

26-5200
NO. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FILED

JUL 22 2026

OFFICE OF THE CLERK
SUPREME COURT, U.S.

DION MONTREAL COXTON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

DION MONTREAL COXTON
REG. NO. #20149-058
FCI BENNETTSVILLE
P.O. BOX 52020
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PRO SE PETITIONER

July 20, 2026

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i.

QUESTION PRESENTED

The Supreme Court recently addressed the Question Presented in *Barrett v. United States*, 607 U.S. 128 (2026). Whether the Double Jeopardy Clause permits two sentences for an that violates both 18 U.S.C. §§ 924(c) and 924(j).

Whether the Fourth Circuit erred in not recognizing this Court's *Barrett*'s decision in denying Petitioner Coxton's motion filed under 28 U.S.C. § 2244 for an order authorizing the district court to consider a second or successive application under pursuant to 28 U.S.C. § 2255 in light of the Court's decision in *Barrett v. United States*, *supra*.

i.

ii.

PARTIES TO THE PROCEEDING

Petitioner Dion Montreal Coxton is the Defendant in these proceedings.

United States of America is the Respondent in these proceedings.

ii.

STATEMENT OF RELATED PROCEEDINGS

This case arises from the following proceedings:

- * In Re: Dion Montreal Coxton v. United States of America, No. 26-176 (4th Cir. 2026);
- * United States of America v. Dion Montreal Coxton, 419 Fed. Appx. 407 No. 08-4809 (4th Cir. 2011);
- * United States of America, v. Dion Montreal Coxton, (3:05-cr-00339-FDW-3)(W.D.N.C., 2009);
- * Post-Conviction Relief by Certificate of Appealability denied. Coxton v. United States, 2015 U.S. Dist. LEXIS 52909 (W.D.N.C., Apr. 22, 2015).

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PETITION FOR A WRIT OF CERTIORARI

OPINION BELOW

The opinion of the Fourth Circuit Court of Appeal was rendered on June 11, 2026. Denying Petitioner Dion Montreal Coxton's motion filed pursuant to 28 U.S.C. § 2244 for an order authorizing the district court to consider a second or successive application for relief under 28 U.S.C. § 2255.

JURISDICTION

The judgment of the Fourth Court was entered on June 11, 2026. The Fourth Circuit's order denying Petitioner Dion Montreal Coxton's request to file a second or successive application under 28 U.S.C. § 2255. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. The Fifth Amendment of the United States Constitution provides:

"the no person shall be subject for the same offense to be twice put in jeopardy of life or limb. U.S. Const. V." The Double Jeopardy Clause prohibits the government from making repeated attempts to convict an accused after an acquittal or for the same offense after a conviction, and also "protects against multiple punishments for the same offense."

2. The statute under which Petitioner sought habeas corpus relief was 28 U.S.C. § 2255 which states in pertinent part:

§2255 Federal Custody; Remedies on Motion Attacking sentence:

A prisoner in custody under sentence of a court established by Act of congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without

jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct sentence.

28 U.S.C. § 2255.

STATEMENT OF THE CASE

Petitioner Dion Montreal Coxton was indicted in the Western District of North Carolina on one count of conspiracy to possess with intent to distribute and distribution of 50 grams or more of cocaine base, in violation of 21 U.S.C. §§ 841(a), 846 and 841(b)(1)(A) (Count One); one count of conspiracy to use and carry firearms during and in relation to a drug trafficking crime, in violation of 18 U.S.C. § 924(o) (Count Two); one count of the use, carry and possession of a firearm during and in relation to a drug trafficking crime, and causing the death of another person through the use of the firearm and aiding and abetting the same, in violation of 18 U.S.C. §§ 924(c)(1), 924(j)(1), and (Count Three); one count of possession of a firearm by a convicted felon, in violation of 18 U.S.C. § 922(g)(1) (Count Four); and one count of possession with intent to distribute cocaine base and aiding abetting the same, in violation of 21 U.S.C. :: 841(a)(1), 841(b)(1)(B) and 2 (Count Five).

