

NO:

**In the
Supreme Court of the United States**

MARTEZ WRIGHT,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Sixth Circuit**

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

Whether a violation of the Confrontation Clause occurred when prosecutors played out-of-court statements by a cooperating informant for a jury without calling the informant as a witness?

PARTIES TO THE PROCEEDINGS

The parties to the proceedings in this Court and below are as follows:

- (1) Martez Wright (the defendant), and
- (2) the United States of America.

Neither party has any stock ticker symbol.

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PETITION FOR WRIT OF CERTIORARI

Martez Wright respectfully petitions this Court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit.

OPINIONS BELOW

The decision of the United States Court of Appeals for the Sixth Circuit is not published but is included in Westlaw's database at 2026 WL 1082418. It is also reprinted in the appendix at APP 1. There is no district court order.

STATEMENT OF JURISDICTION

Jurisdiction is invoked under 28 U.S.C. § 1254(1). The decision of the court of appeals affirming the judgment issued April 21, 2026. Wright electronically filed a timely petition on July 9, 2026, postmarked the same date. On July 15, 2026, this Court returned the petition because it did not restate the names of the parties in the Parties to the Proceedings section, and by letter the Court directed filing of a corrected petition within 60 days. This corrected petition is timely filed.

STATUTORY PROVISION INVOLVED

The Sixth Amendment to the U.S. Constitution states as follows:

In all criminal prosecutions, the accused shall enjoy the right . . .
to be confronted with the witnesses against him

STATEMENT OF THE CASE

This case presents an important question about the scope of the Confrontation Clause protections when recorded audio of nontestifying confidential informants is played for a jury in a criminal case.

1. Federal authorities prosecuted Wright for drug and gun crimes, including a charge under 18 U.S.C. § 924(c) for selling a gun to drug customers. Government agents did not observe Wright in possession of guns or drugs; instead, the government relied the recordings of his interactions with two confidential informants, Erica Roberts and her boyfriend Russell House. Both Roberts and House

were struggling drug addicts. The government called Roberts as a witness but not House. It then played audio and video recordings where House spoke with Wright.

2. Wright objected on hearsay grounds to the jury hearing House's out-of-statements on the recordings. In response, the government argued that these statements were not being introduced for the truth of the matter asserted because House lied by providing Wright "a manufactured story" about "why they were trying to buy a gun, which they were doing at the direction of the FBI." The court sustained the objection but allowed the government to "remedy it," after which the government clarified that House made the story up.

3. After the objection, Roberts testified that the recording, played for the jury, included audio of House and Wright "talking about the gun being fully loaded with one in the chamber." In fact, House prompted Wright's responses by initiating the conversation about the firearm. House first asked Wright if he had a gun and two grams of heroin that Roberts and House could buy. Wright did not have a gun at his home, so he called a third party. When the person arrived, House said: "There it is." Wright then pointed out that "[t]here's one in the head too" (presumably meaning a bullet in the chamber). This statement led House to say: "There's one in the head too." House next asked whether the gun had an "extended clip." Roberts intervened to say that it did. Lastly, House asked Wright: "You got something like a t-shirt or something I could put [the pistol] in?"

4. House was the only person to handle the gun, and House essentially narrated what was happening, with Wright obtaining a gun with an extended clip, and giving it to House in a t-shirt.

5. On appeal, Wright argued that the government violated the Confrontation Clause by introducing House's out-of-court statements. The Sixth Circuit concluded that House's remarks about a bullet in the chamber, about the extended clip, and about needing a t-shirt were questions, not subject to Confrontation Clause protection. App.6–7. As to House remarking “there it is” in regard to the gun, the Sixth Circuit decided that the comment provided “context” to Wright's own statements and thus was admissible. App.7. The court thus decided Wright's argument could not “survive the plain-error test.” App.7.

REASONS FOR GRANTING THE WRIT

I. This Court's intervention is needed to safeguard Confrontation Clause protections.

The government does not dispute that it introduced Russell House's out-of-court statements without making him available for cross-examination. Nor does it dispute that House acted as a law-enforcement informant, and that because confidential informants' statements are intended for use against the defendant, they are testimonial. *United States v. Harrison*, 54 F.4th 884, 887 (6th Cir. 2022). Thus, under *Crawford v. Washington*, 541 U.S. 36, 53–54 (2004), testimonial statements made by an absent witness are admissible only if the defendant had a prior opportunity to cross-examine that witness.

Instead, the Sixth Circuit decided that introduction of House’s testimonial out-of-court statements did not violate the Sixth Amendment because they were not introduced for their truth. But House did not merely ask questions or repeat Wright’s own statements. Rather, House initiated the conversation about the gun with Wright by affirmatively identifying the gun at issue. He also asked questions in the form of assertions, essentially asking testimonial questions that narrated his view of what was happening. He identified the gun. He identified the extended clip. He confirmed the gun had transferred hands from Wright to himself.

Additionally, House’s statement, “There it is,” was introduced for the truth of the statement—that he was then viewing the requested gun. To allow this type of evidence would endorse an informant describing a crime on audio and then never appearing to testify. It is the type of statement by a cooperating informant that requires the informant to be presented at trial for cross-examination to comply with the Confrontation Clause.

