No.

In the
Supreme Court of the United States

TARRELL HENDRIX,
Petitioner,
-against-

UNITED STATES OF AMERICA,
Respondent,

On Petition for a Writ of Certiorari
to the United States Court of Appeals for the Second Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

1. Whether a court may affirm an assumed denial of counsel during adjudication of a motion to withdraw a guilty plea on the ground that the error was harmless because counsel was later appointed and the court determined that the motion lacked merit.

PARTIES TO THE PROCEEDING

1. Tarrell Hendrix, Petitioner, was the defendant-appellant in the court below.

2. United States of America, Respondent, was the appellee in the court below.

RELATED CASES

- *United States v. Hendrix*, No. 21-CR-00131, United States District Court for the Western District of New York. Judgment entered August 9, 2024

- *United States v. Hendrix*, No. 24-2165, United States Court of Appeals for the Second Circuit. Summary Order filed January 21, 2026

- Order on Rehearing, United States Court of Appeals for the Second Circuit, dated April 6, 2026 (denying rehearing).

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PETITION FOR WRIT OF CERTIORARI

Petitioner Tarrell Hendrix respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit in this case.

OPINIONS BELOW

The Summary Order of the United States Court of Appeals for the Second Circuit dated January 21 2026 (1a) is not reported but is available at 2026 WL 160750. The district court's denial of counsel (18a) is an oral order contained with the transcript of the June 7, 2022, is unreported and unpublished, and appears in the Appendix. The district court judgment dated August 8, 2024 (11a) is unreported and unpublished and appears in the Appendix. The Second Circuit's Order on Rehearing dated April 6, 2026 is unreported and unpublished and appears in the Appendix. (26a.)

JURISDICTION

The judgment of the United States Court of Appeals for the Second Circuit was entered on January 21, 2026. A petition for rehearing and rehearing *en banc* was denied on April 6, 2026. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

U.S. Constitution

Amendment VI

The Sixth Amendment to the United States Constitution provides in relevant part:

"In all criminal prosecutions, the accused shall enjoy the right ... to have the Assistance of Counsel for his defence."

Amendment XIV

The Fourteenth Amendment to the United States Constitution provides in relevant part:

"[N]or shall any State deprive any person of life, liberty, or property, without due process of law."

Federal Rules

Federal Rule of Criminal Procedure 11(d)(2)(B)

Federal Rule of Criminal Procedure 11(d)(2)(B) provides:

"A defendant may withdraw a plea of guilty or nolo contendere...(2) after the court accepts the plea, but before it imposes sentence if... (B) the defendant can show a fair and just reason for requesting the withdrawal."

STATEMENT OF THE CASE

1. Proceedings Below

Petitioner Tarrell Hendrix pleaded guilty in the United States District Court for the Western District of New York to one count of possession of a firearm and ammunition after a felony conviction, in violation of 18 U.S.C. § 922(g)(1).

After entering his plea, Hendrix sought to withdraw it. During the ensuing plea-withdrawal proceedings, the district court permitted Hendrix to proceed without counsel and later denied his renewed request for appointed counsel while the motion to withdraw the plea remained pending (24a). The district court ultimately denied the motion and sentenced Hendrix principally to 78 months' imprisonment. (12a.)

The United States Court of Appeals for the Second Circuit affirmed in a nonprecedential summary order. (1a–10a.) The court assumed, without deciding, that Hendrix may have been permitted to proceed without a valid waiver of counsel, but held that any Sixth Amendment violation was harmless because counsel was later appointed and because the plea-withdrawal motion was "completely without merit." (5a.)

The court of appeals denied rehearing and rehearing *en banc*. (26a.)

2. The Plea-Withdrawal Proceedings

Jury selection began on February 8, 2022.

On the second day of jury selection, the parties advised the district court that a plea agreement had been reached. Petitioner thereafter pleaded guilty pursuant to a Rule 11(c)(1)(C) agreement.

Approximately one month later, petitioner submitted a handwritten motion seeking to withdraw his guilty plea. He asserted that he had been under the influence of drugs when he entered the plea, had been pressured into accepting it, and had been denied access to evidence prior to trial.

Petitioner also sought to discharge counsel.

On March 31, 2022, the district court conducted a hearing concerning representation. During that hearing petitioner repeatedly expressed confusion regarding the proceedings and equivocated concerning self-representation. The district court nevertheless permitted petitioner to proceed without counsel without obtaining an unequivocal waiver or advising petitioner regarding the dangers and disadvantages of self-representation.

The government thereafter filed opposition to petitioner's motion to withdraw his plea.

In subsequent filings petitioner requested appointment of counsel.

3. The June 7, 2022 Proceeding

On June 7, 2022, petitioner appeared before the district court without counsel while his motion to withdraw his guilty plea remained pending.

At the outset of the proceeding, the district court stated that petitioner had requested appointment of counsel and asked him to explain why counsel should be appointed.

Petitioner attempted to discuss the filings then pending before the court, including matters relating to withdrawal of his plea.

The court repeatedly directed him to explain why he wanted counsel.

Petitioner asserted that he wished to proceed before a different judge and maintained that he had been forced into the plea agreement.

The district court then denied the request for counsel. (24a.)

Later that same day, the district court issued a written order denying petitioner's motion to withdraw his guilty plea.

The court concluded that petitioner's assertions regarding intoxication, coercion, and withheld evidence were contradicted by statements made during the plea colloquy and therefore insufficient to justify withdrawal of the plea.

Two days later, on June 9, 2022, the district court appointed new counsel.

