

No. \_\_\_\_\_

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SUPREME COURT OF THE UNITED STATES

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Ulrick Brown,

*Petitioner,*

vs.

United States of America,

*Respondent.*

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

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**PETITION FOR WRIT OF CERTIORARI**

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### **QUESTION PRESENTED**

Whether the government's proof at sentencing was sufficient to establish that an untested quantity of methamphetamine was methamphetamine (actual) as opposed to a mixture or substance containing a detectable amount of methamphetamine?

## **PARTIES TO THE PROCEEDING**

Petitioner Ulrick Brown was the defendant-appellant in the court of appeals and the defendant in the district court.

Respondent is the United States of America, which was the appellee in the court of appeals.

## **RELATED PROCEEDINGS**

*United States of America v. Ulrick Brown*, No. 4:22-CR-35, U.S. District Court for the Eastern district of Tennessee. Judgment entered on June 25, 2025.

*United States of America v. Ulrick Brown*, No. 25-5634, U.S. Court of Appeals for the Sixth Circuit. Judgment entered on June 23, 2026.

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## **PETITION FOR A WRIT OF CERTIORARI**

Ulrick Brown (“Mr. Brown”), by and through counsel, 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The opinion of the United States Court of Appeals for the Sixth Circuit is unpublished but available at 2026 WL 1805159 (June 23, 2026). The unpublished opinion appears at Appendix A. The district court did not issue a written order related to Mr. Brown’s objections to the Presentence Investigation Report. Instead, the district court overruled the objection during a hearing on September 4, 2024. (R. 559, September 4, 2024 Hearing Transcript, PageID # 3788-3789)<sup>1</sup>. The district court’s Judgment appears at Appendix B.

### **JURISDICTION**

The judgment of the United States Court of Appeals for the Sixth Circuit was entered on June 23, 2026. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

### **STATUTORY PROVISIONS INVOLVED**

21 U.S.C. § 841(a)(1) states “[e]xcept as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance.”

21 U.S.C. § 841(b)(1)(C) states, in relevant part, that in the case of a schedule II controlled substance “such person shall be sentenced to a term of imprisonment of not more than 20 years.”

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<sup>1</sup> Mr. Brown will cite to the Record number entry in the district court, provide a brief description of the document, and provide PageID# citations to the specific cite within that document.

## STATEMENT OF THE CASE

Where a question to be decided is one of fact, this Court has previously held that a district court's determination should be held to a clearly erroneous standard of review. *See Campbell v. U.S.*, 373 U.S. 487, 493 (1963). In presenting evidence on the quantity of drugs involved in an offense, the government's burden is by a preponderance of the evidence. *United States v. Russell*, 595 F.3d 633, 646 (6<sup>th</sup> Cir. 2010); *see also United States v. Hill*, 79 F.3d 1477, 1488 (6<sup>th</sup> Cir. 1996).

When the government's evidence reflects uncertainty as to the exact quantity of drugs involved in the case, the Sixth Circuit has held that, "the court may make an estimate supported by competent evidence, but the evidence" supporting the estimate "must have a minimal level of reliability beyond mere allegation, and the court should err on the side of caution in making its estimate. *United States v. Sandridge*, 385 F.3d 1032, 1037 (6<sup>th</sup> Cir. 2004) (quoting *United States v. Owusu*, 199 F.3d 329, 338 (6<sup>th</sup> Cir. 2000)).

The United States Sentencing Guidelines reflect a 10:1 ratio between the weight of methamphetamine (actual) versus methamphetamine mixture. *See* U.S.S.G. § 2D1.1. A mixture or substance containing methamphetamine that is ten times heavier than "actual" methamphetamine will be given the same offense level. For example, a mixture containing methamphetamine of 1.5 kg but less than 5 kg is given a basic offense level of 32, but a quantity of at least 150 g but less than 500 g of "actual" methamphetamine will be given the same offense level. *See* U.S.S.G. § 2D1.1(c)(4).

This case presents the question of whether the court erred in holding the petitioner accountable for methamphetamine (actual) rather than a mixture and substance containing a detectable amount of methamphetamine when the government did not present sufficient evidence

to establish that petitioner was responsible for at least 1.5 kg but not more than 4.5 kg of methamphetamine (actual).

On November 22, 2022, Ulrick Brown was charged in Count One of an eleven count Indictment with Conspiracy to Distribute 50 Grams or More of Methamphetamine (Actual) and 500 Grams or More of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II Controlled Substance, from on or about April, 2022, to on or about June 24, 2022, in violation of 21 U.S.C. § 841(a)(1), 21 U.S.C. § 841(b)(1)(A), and 21 U.S.C. § 846. (R. 1, Indictment, PageID # 1-2). On October 30, 2023, Mr. Brown pled guilty to a lesser included offense to Count One of the Indictment, 21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(C). (R. 263, Plea Agreement, PageID # 1167-1176).

