

No. _____

In the Supreme Court of the United States

Ike Jackson, Jr.,

Petitioner,

v.

United States of America,

Respondent.

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

***CORRECTED* PETITION FOR A WRIT OF CERTIORARI**

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QUESTIONS PRESENTED

The questions presented are:

(1) Whether a litigant can meet the *Hunter* miscarriage-of-justice standard when the sentence imposed would fail the standard of review announced in *Gall v. United States*, 552 U.S. 38 (2007).

(2) Whether courts may invalidate prospective waivers of effective assistance at sentencing hearings when enforcing the waiver would raise serious questions about the fairness and integrity of the sentencing hearing.

PARTIES TO THE PROCEEDING

Petitioner, Ike Jackson, Jr., was the defendant in the Middle District of Georgia and the appellant in the Eleventh Circuit.

Respondent, the United States of America, was the plaintiff in the Middle District of Georgia and the appellee in the Eleventh Circuit.

Also, the following people have an interest in this case:

(1) Booker, C. Shanelle, Former United States Attorney for the Middle District of Georgia; **(2)** Brunette, Shelby, Former Assistant United States Attorney for the Middle District of Georgia; **(3)** Cognac, Paul, Former Attorney for Defendant-Appellant, Ike Jackson, Jr., Middle District of Georgia; **(4)** Conway, Byron, Jr., Executive Director for the Federal Defenders of the Middle District of Georgia, Inc.; **(5)** Gantt, E. Addison, Appellate Attorney for Ike Jackson, Jr., Assistant Federal Defender for the Federal Defenders of the Middle District of Georgia, Inc.; **(6)** Keyes, William R., United States Attorney for the Middle District of Georgia; **(7)** Leary, Peter D., Former United States Attorney for the Middle District of Georgia; **(8)** McEwen, Leah E., Assistant United States Attorney for the Middle District of Georgia; **(9)** Treadwell, Marc T., United States District Court Judge for the Middle District of Georgia;

(10) Walker, Stuart E., Assistant United States Attorney, Middle District of Georgia; and (11) Weigle, Charles H., United States Magistrate Judge for the Middle District of Georgia.

No publicly traded company or corporation has an interest in the outcome of this appeal.

RELATED PROCEEDINGS

This case arises from the following proceedings:

- *United States v. Jackson*, No. 25-11876, 2026 WL 927200 (11th Cir. Apr. 6, 2026) (dismissing appeal based on appeal waiver).
- *United States v. Jackson*, No. 5:24-CR00060-MTT-CHW (M.D. GA. May 14, 2025) (entering judgment of conviction and sentence).

No other proceedings in any state or federal court are directly related to” this case.

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CORRECTED PETITION FOR A WRIT OF CERTIORARI

Petitioner, Ike Jackson, Jr., petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case.

OPINION BELOW

The opinion of the court of appeals (Pet. App. 1a) is unreported but available at 2026 WL 927200. The district court's judgment is also unreported. (Pet. App. 10a)

JURISDICTION

The court of appeals entered its judgment on April 6, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment states, “No person shall be . . . deprived of life, liberty, or property, without due process of law.”

The Sixth Amendment ensures that, “[i]n all criminal prosecutions, the accused shall enjoy . . . the Assistance of Counsel for his defence.”

STATEMENT OF THE CASE

This case is an ideal vehicle for this Court to flesh out the standard it announced in *Hunter v. United States*, No. 24-1063, 2026 WL 1751815 (June 18, 2026), recognizing “an agreement not to appeal a sentence is unenforceable when it would result in a miscarriage of justice.” *Id.* at *4. It also includes a related issue about prospective waivers of effective assistance of counsel.

In the decision below, the Eleventh Circuit ignored Petitioner Jackson’s argument that enforcing his appellate waiver would result in a miscarriage of justice because his defense attorney was ineffective. It reflexively granted the government’s motion to dismiss pursuant to a sentence appeal waiver. In that waiver, (Pet. App. C) Jackson agreed to waive his right to appeal or collaterally attack his sentence.