4. Subsequent Proceedings

New counsel later filed a renewed motion to withdraw the guilty plea.

The motion argued that the plea was not knowing and voluntary and further asserted legal innocence in light of developments in Second Amendment jurisprudence.

The district court denied the motion.

After sentencing, petitioner appealed.

Before the court of appeals, petitioner argued that he had been deprived of counsel during plea-withdrawal proceedings because the district court permitted him to proceed without a valid waiver of counsel and later denied his request for appointed counsel while the motion remained pending.

The court of appeals assumed arguendo that petitioner may have been permitted to proceed without a valid waiver of counsel under *Faretta v. California*, 422 U.S. 806 (1975). (4a.) It nevertheless affirmed, holding that petitioner was "neither denied counsel entirely nor denied counsel at a critical stage" and that any Sixth Amendment violation was harmless because counsel was later appointed and the plea-withdrawal motion lacked merit. (5a.)

This petition follows.

REASONS FOR GRANTING THE PETITION

I. THE DECISION BELOW CONFLICTS WITH THIS COURT'S SIXTH AMENDMENT STRUCTURAL-ERROR PRECEDENTS

This Court has long distinguished between ordinary trial error and structural constitutional defects.

In *United States v. Cronic*, the Court explained that prejudice is presumed when a defendant is denied counsel at a critical stage of the proceedings because the adversarial process itself has broken down. 466 U.S. 648, 659 (1984). The Court emphasized that it has "uniformly found constitutional error without any showing of prejudice when counsel was either totally absent, or prevented from assisting the accused during a critical stage of the proceeding." *Id.* at 659 n.25.

The Court reaffirmed that principle in *Penson v. Ohio*, holding that when a defendant is denied counsel during a critical stage, prejudice is presumed and harmless-error review is inappropriate. 488 U.S. 75, 88 (1988). Likewise, in *Satterwhite v. Texas*, the Court explained that some Sixth Amendment violations so undermine the integrity of the proceeding that they cannot be treated as harmless. 486 U.S. 249, 256-57 (1988).

The decision below conflicts with those principles.

In this case, the panel assumed, without deciding, that Hendrix's purported waiver of counsel was invalid under *Faretta*. Yet it nevertheless affirmed because Hendrix had counsel earlier in the case, counsel was later appointed, and his plea-withdrawal motion was "completely without merit." (4a–5a.)

That reasoning is irreconcilable with *Cronic* and *Penson*.

The constitutional violation alleged here was not ineffective assistance of counsel. It was the complete absence of counsel while a pending motion to withdraw a guilty plea was adjudicated.

On June 7, 2022, Hendrix appeared without counsel while his motion to withdraw his plea remained pending. During that proceeding the district court denied his request for appointed counsel. Later that same day, the court entered a written order denying the motion to withdraw the plea.

Thus, at the moment the district court resolved whether Hendrix's guilty plea—and therefore his conviction—would stand, Hendrix had no attorney.

Under *Cronic*, that is precisely the circumstance in which prejudice is presumed.

Rather than applying that rule, the panel evaluated the merits of the underlying motion and concluded that any constitutional error was harmless because the motion lacked merit. (5a.)

But structural-error doctrine exists precisely because courts cannot reliably determine what effective advocacy might have accomplished.

As this Court has repeatedly explained, certain constitutional violations are not subject to outcome-based review because their consequences are impossible to measure. *See Weaver v. Massachusetts*, 582 U.S. 286, 295 (2017).

The panel's analysis turns that principle on its head. Under the decision below, a court may deny counsel at a critical stage, decide the issue against the defendant, and avoid reversal so long as an appellate court later concludes that the defendant probably would have lost anyway.

That is not the rule of *Cronic*. It is harmless-error review under another name.

The question presented is therefore exceptionally important: whether a court may affirm an assumed denial of counsel at a critical stage based upon its own retrospective evaluation of the merits of the defendant's position.

This Court's intervention is warranted to restore the distinction between structural and harmless error that its precedents require.

II. LOWER COURTS HAVE ADOPTED DIFFERING APPROACHES TO DENIAL OF COUNSEL DURING PLEA-WITHDRAWAL PROCEEDINGS

The decision below is also difficult to reconcile with the approaches adopted by numerous federal courts when confronted with denial of counsel during plea-withdrawal proceedings.

The Second Circuit has itself repeatedly recognized that a motion to withdraw a guilty plea is a critical stage of a criminal proceeding.

In *United States v. Davis*, the court held that plea withdrawal is a critical stage because of the complexity of the governing standards and the potentially dispositive consequences of the proceeding. 239 F.3d 283, 285-86 (2d Cir. 2001). Likewise, in *United States v. Forbes*, the Second Circuit stated that "[a] motion to withdraw a guilty plea is a critical stage of a criminal proceeding," such that "no showing of prejudice is necessary to establish a Sixth Amendment violation where a defendant is deprived of counsel in bringing it." 574 F.3d 101, 106 (2d Cir. 2009).

Other courts have treated denial of counsel at plea withdrawal in the same manner.

In *United States v. Ellison*, the Seventh Circuit held that a defendant was denied his Sixth Amendment right to counsel during proceedings concerning withdrawal of his guilty plea and remanded for a new hearing rather than conducting harmless-error review. 798 F.2d 1102, 1108-09 (7th Cir. 1986).