**1. Methamphetamine Attributed to Mr. Brown**

On May 16, 2022, Mr. Brown and co-defendant Amanda Jacks traveled to Atlanta, Georgia to pick up approximately 2 kilograms of methamphetamine. (R. 508, Presentence Investigation Report, PageID # 3389-3391). The bulk of the methamphetamine attributed to Mr. Brown stemmed from this single transaction. *Id.* Mr. Brown received \$500 and 3 ounces of methamphetamine as payment for this transaction, which is less than .05% of the total two-kilogram amount. *Id.* Aside from that transaction, Mr. Brown assisted in minor activities in which he received methamphetamine in exchange for allowing others to use his vehicle to purchase methamphetamine and occasionally sold small amounts to others. (R. 263, Plea Agreement, PageID # 1169).

The two-kilogram quantity of methamphetamine from the May 16, 2022 transaction was not recovered by law enforcement and, accordingly, was never tested for purity. (R. 516, Notice of Objections to the Presentence Investigation Report, PageID # 3448). The Presentence

Investigation Report (“PSR”) stated in relevant part that Mr. Brown was accountable for at least 1.5 kilograms, but less than 4.5 kilograms of methamphetamine (actual), resulting in a Base Offense Level of 36. (R. 508, Presentence Investigation Report, PageID # 3399-3400). The PSR attributed this drug quantity to Mr. Brown based on Mirandized Statements made by Mr. Brown and his co-conspirators. *Id.* at PageID # 3399.

On August 12, 2024, Mr. Brown objected to the PSR noting that the only drug quantity tested for purity was an unrelated quantity of methamphetamine which was seized from co-defendants on June 19, 2022. (R. 516, Notice of Objections to the Presentence Investigation Report). The government failed to prove that the methamphetamine from the May 16, 2022, transaction was methamphetamine “actual”. *Id.* The government’s response to the Objections to the PSR, argued that “[i]t is more likely than not today that any significant quantity of methamphetamine will have a high purity, and that methamphetamine obtained from the same source as the tested methamphetamine, one could deduce, is likely to be similar in purity.” (R. 523, Government’s Response to Objections to PSR, PageID # 3468).

During the September 4, 2024 hearing, defense counsel again objected to the presentence report, stating that, “most of this weight that’s put on the defendant is 2 kilos that was from an admission of a codefendant on the case. . . . [I]t should be sentenced to a mixture instead of actual.” (R. 559, September 4, 2024 Hearing Transcript, PageID # 3784-3785). The district court concluded that because some drug samples involved in the conspiracy qualified as meth “actual”, and because Mr. Brown was involved in the singular conspiracy, “a logical conclusion is that his conspiracy also involved actual meth.” (*Id.* at PageID # 3786). The government noted, and the court relied upon, that “in general, the meth or methamphetamine that we’re seeing today is almost all very high purity.” (R. 523, Government’s Response to Objections to PSR, PageID #

3468).

Mr. Brown's advisory guideline range, based on a total offense level 33, criminal history category VI, was 235 to 240 months. (R. 508, Presentence Investigation Report, PageID # 3422). Had he been sentenced based on a mixture or substance containing a detectable amount of methamphetamine, Mr. Brown's advisory guideline range would have been 151-188 months based on a total offense level 29, criminal history category VI. (R. 525, Addendum to the Presentence Report, PageID # 3473). On June 25, 2025, Mr. Brown was sentenced to 240 months imprisonment.

## **2. Mr. Brown's Direct Appeal**

On July 10, 2025, Mr. Brown filed a timely notice of appeal. (R. 596, Notice of Appeal, PageID # 4269). On appeal, Mr. Brown asserted two issues, one of which is presented to this Court. Mr. Brown maintained that the government's reliance on the statements of his co-conspirators, as well as tests performed on unrelated methamphetamine seized from co-conspirators, was insufficient to establish that he was responsible for at least 1.5 kilograms, but less than 4.5 kilograms of methamphetamine (actual).

On June 23, 2026, The Sixth Circuit affirmed Mr. Brown's sentence. *Brown*, 2026 WL 1805159. The Sixth Circuit stated that the district court was not without recourse simply because the government was unable to test the drugs from the May 16, 2022 transaction. *Id.* at \*4. The Sixth Circuit held that the district court did not err when it extrapolated the purity of methamphetamine that Mr. Brown had transported from Atlanta, Georgia was more than 1.5 kg but less than 4.5 kg of methamphetamine (actual) based on the evidence presented in the presentence report that pointed to the quality of the drugs that were used in Mr. Brown's conspiracy. *Id.*

## REASONS FOR GRANTING THE WRIT

The government did not offer any evidence as to the purity of the 2-kilogram quantity of methamphetamine from May 16, 2022, and therefore, the evidence was insufficient to support a finding of “actual” methamphetamine rather than a mixture or substance containing a detectable amount of methamphetamine.

