

No. 26-_____

IN THE
Supreme Court of the United States

In re VILLANUEVA-MARTINEZ, Petitioner

On Petition for a Writ of Mandamus
To the United States Court of Appeals
For the Eleventh Circuit

PETITION FOR A WRIT OF MANDAMUS

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QUESTION PRESENTED

In June of 2024, Petitioner was sentenced to 35 months and 2 days with an expected release date of December 24, 2026. Petitioner filed a timely notice of appeal to the United States Court of Appeals for the Eleventh Circuit. Petitioner's brief on appeal raised just two issues: that his sentence was both procedurally and substantively unreasonable.

On December 13, 2024, all briefing from Petitioner and the Government was complete with a total of twenty-six pages of argument. This case has been under submission since that time, without a decision. On June 18, 2026, Petitioner filed an unopposed motion to expedite proceedings, alerting the court to the urgency of resolution. There is no order on the motion and still no decision on the appeal.

As of today, August 12, 2026, Mr. Villanueva-Martinez has served almost 31 months of his 35-month and 2-day sentence. Once Petitioner's sentence is complete this December, the questions on appeal—whether that sentence was procedurally or substantively unreasonable—will be moot.

The question presented is: Whether a writ of mandamus should issue directing Respondents, the Three Unknown Judges of the Eleventh Circuit assigned to *United States v. Villanueva-Martinez*, No. 24-12208, to decide the appeal.

PARTIES TO THE PROCEEDINGS

Ricardo Villanueva-Martinez is the Petitioner here and the judges of the United States Court of Appeals for the Eleventh Circuit are the Respondent. The United States of America is the Appellee below.

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PETITION FOR A WRIT OF MANDAMUS

Petitioner, RICARDO VILLANUEVA-MARTINEZ, petitions for a writ of mandamus to the Three Unknown Judges of the Eleventh Circuit, assigned to *United States v. Villanueva-Martinez*, 24-12208, to rule on the appeal.

OPINION & ORDERS BELOW

The docket of the United States Court of Appeals for the Eleventh Circuit is attached at Appendix 1 and the judgment of the district court is attached at Appendix 2.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1651, which describes the jurisdiction of this Court to issue extraordinary writs as necessary or appropriate to aid its appellate jurisdiction.

STATUTORY PROVISIONS INVOLVED**28 U.S.C. § 1658(a):**

The Supreme Court and all courts established by Act of Congress may issue all writs necessary and appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

Supreme Court Rule 20(1):

Issuance by the Court of an extraordinary writ authorized by 28 U. S. C. §1651(a) is not a matter of right, but of discretion sparingly exercised. To justify the granting of any such writ, the petition must show that the writ will be in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court.

STATEMENT OF THE CASE

Mr. Villanueva-Martinez was sentenced to serve 35 months and two days in prison for being found in the United States without permission after having been previously deported. That sentence was imposed on June 28, 2024. Mr. Vilalnueva-Martinez preserved objections to his sentence. He timely filed a notice of appeal and completed briefing of the two issues he raised: that his sentence was both procedurally and substantively unreasonable.

Petitioner wrote a ten-page Argument Section in his initial brief. The Government wrote a nine-page Argument Section in its response brief. Petitioner then replied with five more pages of argument. The arguments were straightforward, not complicated and raised no novel issue of law. Neither party requested oral argument, and oral argument was not scheduled.

On December 13, 2024, all briefing from Petitioner and the Government was complete with a total of twenty-six pages of argument. This case has been under submission since that time, without a decision. On June 18, 2026, Petitioner filed an unopposed motion to expedite proceedings, alerting the court to the urgency of the need for resolution. That motion is still pending and there is still no decision in the case.

Petitioner has only four months left of his 35-month and 2-day sentence. Once Petitioner's sentence is complete this December, the questions on appeal—whether that sentence was procedurally or substantively unreasonable—will be moot.

REASONS FOR GRANTING THE PETITION

This Court should grant the writ because Mr. Villanueva-Martinez cannot obtain relief any other way, the prolonged and unusual lack of decision in his case presents exceptional circumstances that warrant this Court's use of its discretionary power, and granting the writ will aid this Court's appellate jurisdiction because Mr. Villanueva-Martinez cannot pursue any further relief unless and until the Eleventh Circuit rules.

I. COMPELLING THE ELEVENTH CIRCUIT TO EXERCISE ITS AUTHORITY IS AT THE VERY HEART OF THE TRADITIONAL AND CURRENT USE OF THE WRIT OF MANDAMUS IN AID OF APPELLATE JURISDICTION. NO OTHER REMEDY IS AVAILABLE.