Similarly, the First, and Fourth Circuits have recognized that plea-withdrawal proceedings constitute critical stages requiring the assistance of counsel and have ordered new plea-withdrawal proceedings when counsel was absent or constitutionally unavailable. *United States v. Sanchez-Barreto*, 93 F.3d 17, 21-22 (1st Cir. 1996); *United States v. Glover*, 8 F.4th 239, 247-48 (4th Cir. 2021).

The decision below adopts a markedly different approach.

Instead of ordering a new counseled plea-withdrawal proceeding, the panel held that any constitutional violation was harmless because the motion lacked merit and counsel was eventually appointed.

That approach effectively transforms denial of counsel into a prejudice inquiry.

The practical consequences are substantial. More than ninety percent of federal convictions are obtained through guilty pleas. Questions concerning plea withdrawal therefore arise throughout the federal system.

If the decision below stands, courts may adjudicate plea-withdrawal motions without counsel and later defend those rulings through harmless-error analysis based on appellate assessment of the motion's likelihood of success.

Other courts have not treated denial of counsel during plea withdrawal in that fashion.

This Court's review is warranted to provide uniform guidance regarding the consequences of denying counsel during one of the most consequential stages of modern criminal litigation.

III. THIS CASE IS AN EXCELLENT VEHICLE

This case cleanly presents whether an assumed denial of counsel during adjudication of a motion to withdraw a guilty plea may be treated as harmless because counsel was later appointed and the motion was deemed meritless.

The court of appeals expressly assumed, without deciding, that petitioner may have been permitted to proceed without a valid waiver of counsel under *Faretta v. California*, 422 U.S. 806 (1975). (4a.) The panel therefore did not resolve the case on disputed factual questions concerning petitioner's understanding of self-representation or on any determination that the waiver was constitutionally valid.

Instead, the panel affirmed solely on harmless-error grounds. It held that Hendrix was "neither denied counsel entirely nor denied counsel at a critical stage" and that any Sixth Amendment violation was harmless because counsel was later appointed and because the plea-withdrawal motion was "completely without merit." (5a.)

The issue is squarely presented. On June 7, 2022, the district court denied Hendrix's request for counsel while his motion to withdraw his guilty plea remained pending. (24a.) Later that same day, the court entered a written order denying the motion. At the moment the district court adjudicated whether the guilty plea would stand, Hendrix was unrepresented.

No procedural obstacle prevents review. The issue was preserved and fully litigated below. Nor does this case involve ineffective-assistance claims, disputed prejudice standards, or uncertainty regarding the basis of the court of appeals' decision. The panel assumed the underlying constitutional violation and nevertheless affirmed because it deemed the error harmless.

This case therefore presents the recurring and important question whether denial of counsel during plea-withdrawal proceedings may be excused through retrospective harmless-error review based on later appointment of counsel and appellate evaluation of the motion's strength.

That question is exceptionally important. Guilty pleas resolve the overwhelming majority of criminal cases in the federal system, and plea-withdrawal proceedings often determine whether convictions will stand. The decision below permits courts to adjudicate plea withdrawal while a defendant is unrepresented and avoid reversal so long as a reviewing court later concludes that the motion lacked merit or that subsequent appointment of counsel sufficiently mitigated the error.

This case provides an unusually clean vehicle for resolving that question because the court of appeals assumed the constitutional violation and decided the case entirely on harmless-error grounds.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court issue a writ of certiorari to review the judgment of the Second Circuit Court of Appeals.

Dated this July 6, 2026, in Brooklyn, New York.

Respectfully submitted,

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United States v. Hendrix

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 21st day of January, two thousand twenty-six.

PRESENT:

AMALYA L. KEARSE,
JOHN M. WALKER, JR.,
JOSEPH F. BIANCO,
Circuit Judges.

UNITED STATES OF AMERICA,

Appellee,

v.

24-2165-cr (L),
24-2167-cr (Con)

JEFFERY GRAHAM, AKA TWENTY, REUBEN FEARS, AKA JAY, DERRICK PATTERSON, AKA DINKY, AKA POST, CRAIG ELDRIDGE, CHARLES ROSE, AKA CHUCK, LARON THOMPSON, SHARON THOMPSON, AKA KINTAE, WALDEMAR PABON, REGINALD ROYAL, JR., SHAVON ROYAL, AKA SIR, JAMES SULLIVAN, THEODORE HINES, AKA TEDDY, THOMAS HAKEEM, TERRY WILLIAMS, EDWARD GREEN, LAFERALD HINES, CHARISMA ROYSTER,

Defendants,

TARRELL HENDRIX,

Defendant-Appellant.

FOR APPELLEE:	TIFFANY H. LEE, Assistant United States Attorney, *for* Michael DiGiacomo, United States Attorney for the Western District of New York, Buffalo, New York.
FOR DEFENDANT-APPELLANT:	SARAH KUNSTLER, Law Office of Sarah Kunstler, Brooklyn, New York.

Appeals from judgments of the United States District Court for the Western District of New York (John L. Sinatra, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgments of the district court, both entered on August 8, 2024, are **AFFIRMED**.

Defendant-Appellant Tarrell Hendrix has filed appeals from two judgments. In No. 24-2165, he challenges an August 8, 2024, judgment convicting him, following his plea of guilty, of one count of possession of firearms and ammunition after having been convicted of a felony, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2), and sentencing him principally to 78 months' imprisonment to be followed by a three-year term of supervised release. In No. 24-2167, he challenges a judgment, also entered on August 8, 2024, finding, following his admission of guilt, that he violated a supervised-release condition that had been imposed on him for a prior conviction, and sentencing him to four months' imprisonment to be served concurrently with the 78-month prison term imposed for the firearm-possession conviction. In No. 24-2165, Hendrix principally contends that the district court erred in (1) accepting his waiver of his right to counsel, pursuant to *Faretta v. California*, 422 U.S. 806 (1975), following his guilty plea; (2) denying his post-waiver request for appointment of new counsel; and (3) denying his motions to withdraw his guilty plea. We assume the parties' familiarity with the underlying facts, procedural history, and issues on appeal, to which we refer only as necessary to explain our decision to affirm.

