscalculating the advisory guidelines range. *Id.* If there is no error or the error is harmless, we may proceed to the second step and review the substantive reasonableness of the sentence for an abuse of discretion. *Id.* at 751–53. We review the district court’s factual findings for clear error and its interpretation and application of the guidelines, including any cross-reference provisions, *de novo*. *United States v. Arturo Garcia*, 590 F.3d 308, 312 (5th Cir. 2009).

United States v. Griego, 837 F.3d 520, 522 (5th Cir. 2016).

The issue in this case focuses on substantive reasonableness of ordering Mr. Dickerson’s existing state court sentence and the subject federal sentence to be served consecutively. At the sentencing hearing, defense counsel objected to this aspect of the sentence. Therefore, an abuse of discretion standard of review applies. *See United States v. Espinoza-Camacho*, Case No. 23-11178, 2024 WL

3874382 at *1 (5th Cir. Aug. 20, 2024) (holding that a properly asserted objection preserves a substantive challenge to running two sentences consecutively).

C. Legal tests to measure the substantive reasonableness of a sentence.

An above-Guidelines sentence is substantively unreasonable if it “(1) does not account for a factor that should have received significant weight, (2) gives significant weight to an irrelevant or improper factor, or (3) represents a clear error of judgment in balancing the sentencing factors.” *United States v. Churchwell*, 807 F.3d 107, 123 (5th Cir. 2015) (emphasis added; citation omitted).

Mr. Dickerson’s sentence is substantively unreasonable under the third factor. That is, the district court erred by failing to properly balance the § 3553(a) factors in the consecutive sentence versus concurrent sentence analysis.

D. Law pertaining to the issue of consecutive sentences versus concurrent sentences.

A judge’s discretion to order two sentences to be served either consecutively or concurrently is governed by two bodies of law. One category is the United States Sentencing Guidelines (hereinafter “Sentencing Guidelines” or “Guidelines”), which is not binding law. The other is statutory law, which is binding authority.

The applicable Sentencing Guidelines provision is U.S.S.G. § 5G1.3. This provision states, “[i]f the instant offense was committed while the defendant was serving a term of imprisonment ... such term of imprisonment, the sentence for the

instant offense shall be imposed to run consecutively to the undischarged term of imprisonment.” U.S.S.G. 5G1.3(a). This provision suggests that sentences like the two sentences in Mr. Dickerson’s case should be served consecutively. However, post-*Booker*, “[t]he guidelines are nonbinding; they are policy statements only.” *Gall v. United States*, 552 U.S. 38, 46 (2007).

The applicable binding statute is 18 U.S.C. § 3584. In relevant part, this statute states “if a term of imprisonment is imposed on a defendant who is already subject to an undischarged term of imprisonment, the terms may run concurrently or consecutively[.]” 18 U.S.C. § 3584(a). The statute also provides that a court, “in determining whether the terms imposed are to be ordered to run concurrently or consecutively, shall consider, as to each offense for which a term of imprisonment is being imposed, the factors set forth in section 3553(a).” 18 U.S.C. § 3584(b). Section 3584 clearly afforded the district court authority to order Mr. Dickerson’s 24-month federal sentence to run concurrently with his 20-year Mississippi state court sentence.

E. The district court ordered a substantively unreasonable sentence when it improperly balanced the sentencing factors under 18 U.S.C. § 3553(a).

A Court considers “the totality of the circumstances” when it analyzes substantive reasonableness. *United States v. Gerezano-Rosales*, 692 F.3d 393, 398 (5th Cir. 2012) (citations omitted). Under § 3584(b) our analysis focuses on 18 U.S.C. § 3553, titled “Imposition of a sentence.” Under § 3553(a), “[t]he court

shall impose a sentence sufficient, but not greater than necessary” to meet the ends of justice. Section 3553(a) requires judges to consider several factors when crafting appropriate punishments for offenses. Under this code section, a sentence should account for:

- “the nature and circumstances of the offense” (§ 3553(a)(1));
- “the history and characteristics of the defendant” (*id.*);
- “the seriousness of the offense, ... respect for the law, and ... just punishment for the offense” (§ 3553(a)(2)(A));
- “adequate deterrence to criminal conduct” (§ 3553(a)(2)(B));
- “protect[ion of] the public from further crimes of the defendant” (§ 3553(a)(2)(C));
- Provision of “needed educational or vocational training, medical care, or other correctional treatment in the most effective manner” (§ 3553(a)(2)(D));
- “the kinds of sentences available” (§ 3553(a)(3));
- “the sentencing range established for ... the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines” (§ 3553(a)(4)(A)); and
- “the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct” (§ 3553(a)(6)).