“The traditional use of the writ [of mandamus] in aid of appellate jurisdiction both at common law and in the federal courts has been to confine an inferior court to a lawful exercise of its prescribed jurisdiction or *to compel it to exercise its authority* when it is its duty to do so.” *Roche v. Evaporated Milk Ass’n*, 319 U.S. 21, 26 (1943) (emphasis added). Section 1651(a) of Title 28 provides this Court with statutory authority to issue “any and all writs necessary or appropriate. . .” 28 U.S.C. § 1651(a). The grant of an extraordinary writ like mandamus is discretionary and to be “sparingly exercised.” U.S. Sup. Ct. R. 20(1). To justify the granting of an extraordinary writ, the petitioner must show that (1) “the writ will be in aid of the Court’s appellate jurisdiction,” that (2) “exceptional circumstances warrant

the exercise of the Court’s discretionary powers,” and that (3) “adequate relief cannot be obtained in any other form or from any other court.” *Id.* See also *Cheney v. U.S. Dist. Ct. for D.C.*, 542 U.S. 367, 380–81 (2004) (internal citations omitted) (finding the party must have no other means to attain relief, meet its burden to show right to issuance is clear and undisputable and court must decide writ is appropriate use of its discretion).

The Supreme Court’s appellate jurisdiction includes timely review by certiorari of decisions of the federal Court of Appeals, including the Eleventh Circuit Court of Appeals. See 28 U.S.C. § 1254(1). And the writ of mandamus is the appropriate tool to protect the Court’s appellate jurisdiction. *Marbury v. Madison*, 5 U.S. 137, 175 (1803) (“To enable this court then to issue a mandamus, it must be shewn to be an exercise of appellate jurisdiction, or to be necessary to enable them to exercise appellate jurisdiction.”).

Parties to litigation within the jurisdiction of a federal district court have a statutory right to appeal to the respective Court of Appeals. 28 U.S.C. § 1291. Unlike this Court, which has discretionary jurisdiction in many cases, the jurisdiction of the Courts of Appeals over direct appeals is not discretionary. Courts of Appeals cannot deny a criminal defendant his statutory right to appeal. Nor can the appellate court deny this right by refusing to rule on a matter, waiting for the claims to decay. Where a statutory right to appeal is provided, due process protections apply. *Griffin v. Illinois*, 351 U.S. 12, 18 (1956).

It is true that “only exceptional circumstances amounting to a judicial ‘usurpation of power’ will justify

the invocation of this extraordinary remedy” of mandamus. *Will v. United States*, 389 U.S. 90, 95 (1967) (quoting *De Beers Consol. Mines, Ltd. v. United States*, 325 U.S. 212, 217 (1945)). For example, “the writ [of mandamus] has been invoked . . . where a district judge displayed a persistent disregard of the Rules of Civil Procedure promulgated by this Court.” *Will v. United States*, 389 U.S. 90, 95 (1967) (citing *La Buy v. Howes Leather Co.*, 352 U.S. 249 (1957), *McCullough v. Cosgrave*, 309 U.S. 634 (1940), *Los Angeles Brush Mfg. Corp. v. James*, 272 U.S. 701, 706 (1927).) However, extraordinary circumstances exist now because the issues on appeal are ripe, the court below has not acted, and Mr. Villanueva-Martinez’s claims will soon be rendered moot, denying him meaningful review, while he sits in prison and waits, serving a sentence he has challenged as unreasonable.

Exercise of this Court’s extraordinary discretion is appropriate. Mr. Villanueva-Martinez is not attempting to subvert the appeals process, *See, e.g., Ex parte Fahey*, 332 U.S. 258, 260 (1947). He is trying to use the ordinary appeals process. But failure to grant the writ would mean that the Courts of Appeals can deny meaningful review by simply delaying resolution of criminal sentencing cases until they become moot. The length of time he has waited for resolution of his criminal sentencing appeal also is highly unusual. This case did not involve a trial, and oral argument was neither requested nor granted. The Administrative Office of the Courts indicates that the median time to resolution for appellate cases submitted on the briefs, from last brief to opinion is 0.3 months. For the Eleventh Circuit, it is 0.7 months.¹ So the median time for

¹ Administrative Office of the United States Courts, Table B-4, U.S. Courts of Appeals – Median Time Intervals in Months for Cases Terminated on the Merits,

case resolution is less than one month, and Mr. Villanueva-Martinez has waited 20 times that long. His counsel has called the court of appeals to inquire about his case multiple times. He alerted the court to the need for resolution in an unopposed motion to expedite filed two months ago, that itself remains pending. The Eleventh Circuit's rules provide no other method to seek the relief of making the court decide and issue an opinion.

An appellate court violates minimal guarantees of due process when, instead of ruling on the issues raised on appeal, it waits for the issues on appeal to be rendered moot. This petition for the writ of mandamus does not depend on the merits of the issues on appeal before the Eleventh Circuit. If the Eleventh Circuit disagrees with the Petitioner about the issues raised on appeal, then it should say so and affirm the sentence imposed below. If the Eleventh Circuit agrees with Petitioner about the issues raised on appeal, then it should say so, vacate his sentence, and remand for resentencing. What the Eleventh Circuit cannot do is ignore Petitioner's appeal, wait for Petitioner to complete his sentence, and dismiss the appeal as moot.

CONCLUSION

The Court should grant the petition for a writ of mandamus. Relief in the form of a decision on Mr. Villanueva-Martinez's appeal before it is rendered moot by inaction can be achieved no other way and granting the writ will aid the Court's appellate jurisdiction and respect

for the law by reinforcing the need for timely resolution of appeals.

Respectfully Submitted,

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