I. Waiver of Counsel under *Faretta*

"The Sixth Amendment protects a criminal defendant's right to the assistance of counsel at all critical stages of the criminal process." *United States v. Romeo*, 136 F.4th 372, 378 (2d Cir. 2025) (alteration adopted) (internal quotation marks omitted). "There is, however, the correlative right to dispense with legal assistance and represent oneself." *Torres v. United States*, 140 F.3d 392, 401 (2d Cir. 1998). Given that when a defendant proceeds *pro se*, he "relinquishes . . . many of the traditional benefits associated with the right to counsel," his relinquishing those benefits must be knowing and intelligent. *Faretta*, 422 U.S. at 835. We have repeatedly explained that "there is no talismanic procedure to determine a valid waiver" of the right to counsel, but "the district court should engage the defendant in an on-the-record discussion to ensure that []he fully understands the ramifications of [his] decision." *Torres*, 140 F.3d at 401; *see also Faretta*, 422 U.S. at 835 ("[The defendant] should be made aware of the dangers and disadvantages of self-representation, so that the record will establish that he knows what he is doing and his choice is made with eyes open." (internal quotation marks omitted)).

"A district court's conclusion[] regarding the constitutionality of a defendant's waiver of his right to counsel is subject to de novo review, but its supporting factual findings are reviewed under a clearly erroneous standard." *United States v. Garrett*, 42 F.4th 114, 118 (2d Cir. 2022) (alterations adopted) (internal quotation marks omitted). "We will affirm a district court's conclusion that a defendant knowingly and voluntarily waived his constitutional rights if any reasonable view of the evidence supports it." *Id.* (internal quotation marks omitted). Although a violation of a defendant's Sixth Amendment right to proceed *pro se* "requires automatic reversal of a criminal conviction," *Wilson v. Walker*, 204 F.3d 33, 37 (2d Cir. 2000); *see also McCoy v. Louisiana*, 584 U.S. 414, 427–28 (2018) (discussing the differences between structural and non-structural errors and holding that a structural error warrants "a new trial without any need first to show prejudice"), the Supreme Court has held that violations of the Sixth Amendment right to counsel are non-structural and subject to harmless-error review unless there was an "[a]ctual or constructive denial of the assistance of counsel altogether," *Penson v. Ohio*, 488 U.S. 75, 88 (1988) (internal quotation marks omitted), or counsel was "prevented from assisting the accused during a critical stage of the proceeding," *United States v. Cronic*, 466 U.S. 648, 659 n.25 (1984); *see also Mickens v. Taylor*, 535 U.S. 162, 166 (2002) ("We have spared the defendant the need of showing probable effect upon the outcome, and have simply presumed such effect, where assistance of counsel has been denied entirely or during a critical stage of the proceeding."); *United States v. Ferrer*, 765 F. App'x 622, 625 (2d Cir. 2019) (summary order) (holding that the defendant's self-representation at a suppression hearing was subject to harmless-error review). Under harmless error review, the burden is on the government to show that a constitutional error was "harmless beyond a reasonable doubt." *Chapman v. California*, 386 U.S. 18, 24 (1967).

Hendrix argues that "[d]espite a record that showed [that he] neither understood the consequences of waiving counsel nor affirmatively elected to do so, the district court ruled that he would 'have the opportunity' to represent himself." Appellant's Br. at 35. Thus, according to Hendrix, "[t]he [district] court's failure to confirm that [he] grasped the risks of self-representation or the advantages of legal counsel fell far short of what is required by *Faretta*" and requires reversal of his conviction. *Id.* at 35–36. However, we need not address this argument because, even assuming *arguendo* that the district court failed to adequately comply with *Faretta* in determining whether Hendrix's waiver of counsel was knowing and voluntary, the Sixth Amendment violation was harmless.

As a threshold matter, we conclude that harmless-error review applies to this alleged Sixth Amendment violation because Hendrix was neither denied counsel entirely nor denied counsel at a critical stage of his criminal proceeding. Indeed, he was represented by counsel from the inception of his criminal case until after his guilty plea proceeding. Moreover, although he filed a *pro se* motion to withdraw his guilty plea during his period of self-representation, the district court (at Hendrix's request) subsequently appointed new counsel, who then also filed a motion to withdraw the plea, and the district court fully considered both the *pro se* and counseled motions. New counsel also represented Hendrix for the remainder of the criminal proceeding, including his sentencing. Under these circumstances, any Sixth Amendment error in allowing Hendrix to temporarily represent himself is non-structural and subject to harmless error review. *Penson*, 488 U.S. at 88; *see also Cronic*, 466 U.S. at 659 n.25.