But when Jackson signed the agreement, he did not know—and could not have known—his attorney would drop the ball at his sentencing hearing (Pet. App. D). Everyone agrees Petitioner Jackson was a drug courier. The judge placed “particular significance” on that mitigating factor and said, “*I believe a sentence below the bottom of the guideline range is appropriate.*” But for an unknown reason, the district imposed a sentence *within* the guideline range: 200 months’ imprisonment. Nobody objected. The district court never had an opportunity to fix its mistake.

Though Jackson appealed the issue to the Eleventh Circuit, the government doubled down on the appellate waiver, a waiver the Department of Justice discourages: The Justice Manual states that “prosecutors should not seek in plea agreements to have a defendant waive claims of ineffective assistance of counsel, whether those claims are made on collateral attack or, when permitted by circuit law, made on direct appeal. Justice Manual § 9-16.330. The Eleventh Circuit enforced the waiver, dismissing Jackson’s case without ever reaching his clear ineffective assistance claim.

REASONS FOR GRANTING THE PETITION

This Court clarified that no appellate waiver can sweep a miscarriage of justice under the rug. *Hunter*, 2026 WL 175815 at *4. *Hunter* aligned the circuits, recognizing the minority approach embraced by the Eleventh Circuit was inappropriate. *Id.* at *5. But the facts prevented this Court from setting further guideposts because the parties disagreed about the outcome under the correct standard. *Id.* at *9. Now, it can provide that needed guidance.

Additionally, this Court can address an issue not presented in *Hunter*: Whether prosecutors can insist individuals waive ineffective assistance claims before they arise at sentencing. Here, unlike in *Hunter*, the plea agreement includes—and the government enforced—a provision that barred Petitioner Jackson from raising a claim he could not have anticipated when he signed his plea agreement. Jackson never expected that, at sentencing, his attorney would not live up to the constitutional standard guaranteed by the Sixth Amendment. But that is what happened when his attorney stood silent when the district court imposed a sentence that it said was inappropriate given the circumstances.

Both issues are worthy of this Court’s attention. Each addresses the heartland of concern at play in *Hunter* and would ensure plea bargaining uniformity among the circuits, an area of great concern given that “95 percent of convictions now come by way of plea bargains.” *Hunter*, 2026 WL 175815 at *12 (Gorsuch, J. concurring).

(1) Miscarriage of Justice

This case offers an opportunity to address how the miscarriage-of-justice standard applies when a district hands down a sentence that is so unreasonable that it would fail the standard of review announced in *Gall v. United States*, 552 U.S. 38 (2007). *Gall* walked through the proper sentencing procedure, stating that “a district court should begin all sentencing proceedings by correctly calculating the applicable Guidelines range.” *Id.* at 49. That ensures consistency and establishes a benchmark. *Id.* From there, each party should have “an opportunity to argue for whatever sentence they deem appropriate,” and the district court “must make an individualized assessment” before deciding on the appropriate sentence and “adequately explain[ing] the chosen sentence.” *Id.* at 49–51.

Carrying out that same sentencing procedure ensures appellate courts can provide “meaningful review,” and it “promotes the perception

of fair sentencing.” *Id.* The same concerns were at the heart of this Court’s decision in *Hunter*, because “[f]rom start to finish,” district courts “are in the middle of, and partly responsible for, appeal waivers and their results.” *Hunter*, 2026 WL 1751815 at *7.

Though the miscarriage-of-justice standard does not lend itself to easy definitions or an exhaustive list, through *Hunter*, this Court provided a list of examples that would meet the “high bar” it adopted. *Id.* at *8. The examples included sentences outside the statutory maximum, sentences based on constitutionally impermissible factors, sentences imposing constitutionally infirm conditions, and situations where the sentencing procedures lack “some minimum of civilized procedure.” *Id.* It left unanswered whether ineffective assistance at sentencing and sentencing issues like the ones at play in Jackson’s case are viable under this standard. *See Id.* at *14 (Gorsuch, J. concurring).

At the end of the day, because the standard requires extreme cases, there is no way to establish clear boundaries regarding the types of cases that satisfy the standard without hearing more cases, deciding more issues, and highlighting the path for lower courts to pave. *Id.* at *8.