Petitioner elected to plead not guilty and proceeded to trial. The evidence at trial established that Petitioner and co-defendants Montare Goodman, Damien Miller and Royre Ervin worked as crack dealers in the Charlotte area. Petitioner's three co-defendant's elected to plead guilty and each testified at

Petitioner's trial. The testimony demonstrated that on one occasion, an individual named Marvin Clark sold Goodman what purported to be inexpensive crack which proved to be candle wax. Clark repeated this effort by attempting to sell fake crack to Ervin, but the sale never went through because Ervin learned about the scheme, in an effort to recover the money Goodman paid to Clark, Goodman and Ervin made a plan to rob Clark, and contacted him to arrange a crack sale. Ervin met with Clark and waited until Petitioner, Goodman, and Miller could arrive on the scene. After arriving, Goodman and Petitioner exited their vehicle and shot Clark; Goodman with a rifle, and Petitioner with a semiautomatic handgun. Goodman's shot proved fatal while Petitioner's shot resulted in an injury to Clark's thigh. Following five days of testimony, the jury convicted Petitioner of all five counts in the second superseding indictment.

In advance of Petitioner's sentencing, the U.S. Probation Office prepared a presentence report (PSR). The probation officer first grouped Counts One and Five and counts Two and Four pursuant to § 3D1.1 of the U.S. Sentencing Guidelines Manual (USSG) (2008), and then concluded that all counts would be grouped because the cross reference for first-degree murder applied because Clark was killed during the robbery. See USSG § 2A1.1 (applying § 3D1.1(a)). After finding a base offense level of 32 based on the amount of drugs attributable to Petitioner (at least 150 grams but less 500 grams of crack cocaine), the PSR calculated a total offense level of 43 and a level IV criminal history category which yielded a Guidelines range of life imprisonment. Petitioner was ultimately sentenced to a term

of life imprisonment on Count One; a concurrent term of 240-months on Count Two, a concurrent term of 120 months on Count Four; a concurrent term of 408 months on Count Five; and a term of 405 months on Count Three to be served consecutively to the sentences imposed for all other counts. Petitioner appealed to the United States Court of Appeals for the Fourth Circuit. (Id., Doc. No. 242: Judgment).

On appeal, Petitioner presented three issues. First, challenged this court's jury instruction on aiding and abetting contending that his indictment did not charge that offense therefore to instruct the jury on this issue effectively amended his indictment clearly charged him with aiding and abetting in Count Three. Second, Petitioner raised another challenge to district court's instruction on aiding and abetting, this time arguing that the instruction was erroneous because if failed to instruct the jury that Petitioner must have knowingly aided and abetted Goodman in using or carrying claim, the Fourth Circuit founded the instruction was proper. The Fourth Circuit also rejected Petitioner's contention that the district court's jury instruction that the § 924(c) and § 924(j) were separate offenses erroneous. In Petitioner's final claim, Petitioner challenged this district court's decision to allow evidence related to his past involvement with drugs and guns under Rule 404(b) of the Federal Rules of Evidence. The Fourth Circuit found that the evidence in 2004, Petitioner was observed in the possession of a handgun, drugs, and drug paraphernalia was relevant on the on the issues of Petitioner's intent, his knowledge of the drug

trade, and lack of mistake. See *United States v. Coxton*, 419 Fed. App'x 407 (4th Cir. 2011). Petitioner's judgment was affirmed in all respects and Petitioner did not file a petition for a writ of certiorari with the Supreme Court of the United States.

REASONS FOR GRANTING THE PETITION

Petitioner's petition presents the same fundamental question that the Supreme Court addressed in *Barrett v. United States*, 607 U.S. 128 (2026). In *Barrett*, The Supreme Court considered whether a defendant could be convicted on separate counts—one under § 924(c) and another under § 924(j)—when each count arose from the same, single act. See 146 S.Ct. 497. The Court concluded that Congress had not authorized convictions on separate counts "for one act that violates both provision." But the Supreme Court did not question that when the use of the firearm caused a death, a defendant could be convicted on a single count violating both § 924(c) and (j). See *id.* at 490.

The Fourth Circuit erred when it held in Petitioner's original appeal, "We also reject Coxton's contention that the district court erroneously instructed the jury that § 924(c) and § 924(j) were separate offenses." In requesting review to the Supreme Court, Petitioner will show that after the Court's ruling *Barrett*, *supra*. He is currently serving an unconstitutional on count three of his indictment that Congress did not authorize as cumulative punishments. The district court ordered a consecutive sentence mandate on count three. The district court erred in interpreting § 924(j) to require a mandatory consecutive

sentence.

CONCLUSION

The Supreme Court should grant the petition for a writ of certiorari and remand to the Fourth Circuit Court of Appeals in light of the Court's recent decision in *Barrett v. United States*, 607 U.S. 128 (2026).

July 20, 2026.

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