Applying the harmless-error standard to the circumstances presented here, we hold that any error in permitting Hendrix to represent himself for a portion of his criminal proceeding was harmless.[1] As noted above, at the point that Hendrix commenced his self-representation, he had already pled guilty with the full assistance of counsel. To be sure, during his period of self-representation, Hendrix filed a *pro se* motion to withdraw his guilty plea. However, the lack of assistance of counsel in preparing and filing that motion had no impact on his conviction because (as discussed *infra*) the motion was completely without merit and, in any event, he was subsequently appointed counsel who submitted a second motion to withdraw his guilty plea, which

[1] Because we conclude that any error was harmless, we need not address the government's separate argument that Hendrix also failed to satisfy the plain error standard.

the district court considered *de novo*. Therefore, Hendrix suffered no prejudice during the period of self-representation. Rather, in effect, the district court allowed him to file an additional *pro se* motion to withdraw his guilty plea, instead of being limited to only the counseled motion. In sum, even if the district court's alleged failure to comply with *Faretta* in allowing Hendrix's post-plea self-representation constituted a Sixth Amendment violation, the government has demonstrated that the error was "harmless beyond a reasonable doubt," and there is no basis to reverse his conviction on this ground.[2] *Chapman*, 386 U.S. at 24.

II. Motions to Withdraw the Guilty Plea

A defendant may withdraw a guilty plea after it has been accepted but prior to sentencing if he can show "a fair and just reason for requesting the withdrawal." Fed. R. Crim. P. 11(d)(2)(B). In deciding whether to grant a motion to withdraw a guilty plea, courts consider several factors, including: (1) whether the defendant "has raised a significant question about the voluntariness of the original plea"; (2) whether the defendant "has asserted his or her legal innocence in the motion"; (3) "the amount of time that has elapsed between the plea and the motion (the longer the elapsed time, the less likely withdrawal would be fair and just)"; and (4) "whether the government would be prejudiced by a withdrawal of the plea." *United States v. Albarran*, 943 F.3d 106, 117–18 (2d Cir. 2019) (internal quotation marks omitted). "The standard for withdrawing a guilty plea is stringent because society has a strong interest in the finality of guilty pleas, and allowing

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[2] We reach the same conclusion regarding Hendrix's contention that his Sixth Amendment right to counsel was also violated when, on June 7, 2022, the district court, while Hendrix was representing himself and after he filed his *pro se* motion to withdraw his guilty plea, denied his renewed request for counsel and noted that sentencing would proceed on June 9, 2022. Two days after that denial, at the June 9 scheduled date for sentencing, Hendrix reiterated his request for the appointment of new counsel, and the district court granted that request and further adjourned the sentencing. Thus, even assuming *arguendo* that the district court abused its discretion in denying Hendrix's June 7 renewed request for counsel, that error was harmless given that counsel was appointed two days later (with no court activity taking place in that intervening two-day period) and the sentencing was adjourned.

withdrawal of pleas not only undermines confidence in the integrity of our judicial procedures, but also increases the volume of judicial work, and delays and impairs the orderly administration of justice." *United States v. Doe*, 537 F.3d 204, 211 (2d Cir. 2008) (internal quotation marks omitted). "[T]he government need not demonstrate prejudice where the defendant fails to show sufficient grounds to justify withdrawal of the plea." *United States v. Torres*, 129 F.3d 710, 715 (2d Cir. 1997). "We review a district court's denial of a motion to withdraw a guilty plea for abuse of discretion and any findings of fact in connection with that decision for clear error." *United States v. Rivernider*, 828 F.3d 91, 104 (2d Cir. 2016) (internal quotation marks omitted).

Hendrix argues that his motions to withdraw his guilty plea raised questions about the voluntariness of his plea and that the district court erred in denying the motions without a hearing. We disagree.

With respect to his *pro se* motion, which was filed approximately one month after his guilty plea proceeding, Hendrix did not assert legal innocence, but rather argued that his guilty plea was involuntary. Hendrix's arguments as to voluntariness were grounded entirely in his conclusory affidavit, which stated that he was under the influence of narcotics and coerced into signing the plea agreement. These statements in the affidavit were in complete contradiction to his sworn statements to the district court during the guilty plea proceeding.[3] *See* App'x at 244 (Hendrix confirming that he was "clearheaded . . . about what [he was] planning to do in terms of enter[ing] a guilty plea"); *id*. at 245 (Hendrix, although admitting he had used marijuana approximately four days prior to the proceeding, affirming that he was not under the influence of any drug, medication, or alcohol at the time of the proceeding, and stating that nothing about the earlier marijuana use

[3] At the plea hearing, Hendrix's counsel also stated she had spoken with him prior to the proceeding and believed that he was competent to proceed with the guilty plea, and the district court made the following finding: "Based on the statements of Mr. Hendrix and his lawyers and my observations, I find that Mr. Hendrix is in full possession of his faculties and is competent to proceed." App'x at 246–47.

was affecting his judgment at the proceeding); *id.* at 252 (Hendrix affirming that no one forced or coerced him to plead guilty); *id.* (Hendrix affirming he was pleading guilty voluntarily). We have emphasized that "statements made under oath at a plea allocution carry a strong presumption of veracity," *Albarran*, 943 F.3d at 120 (internal quotation marks omitted), and a district court does not abuse its discretion in denying a motion to withdraw where "unequivocal admissions under oath" are contradicted only by "unsupported assertions," *Torres*, 129 F.3d at 715; *see also United States v. Freeman*, 17 F.4th 255, 265 (2d Cir. 2021); *United States v. Gonzalez*, 970 F.2d 1095, 1101 (2d Cir. 1992). Here, the district court acted well within its discretion in determining that Hendrix had failed to identify anything in the record to overcome the strong presumption of veracity that attached to his sworn statements at the plea proceeding and denying the motion on that basis.