The Sixth Circuit has consistently held that district courts must err on the side of caution when calculating drug quantity. *Sandridge*, 385 F.3d at 1037 (citing *Owusu*, 199 F.3d at 338). Accordingly, the Sixth Circuit has permitted courts to resolve uncertain quantities conservatively, even when it results in an “underestimation” of drug quantity in order to prevent excessive sentences. *See United States v. Sims*, 975 F.2d 1225, 1243 (6th Cir. 1992); *see also United States v. Davis*, 981 F.2d 906, 911 (6th Cir. 1992). When determining drug quantity, courts “permit drug-quantity extrapolations based on random test samples where the government demonstrates an ‘adequate basis in fact for the extrapolation and that the quantity was determined in a manner consistent with the accepted standards of [reasonable] reliability.’” *United States v. Price*, 761 F. App’x 568, 571 (6th Cir. 2019) (citing *United States v. Jackson*, 470 F.3d 299, 310-11 (6th Cir. 2006)); *see also United States v. Ibarra*, 2025 WL 1542319, \*at 10 (6th Cir. May 30, 2025) (affirming that courts may extrapolate methamphetamine purity from tested samples when they are supported by competent evidence).

In its Opinion affirming the district court’s judgment, the Sixth Circuit stands on these previous holdings regarding extrapolation of evidence. *Brown*, 2026 WL 1805159, at \*4. However, it ignored the caveat that it should ground its extrapolation of methamphetamine purity in *competent* evidence. *Ibarra*, 2025 WL 1542319, \*at 10.

In *Jackson*, the court stated, "sufficient indicia of reliability may be found where a preponderance of the evidence demonstrates that (1) a proper 'random' selection procedure was employed; (2) the chemical testing method conformed with accepted methodology; (3) the tested and untested samples were sufficiently similar in physical appearance; and (4) the tested and untested samples were contemporaneously seized at the search scene." 470 F.3d at 311.

Particularly important is that in *Jackson*, the Sixth Circuit suggested that tested and untested samples should come from the same seizure and resemble each other in physical appearance. *Id.*

This is the heart of the issue at hand. The Sixth Circuit erred because it allowed the district court to extrapolate the purity level of untested, unseized drugs based on an unrelated drug quantity seized by law enforcement from co-conspirators. The Sixth Circuit stated in part, "this Court has held that a district court can extrapolate the purity of methamphetamine by referencing lab test samples of different methamphetamine that came from the same supplier." *Brown*, 2026 WL 1805159, at \*4. There was no proof establishing that the drug quantity that was seized came from the same supplier. The government did not present evidence of the physical appearance of the untested drugs that were attributed to Mr. Brown.

Even so, the small portion of methamphetamine that was tested accounts for a mere fraction of the total amount of meth that was attributed to Mr. Brown. The district court attributed an additional 1,3440.1 grams of untested methamphetamine (actual) to Mr. Brown to reach a base offense level 36. Furthermore, the 155.99-gram quantity was not from the same transaction as the rest of the methamphetamine attributed to Mr. Brown. Instead, that quantity came from a transaction that occurred on June 19, 2022, thirty-four (34) days after the May 16, 2022, transaction. (R.508, Presentence Investigation Report, R. 508, PageID # 3387-3788).

In this instance, extrapolation fails. Sampling an entirely distinct and unrelated drug quantity cannot be representative of the total 2 kilogram drug quantity attributed to Mr. Brown. The government offered no evidence that the later, small sample represented the earlier, untested bulk. The district court incorrectly concluded that because a fraction of the drugs in the conspiracy were actual meth, then, “a logical conclusion is that his conspiracy also involved actual meth.” (R. 559, Sentencing Hearing Transcript, PageID # 3786). Unlike in *Ibarra*, where the court credited a regular, source specific, and consistent purchase and resale pattern, the government here offered no competent evidence that linked the earlier, untested 2kg amount to the later, tested drug quantity. *Ibarra*, 2025 WL 1542319, \*at 10.

The government substituted assumptions for proof, and instead of establishing a factual or evidentiary basis for purity of the remaining untested quantity, relied on general assumptions of methamphetamine and on Mr. Brown’s status as a dealer. This simply does not carry sufficient indicia of reliability and is an unsubstantiated allegation. *Sandridge*, 385 F.3d at 1037 (quoting *Owusu*, 199 F.3d at 338).

Considering the totality of the circumstances, the court did not err on the side of caution, nor did it properly find by a preponderance of the evidence that the methamphetamine attributed to Mr. Brown was methamphetamine (actual) instead of a mixture or substance containing a detectable amount of methamphetamine. *See Russell*, 595 F.3d at 646; *see also Hill*, 79 F.3d at 1488. The district court committed clear error based on its factual finding that Mr. Brown was responsible for methamphetamine (actual) rather than a mixture or substance containing a detectable amount of methamphetamine and therefore abused its discretion in relying on facts that are clearly erroneous. *See Sandridge*, 385 F.3d at 1037; *see also United States v. Freeman*,

640 F.3d 180, 185 (6th Cir. 2011). This Court must reverse Mr. Brown's sentence and remand for the district court to resentence him accordingly.

### **CONCLUSION**

For the foregoing reasons, the district court erred by sentencing Mr. Brown based on methamphetamine (actual) rather than a mixture or substance containing a detectable amount of methamphetamine. Accordingly, Ulrick Brown respectfully requests that this case be remanded for resentencing.

Respectfully submitted on September 17, 2026.

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