Each of these factors is considered below.

1. The nature and circumstances of the offense under § 3553(a)(1).

Mr. Dickerson's admitted to writing a threatening letter to Judge Parker. However, in May of 2024 when he made the threat, he still had about 15 years left to serve on a Mississippi state court sentence. Therefore, Mr. Dickerson could not personally carry out the threat. Further, he had no one outside of the prison that would be willing to act on the threat on his behalf.

As he informed the Deputy Marshall investigating the case, Mr. Dickerson "didn't really know what his intent was, and his state of mind was 'in and out of it' due to being on heavy doses of psychological medications." "He stated that the medications had been 'messing with his mind.'"

Finally, Mr. Dickerson did not do anything to impede or obstruct justice in relation to his admitted crime. All of these facts weigh in favor of ruling that the district court should have ordered the subject sentence to be served concurrently with the Mississippi state court sentence.

2. The history and characteristics of the defendant under § 3553(a)(1).

Mr. Dickerson has faced a number of challenges in life. He comes from a broken home. His mother, who was physically disabled, raised him. His father was physically abusive to him on the limited occasions when they were together. Also, Mr. Dickerson was sexually abused by his half-brother.

Mr. Dickerson struggled with academic achievement in school. As a child, mental health professionals diagnosed him with Attention Deficit Disorder and Attention Deficit Hyperactivity Disorder. These disabilities required him to enroll in the special education program at school. As he grew older, mental health professionals diagnosed Mr. Dickerson as bipolar disorder, post-traumatic stress disorder and possibly schizophrenia.

The New York State Bar Association published an article titled Unjust Punishment: The Impact of Incarceration on Mental Health. *See* <https://nysba.org/unjust-punishment-the-impact-of-incarceration-on-mental-health/>. The author notes that “[b]y incarcerating so many people with mental illness, we have re-created much of the same dysfunction that pervaded the asylums of the nineteenth and twentieth centuries and the very abuses we sought to end by shutting them down.” *Id.* Therefore, “we need to reject the notion that rehabilitation does not work and shift the focus of our prisons and jails from punishment to rehabilitation and treatment.” *Id.*

Mr. Dickerson’s history includes a Mississippi state court conviction for accessing child pornography. While recognizing that what he did was wrong, we must consider all of the facts of the case. When he committed the crime, Mr. Dickerson was barely an adult himself. He was only 18 years old.

In summary, Mr. Dickerson's abusive upbringing, his learning disabilities, his mental health conditions, and his youth at the time his committed child pornography crime, all reflect the uphill battles he has faced in life. As recognized by the New York Bar Association, treatment, rather than two additional years of incarceration, would benefit both Mr. Dickerson specifically, and society in general.

And in fact, treatment is part of what the district court ordered via a special condition of supervised release. The special condition states, "[t]he defendant shall participate in a program of mental health treatment." By running the two prison terms concurrently, Mr. Dickerson can undergo mental health treatment two years earlier than he would under the current Judgment.

**3. Just punishment for the offense and adequate deterrence to criminal conduct under § 3553(a)(2)(A) and (B);
AND
Protection of the public from further crimes of the defendant under § 3553(a)(2)(C).**

"Just punishment," "adequate deterrence to criminal conduct" and "protection of the public from further crimes of the defendant" are considered together because they are all interrelated.

Mr. Dickerson's youth at the time of the underlying crime must be considered in the adequate deterrence / protection of the public analysis. He was

only 23 years when he wrote the threatening letter.¹ As the Fifth Circuit held in *Graham v. Collins*, 950 F.2d 1009, 1029 (5th Cir. 1992)²:

Typically, evidence of good character, or of transitory conditions such as youth or being under some particular emotional burden at the time, will tend to indicate that the crime in question is not truly representative of what the defendant's normal behavior is or may become over time, and that the defendant may be rehabilitable so as not to be a continuing threat to society.

(Emphasis added). The Fifth Circuit’s rulings in *Graham* provide support for ruling that Mr. Dickerson’s two prison terms should be served concurrently.

The holdings in *McCoy v. United States*, Crim. Action No. 2:03-cr-197, 2020 WL 2738225 (E.D. Va. May 26, 2020) are consistent with the holdings in *Graham*. McCoy moved for compassionate release based on the “extraordinary and compelling reasons” prong of the compassionate release statute. *Id.* at *5.