We similarly find no abuse of discretion in the district court's denial of Hendrix's counseled motion to withdraw his guilty plea. In that motion, Hendrix principally argued that he "ha[d] credibly asserted a claim of legal innocence based upon the potential constitutional invalidity of § 922(g)(1) under the new analytical framework set forth in [*New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1 (2022)]." App'x at 411. However, the district court correctly rejected that claim of factual innocence and properly concluded that our prior decision in *United States v. Bogle*, 717 F.3d 281 (2d Cir. 2013), which held that § 922(g)(1) is facially constitutional, survived the Supreme Court's decision in *Bruen*. Indeed, we subsequently addressed that precise issue in *Zherka v. Bondi*, 140 F.4th 68, 74–75 (2d Cir. 2025), and affirmed that our holding in *Bogle* remains good law under the *Bruen* framework. To the extent that the counseled motion also reasserted Hendrix's prior *pro se* arguments regarding the purported involuntariness of the plea, the district court did not abuse its discretion in again rejecting those arguments. For example, although the counseled motion asserted that Hendrix "did not understand the nature of the charges" or the plea agreement, App'x at 421, those assertions were again contradicted by his sworn statements during the guilty plea proceeding. In particular, at that proceeding, the district court confirmed with Hendrix that he had discussed with his attorneys "the charge against [him], [his] rights, the proposed plea agreement, and [his] options." *Id.* at 246; *see also id*. at 247 (summarizing of the charge by the district court). Hendrix further confirmed to the district court that he was satisfied with the legal advice that he had received from his attorneys. Later in the proceeding, Hendrix stated that, before he signed the plea agreement, he read it, discussed it with his attorneys, and understood and agreed with everything in it. Moreover, in response to the district court's questions, Hendrix stated that he had no questions about the agreement and did not need any additional time to discuss it with his attorneys. In sum, given that these sworn statements at the guilty plea proceeding contradicted Hendrix's claims of involuntariness in his motion, we again discern no basis to disturb the district court's rejection of these claims in the second motion.[4]

In No. 24-2167, challenging the judgment that he violated a supervised release condition, Hendrix makes no arguments other than those with which he challenged the judgment convicting him of possession of firearms as a convicted felon, which we find meritless for the reasons discussed above.

* * *

[4] We are similarly unpersuaded by Hendrix's argument that the district court erred in failing to hold an evidentiary hearing on his motions. We have explained that a defendant "must present some significant questions concerning the voluntariness or general validity of the plea to justify an evidentiary hearing." *Gonzalez*, 970 F.2d at 1100. Here, for the reasons discussed above, the questions that Hendrix raised regarding the voluntariness and general validity of his guilty plea were not significant, and the district court reasonably determined that an evidentiary hearing was unwarranted.

We have considered Hendrix's remaining arguments and conclude that they are without merit. Accordingly, we **AFFIRM** the district court's judgments.[5]

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court

[5] Because we have rejected Hendrix's various challenges on appeal and affirm the judgments, we need not address his argument that the case should be re-assigned to a different judge if the case were remanded.

AO 245B (Rev. 10/19) Judgment in a Criminal Case
Sheet 1

ASM/bes (985401)

UNITED STATES DISTRICT COURT

Western District Of New York

UNITED STATES OF AMERICA
v.
Tarrell Hendrix

JUDGMENT IN A CRIMINAL CASE

Case Number: 1:21CR00131-001

USM Number: 23862-055

Barry Nelson Covert
Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 3 of the Superseding Indictment

☐ pleaded nolo contendere to count(s) ________
which was accepted by the court.

☐ was found guilty on count(s) ________
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 922(g)(1), 18 U.S.C. § 924(a)(2)	Felon in Possession of Firearms and Ammunition	06/08/2021	3

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) ________

☒ Counts 1, 2, and 4 of the Superseding Indictment ☐ is ☒ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

August 7, 2024
Date of Imposition of Judgment

Signature of Judge

John L. Sinatra Jr., U.S. District Judge
Name and Title of Judge

8-8-2024
Date

UNITED STATES DISTRICT COURT
FILED
AUG 08 2024
MARY C. LOEWENGUTH, CLERK
WESTERN DISTRICT OF NY

DEFENDANT: Tarrell Hendrix
CASE NUMBER: 1:21CR00131-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:
78 months

The cost of incarceration fee is waived.

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at ____________ ☐ a.m. ☐ p.m. on ____________ .

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on ____________ .

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on ____________ to ____________

at ____________ , with a certified copy of this judgment.

____
UNITED STATES MARSHAL

By ____________
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Tarrell Hendrix
CASE NUMBER: 1:21CR00131-001

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: Three (3) years

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

   ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: Tarrell Hendrix
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STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the court determines in consultation with your probation officer that, based on your criminal record, personal history and characteristics, and the nature and circumstances of your offense, you pose a risk of committing further crimes against another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

Upon a finding of a violation of probation or supervised release, I understand that this court may (1) revoke supervision, (2) extend the terms of supervision, and/or (3) modify the conditions of probation or supervised release. A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions,* available at: www.uscourts.gov.

Defendant's Signature ______________________ Date ____________

U.S. Probation Officer's Signature ______________________ Date ____________

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SPECIAL CONDITIONS OF SUPERVISION

The defendant shall participate in a program for substance abuse, including substance abuse testing such as urinalysis and other testing, and shall undergo a drug/alcohol evaluation and treatment if substance abuse is indicated by the testing. The probation officer will supervise the details of any testing and treatment, including the selection of a treatment provider and schedule. If in-patient treatment is recommended, however, it must be approved by the Court unless the defendant consents. The defendant is not to leave treatment until completion or as ordered by the court. While in treatment and after discharge from treatment, the defendant is to abstain from the use of alcohol. The defendant is required to contribute to the cost of services rendered.