The government cited *United States v. Henderson*, 626 F.3d 326 (6th Cir. 2010), for the proposition that House’s recorded statements about the gun permissibly provided context to Wright’s admissions. But *Henderson* is easily distinguishable from this situation. *Henderson* did not involve a confidential informant seeking to obtain statements from a defendant by making statements about contraband in the defendant’s possession. Rather, *Henderson* involved recorded prison phone calls where the defendant made admissions about criminal conduct to friends and family.

Id. at 336. In that situation, the Sixth Circuit found that the entire calls were admissible in order to provide context for the admissions. *Id.* at 337.

Allowing out-of-court statements of the defendant's friends and family to explain a defendant's admissions on jail calls is different from a confidential informant working for the government from identifying a gun at issue on audio. Even apart from his other statements, House's statement, "There it is," was introduced for the truth of the statement—that he was then viewing the requested gun.

The government did not meaningfully distinguish *United States v. Cromer*, 389 F.3d 662, 672–79 (6th Cir. 2004). There, the Sixth Circuit reversed on plain error review when an agent testified that a nontestifying informant provided information about someone with Sean Cromer's nickname and physical description being involved in illegal drug activity. *Id.* at 672. The court emphasized that "the Confrontation Clause confers a powerful and fundamental right that is no longer subsumed by the evidentiary rules governing the admission of hearsay statements." *Cromer*, 389 F.3d at 679. Thus, "[b]ased on *Crawford*'s affirmation of the importance of the constitutional right of confrontation, we readily can determine that Cromer's substantial rights were affected by these violations." *Cromer*, 389 F.3d at 679.

The same type of Confrontation Clause violation occurred here, and this Court should grant review to avoid erosion of this important right in the context of recorded statements by cooperating informants.

II. This issue is important to address, and this case presents an appropriate vehicle to address it.

The issue in this petition has been fully briefed and argued, and this Court's review would provide clear guidance to lower courts nationwide. Use of confidential informants is commonplace, and modern technology is making it easier to record conversations between informants and suspects. To allow these recordings to be played for juries without permitting cross-examination of the informant will erode the Confrontation Clause.

The need for clarity is seen in tension between the Sixth Circuit's approach and approaches by other circuits. The Sixth Circuit held that, for many of House's remarks, admission was proper because House was asking questions. But the line between a question and statement is not always clear. The Tenth Circuit made this point in *United States v. Summers*, 414 F.3d 1287 (10th Cir. 2005), where it found a Confrontation Clause violation in admittance of a question from a nontestifying witness. *Id.* at 1298–1303.

The Tenth Circuit made the important point that “a declaration in the form of a question may nevertheless constitute an assertion.” *Summers*, 414 F.3d at 1300. An “inculpatory assertion” framed as a question, the court explained, is still a testimonial statement requiring cross-examination of the declarant to comport with the Confrontation Clause. *Id.* The Sixth Circuit's decision in Wright's case does not address the potential for questions by informants to violate the Confrontation Clause;

rather, it treated questions by informants de facto admissible. App.6. (“[W]e have repeatedly recognized that litigants do not introduce questions for their truth because they are not assertive speech.” (quotation omitted).) This de facto rule risks seriously undermining the Confrontation Clause because it will allow prosecutors to play audio of informants narrating a crime through a series of questions, without ever calling the informants themselves to testify.

The Sixth Circuit also permitted the out-of-court statements to be admitted for “context.” The Seventh Circuit has critiqued that reasoning in *Jones v. Basinger*, 635 F.3d 1030 (7th Cir. 2011). There, the trial court admitted an informant’s statement because it explained why the police investigation proceeded as it did. *Id.* at 1045. The Seventh Circuit warned about abuse of this type of “course of investigation” admittance of informant statements. *Id.* at 1046. In particular, the Seventh Circuit cautioned that it would undermine the Confrontation Clause if agents are permitted to narrate their investigations without subjecting damning information to cross-examination. *Id.* The Seventh Circuit reversed Jones’s conviction, ruling that, even though Jones may be guilty, he had a constitutional right to confront the informant if his statements were used against him at trial. *Id.* at 1056.

Similarly, in *United States v. Jones*, 930 F.3d 366, 377–78 (5th Cir. 2019), the Fifth Circuit vacated a conviction because a testifying officer’s account of a non-testifying informant’s tip specifically linked the defendant to the crime charged. The court observed that the government “‘must be circumspect in its use’” of nontestifying

tipster statements, and the trial court “must be vigilant in preventing its abuse.” *Id.* at 378 & n.4 (quoting *United States v. Evans*, 950 F.2d 187, 191 (5th Cir. 1991)). The Fifth Circuit found that, because the informant’s out-of-court statements directly implicated the defendant in drug possession, admittance violated the Confrontation Clause and the defendant was entitled to a new trial. *Id.* at 379–80.

The Sixth Circuit’s decision thus is in tension with precedent from other circuits, and this Court’s intervention is warranted to ensure uniformity throughout the country.

CONCLUSION

Petitioner Martez Wright asks that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Sixth Circuit.

Respectfully submitted,
FEDERAL PUBLIC DEFENDER

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