This is the type of claim that other circuits likely would have considered under the miscarriage-of-justice standard before *Hunter*, but it appears the precise scenario has not been addressed. See *United States v. Teeter*, 257 F.3d 14, 25 (1st Cir. 2001) (“We caution, however, that because [waivers of appellate rights] are made before any manifestation of sentencing error emerges, appellate courts must remain free to grant relief from them in egregious cases.”); *United States v. Guillen*, 561 F.3d 527, 530 (D.C. Cir. 2009) (“By waiving the right to appeal his sentence, the defendant does not agree to accept any defect or error that may be thrust upon him by either an ineffective attorney or an errant sentencing court.”); *United States v. Attar*, 38 F.3d 727, 732 (4th Cir. 1994) (“defendants do not seek to challenge their sentences on the ground that they rest on an improper application of the guidelines or a violation of some procedural rule . . . they seek to challenge their sentences on the ground that the proceedings . . . were conducted in violation of their Sixth Amendment right to counsel”).

(2) Prospective Sixth Amendment Waivers

Separate but related to Petitioner Jackson's miscarriage-of-justice claim is whether courts should allow litigants to prospectively waive their attorney's effectiveness at sentencing hearings. Though the Department of Justice has a policy against seeking waivers of ineffective assistance of counsel claims, Justice Manual § 9-16-330, the United States convinced the Eleventh Circuit to dismiss Petitioner Jackson's claim based on the waiver it insisted on. That waiver was signed months before sentencing and months before Petitioner Jackson could know the nature, consequences, or existence of the claim forfeited.

Waiver doctrine depends on informed abandonment of a known right. *See Faretta v. California*, 422 U.S. 806, 835 (1975) ("When an accused manages his own defense, he relinquishes, as a purely factual matter, many of the traditional benefits associated with the right to counsel. For this reason, in order to represent himself, the accused must 'knowingly and intelligently' forgo those relinquished benefits."). Enforcing that doctrine in this context can convert a plea agreement into a release of counsel's future constitutional deficiencies during one of the most consequential phases of a case. But whether that comes to fruition

depends on the facts of each case. What is certain, however, is that plea bargaining requires defendants to negotiate in the dark, unaware of how their future sentencing hearing may play out.

Since this issue is closely associated with the miscarriage-of-justice claim raised above, the same circuit split at issue in *Hunter* is at play, because the same circuits that refused to accept the majority approach to sentence appeal waivers have brushed these claims aside. *See United States v. White*, 307 F.3d 336, 340–41 (5th Cir. 2002); *Davila v. United States*, 258 F.3d 448, 451 (6th Cir. 2001); *Mason v. United States*, 211 F.3d 1065, 1069 (7th Cir. 2000); *United States v. Williams*, 396 F.3d 1340, 1342 (11th Cir. 2005). Those circuits treat ineffective assistance of counsel claims as indirect complaints about the sentences imposed. *See Williams*, 396 F.3d at 1340. Such a rule is too focused on gamesmanship, and its categorical nature sweeps too broad, capturing legitimate claims that appellate courts should hear.

Outside of those circuits, the miscarriage-of-justice standard, pre-*Hunter*, was an available remedy. *See, Guillen*, 561 F.3d at 530. Post-*Hunter* that remedy should still be available in appropriate cases, and this Court can make that clear.

Drawing on related cases, this Court could endorse an approach like the one taken in conflict cases, giving courts the discretion to invalidate waivers whenever there is too high of a risk that an actual conflict of interest will develop, making the legal proceedings appear unfair. *See Wheat v. United States*, 486 U.S. 153, 160–163 (1988); *United States v. Cronin*, 466 U.S. 648, 658–60 (1984) (reasoning that some circumstances “are so likely to prejudice the accused that the cost of litigating their effect in a particular case is unjustified”).

That same concern justifies the need for the miscarriage-of-justice standard adopted in *Hunter*. As this Court stated, though the rule sets a high bar that will apply only to extreme cases, it plays a pivotal role of ensuring the judicial system is not impacted by an “egregious error that would bring the judicial system into disrepute.” *Hunter*, 2026 WL 1751815 at *8.

CONCLUSION

Based on the foregoing, this Court should grant this petition and review the decision of the United States Court of Appeals for the Eleventh Circuit.

Respectfully submitted Thursday, August 27, 2026.



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