The defendant is to participate in a mental health treatment program, including a mental health evaluation and any treatment recommended. The probation officer will supervise the details of any testing and treatment, including the selection of a provider and schedule. If in-patient treatment is recommended, however, it must be approved by the Court unless the defendant consents. The defendant is not to leave such treatment until completion or as ordered by the Court. While in treatment or taking psychotropic medication, the defendant shall abstain from the use of alcohol. The defendant is required to contribute to the cost of services rendered.

The defendant shall complete an anger management program. The probation officer will supervise the details of the defendant's participation in the program, including the selection of a provider and schedule.

The defendant shall submit to a search of his person, property, vehicle, place of residence or any other property under his control, based upon reasonable suspicion, and permit confiscation of any evidence or contraband discovered.

The defendant shall comply with all Orders of Protection.

The defendant shall notify the probation officer of all Orders of Protection.

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CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	Assessment	AVAA Assessment*	JVTA Assessment**	Fine	Restitution
TOTALS	$ 100	$ 0	$ 0	$ 0	$ 0

☐ The determination of restitution is deferred until ________ . An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss**	Restitution Ordered	Priority or Percentage
TOTALS	$ ________	$ ________	

☐ Restitution amount ordered pursuant to plea agreement $ ________

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.
** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A ☐ Lump sum payment of $ ______________ due immediately, balance due

☐ not later than ______________________ , or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or

B ☒ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☒ F below); or

C ☐ Payment in equal __________ *(e.g., weekly, monthly, quarterly)* installments of $ ___________ over a period of _________ *(e.g., months or years)*, to commence _________ *(e.g., 30 or 60 days)* after the date of this judgment; or

D ☐ Payment in equal __________ *(e.g., weekly, monthly, quarterly)* installments of $ ___________ over a period of _________ *(e.g., months or years)*, to commence _________ *(e.g., 30 or 60 days)* after release from imprisonment to a term of supervision; or

E ☐ Payment during the term of supervised release will commence within _________ *(e.g., 30 or 60 days)* after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F ☒ Special instructions regarding the payment of criminal monetary penalties:

The defendant shall pay a special assessment of $100, which shall be due immediately. Payments shall be made to the Clerk, U.S. District Court (WD/NY), 2 Niagara Square, Buffalo, New York 14202 or to pay online, visit www.nywd.uscourts.gov for instructions, unless otherwise directed by the Court, the probation officer, or the United States Attorney.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Case Number Defendant and Co-Defendant Names *(including defendant number)*	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☒ The defendant shall forfeit his interest in the property specifically set forth in Section VIII of the Plea Agreement and incorporated herein.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, * Docket Number: 1-14-CR-00214-JLS, 1-21-CR-00131-JLS

v. * Buffalo, New York
June 7, 2022
10:07 a.m.

TARRELL HENDRIX, * STATUS CONFERENCE

Defendant.

* * * * * * * * * * * * * * *

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: TRINI E. ROSS,
UNITED STATES ATTORNEY,
By JEREMIAH LENIHAN, ESQ.,
MISHA COULSON, ESQ.,
Assistant United States Attorney,
Federal Centre,
138 Delaware Avenue,
Buffalo, New York 14202,
Appearing for the United States.

For the Defendant: Pro Se Defendant Tarrell Hendrix

The Courtroom Deputy: KIRSTIE L. HENRY

The Court Reporter: BONNIE S. WEBER, RPR,
Notary Public,
Robert H. Jackson Courthouse,
2 Niagara Square,
Buffalo, New York 14202,
Bonnie_Weber@nywd.uscourts.gov.

PRESENT: LIPSITZ GREEN SCIME CAMBRIA LLP,
By BARRY N. COVERT, ESQ.,
42 Delaware Avenue,
Suite 120,
Buffalo, New York 14202.

Proceedings recorded by mechanical stenography,
transcript produced by computer.

(Proceedings commenced at 10:07 a.m.)

THE CLERK: All rise.

The United States District Court for the Western District of New York is now in session. The Honorable John Sinatra presiding.

THE COURT: Please be seated.

THE CLERK: Court calls United States versus Tarrell Hendrix. Case number 14-CR-214 and 21-CR-131. This is the date set for a status conference.

Pro se defendant Tarrell Hendrix is present in the Courtroom.

Also present is attorney Barry Covert.

Counsel for the Government, please state your appearances for the record.

MR. LENIHAN: Good morning, Your Honor. Jerry Lenihan and Misha Coulson on behalf of the United States.

THE COURT: Okay. Good morning, Counsel. Good morning, Mr. Covert. Good morning, Mr. Hendrix.

MR. LENIHAN: Good morning.

MR. COVERT: Good morning.

THE DEFENDANT: Good morning, sir.

THE COURT: Mr. Hendrix, in your most recent filing regarding your effort to withdraw your guilty plea, you requested that I appoint counsel.

A few months ago, after the guilty plea, you asked to proceed in your cases without counsel and I allowed that.

The case law that governs this question now -- your request for counsel now -- requires me to inquire of you, why do you want counsel now? What's going on?

So give me your explanation as to why I should appoint counsel for you.

THE DEFENDANT: Okay. Sir, before we get to counsel, can I have a copy of my affidavit that I filed with the Court that requested counsel?