Consistent with the conclusion that youthful offenders are developmentally different than older offenders, the court found that an “extraordinary and compelling reason” to grant compassionate release was Mr. McCoy’s “relative youth at the time of the sentence[.]” *Id.* The court granted the motion, and resentenced Mr. McCoy to time served. *Id.* at *6.

The holdings in *Graham* and *Collins* are well founded in science. The McArthur Foundation Research Network on Law and Neuroscience published an

¹ Mr. Dickerson was born June 14, 2001. He wrote the letter on May 31, 2024 (Indictment, ROA.20).

² *Overruling on other grounds recognized by Smith v. Quarterman*, 515 F.3d 392 (5th Cir. 2008).

article in February of 2017 titled “How Should Justice Policy Treat Young Offenders?” See https://www.lawneuro.org/files/adol_dev_brief.pdf. The study found that risky behaviors, including criminal activity, “tend to peak in late adolescence and early adulthood, then decline through the twenties.” *Id.* Further, long-term studies indicate that delinquent activity by young offenders is “not an indication of an indelible personality trait: most adolescents, even those who commit serious crimes, will age out of offending and will not become career criminals.” *Id.*

The book “Prisoners of Politics” written in 2019 by Rachel Elise Barkow provides further support for Mr. Dickerson’s argument. She states, “[f]or most crimes, the likelihood that someone will continue committing them once they hit 40 is negligible. Most juveniles discontinue their criminal activity after brief experimentation with it.” *Id.* at pp. 44-45.

When Mr. Dickerson completes his Mississippi state sentence on or about September 16, 2039, he will be 38 years old. At that age, Ms. Barkow’s findings indicate that likely, he will no longer present a danger to society.

Further research on the differences in the brains of young people and the brains of adults is found in the Health Encyclopedia. See https://www.lawneuro.org/files/adol_dev_brief.pdf. It states, “[t]he rational part of a teen’s brain isn’t fully developed and won’t be until age 25 or so.” *Id.* “Adults

think with the prefrontal cortex, the brain's rational part. This is the part of the brain that responds to situations with good judgment and an awareness of long-term consequences. Teens process information with the amygdala. This is the emotional part.” *Id.*

Under the information contained in the Health Encyclopedia, Mr. Dickerson's brain acted and reacted primarily through emotions when he committed the subject crime at age 23. When he is released from his sentence on the state court sentence, he will be 38 years old. At that age, his brain will act and react primarily through good judgment, with awareness of long-term consequences. This further supports our argument that Mr. Dickerson's two sentences should be served concurrently.

4. The need for educational or vocational training, medical care, or other correctional treatment under § 3553(a)(2)(D).

While education and vocational training will certainly benefit Mr. Dickerson, he will spend another 15 years in Mississippi state prison even if the two sentences at issue run concurrently. This will afford him an opportunity to achieve a GED and attend vocational training courses offered by the Mississippi Department of Corrections.

5. The kinds of sentences available under § 3553(a)(3).

This factor does not come into play in the subject analysis.

6. The Guidelines sentencing range under § 3553(a)(4)(A).

The defense acknowledges that the nonbinding provisions of U.S.S.G. 5G1.3(a) suggest that sentences, like the two sentences in Mr. Dickerson's case, should be served consecutively. However, All other factors in the above analyses militate against that result.

7. Conclusion: § 3553(a) analysis.

The weight of the relevant § 3553(a) factors support a ruling that Mr. Dickerson's state court and federal court sentences should be served concurrently.

VI. CONCLUSION

Based on the arguments presented above, Mr. Dickerson asks the Court to grant his Petition for Writ of Certiorari in this case.

Submitted July 7, 2026, by:

s/ Michael L. Scott

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CERTIFICATE OF SERVICE

As required by Supreme Court Rule 29.5, on July 7, 2026, the undersigned served copies of the enclosed Petition for a Writ of Certiorari and Motion for Leave to Proceed In Forma Pauperis on all parties required to be served by enclosing a copy of each in an envelope and delivering it to FedEx, a third-party commercial carrier for delivery within three calendar days to:

The Honorable D. John Sauer
Solicitor General of the United States
Room 5614, Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530-0001

I further certify that all parties required to be served with this Petition and the Motion have been served.

Respectfully submitted, July 7, 2026, by:

s/Michael L. Scott

Michael L. Scott (MS Bar # 101320)

Senior Litigator

Office of the Federal Public Defender