I filed my bond. I filed my affirmation and my affidavit -- affidavit of truth. You're only bringing up the matter of counsel.

Can I have a copy of the file that the clerk received? This is the shit show I'm talking about.

THE COURT: All right. Mr. Hendrix, we're going to print out two copies of the three filings and we're going to bring those to you.

One copy to you and one to Mr. Covert, so you can look at the documents at the same time.

So you requested counsel and we're here for you to explain to me why you want counsel -- why you ought to have counsel at this point in your case.

THE DEFENDANT: Forgive me, Your Honor. I would like to receive a copy first.

THE COURT: Okay. Mr. Hendrix, we'll play along.

THE DEFENDANT: My life is not a game. I'm not playing. You say we play along. I asked you for a copy of documents that I sent into the Court.

THE COURT: Right. And you submitted those documents to the Court, which means you are telling me you know what's in the documents already.

But I'm going to play along with your request to do it your way, which is to give you your documents first, before you answer my question on why you want counsel now.

Okay. So I'm playing along with your request to do it your way.

THE DEFENDANT: Let the record reflect that you --

THE COURT: The record shows whatever is on the record, okay? Nobody needs to reflect anything.

THE DEFENDANT: -- are being very aggressive right now.

THE COURT: You will look at your documents and then you are going to explain to me why you need counsel.

THE DEFENDANT: For the record, I still have not received none of the documents that I have requested throughout this entire process.

I've been requesting all documents nunc pro tunc, all charging instruments, all accusatory instruments in the matters of 114-CR-214, 121-CR-131.

I have not received none of the documents that I've requested to date, which is June 7, 2022. I've been incarcerated since June 7 -- June 8, 2021.

MR. COVERT: Thank you. Appreciate it.

THE DEFENDANT: Thank you, sir.

THE COURT: Okay. Mr. Hendrix, you have a copy of Docket Number 147, 148, 149. Those are in the 21 case. They are also 11-22, 11-23 and 11-24, in the 2014 case.

THE DEFENDANT: Okay. Your Honor, do you have Document 148 in front of you?

THE COURT: Mr. Hendrix, we're here today on your request for counsel.

If you want to read those documents for a couple minutes first, I'm going to allow you do that. But, today, we are addressing your request for counsel.

THE DEFENDANT: So we're not addressing my affidavit?

THE COURT: No. Not today.

THE DEFENDANT: So when are we -- what day is scheduled to address my affidavit and my bond that I --

THE COURT: Everything else that's filed and is pending before me, will be addressed in writing.

Here, today, your request for counsel is what's in front of me.

THE DEFENDANT: These were filed together. Why is it separate hearings?

THE COURT: The reason, Mr. Hendrix, is because that's the way I want it to be and I get to decide how things go.

Are you going to give me reasons why you want counsel or not?

THE DEFENDANT: Okay. Your Honor, you also forced my attorney to force me to take a plea agreement.

These charges -- this case is not even supposed to be before you.

Do you still want to proceed?

THE COURT: Why do you think this case shouldn't be in front of me?

I understand that one of your reasons that you want me to allow you to withdraw --

THE DEFENDANT: You have it right in front of you in black and white, Your Honor.

THE COURT: Mr. Hendrix -- I am speaking now, Mr. Hendrix. When you are done, then I speak. And when I'm done, then you speak, okay?

THE DEFENDANT: Sir --

THE COURT: One of the reasons why you want to withdraw your guilty plea is that you think somebody forced you to enter into your guilty plea.

THE DEFENDANT: It's not a think. It's a fact.

THE COURT: Okay. So do you want a lawyer to help you make those allegations or are you going to stand on your own allegation?

THE DEFENDANT: Not an allegation. It's a fact.

THE COURT: Do you want the lawyer or not, Mr. Hendrix?

THE DEFENDANT: I would like for these matters to be changed to a different judge, because you obviously can't adjudicate this.

THE COURT: Your request for an attorney is denied, Mr. Hendrix. Thank you very much.

We're going to sentence you, as scheduled, which is on Thursday. All the other stuff is going to happen the way it happens.

(Proceedings concluded at 10:16 a.m.)

* * *

In accordance with 28, U.S.C., 753(b), I certify that these original notes are a true and correct record of proceedings in the United States District Court for the Western District of New York before the Honorable John L. Sinatra, Jr.

s/ Bonnie S. Weber
Signature

February 10, 2025
Date

BONNIE S. WEBER, RPR

Official Court Reporter
United States District Court
Western District of New York

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 6th day of April, two thousand twenty-six.

United States of America,

Appellee,

v.

Jeffery Graham, AKA Twenty, Reuben Fears, AKA Jay, Derrick Patterson, AKA Dinky, AKA Post, Craig Eldridge, Charles Rose, AKA Chuck, Laron Thompson, Sharon Thompson, AKA Kintae, Waldemar Pabon, Reginald Royal, Jr., Shavon Royal, AKA Sir, James Sullivan, Theodore Hines, AKA Teddy, Thomas Hakeem, Terry Williams, Edward Green, Laferald Hines, Charisma Royster,

Defendants,

Tarrell Hendrix,

Defendant - Appellant.

ORDER

Docket Nos: 24-2165 (Lead)
24-2167 (Con)

Appellant, Tarrell Hendrix has filed a petition for rehearing *en banc*. The active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk

UNITED STATES SECOND CIRCUIT COURT OF APPEALS

Catherine O'Hagan Wolfe