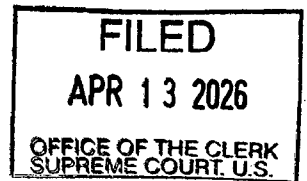


26-5804



No. 25-4363

ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

United States of America

Respondent

vs.

Brandon Wade Moragne-El

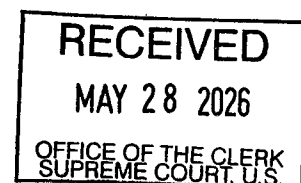
Petitioner

On Petition for a Writ of Certiorari to

The United States Court of Appeals for the Fourth Circuit

Petition for Writ of Certiorari

Brandon Wade Moragne-El, Pro Se
Franklin County Jail
1804 Opportunity Ave.
Chambersburg, PA 17201



QUESTIONS PRESENTED FOR REVIEW

I. IS THE PETITIONER'S CASE MOOT WITHOUT ANY COLLATERAL CONSEQUENCES WHEN HE IS SERVING TWO CONSECUTIVE SENTENCES TO THE SENTENCE UNDER ATTACK?

II. DOES THE PETITIONER'S CASE FALL UNDER AN EXCEPTION TO THE MOOTNESS DOCTRINE, BECAUSE IT IS "CAPABLE OF REPETITION, YET EVADING REVIEW"?

III. DOES THE PETITIONER CURRENTLY HAVE A LEGAL INTEREST IN THE OUTCOME OF THIS APPEAL?

LIST OF ALL PARTIES IN COURT BELOW

1. Brandon Wade Moragne-El
2. United States of America

CORPORATE DISCLOSURE STATEMENT

Pursuant to USCS Supreme Ct. R 29(6), there is no parent or publicly held company owning 10% or more of the corporation's stock.

LIST OF CASES DIRECTLY RELATED TO THIS CASE

1. United States v. Moragne-El

District Court for the District of Maryland- Northern Division

Case Number: 14-0497

Sentencing Hearing (January 16, 2015)

2. United States v. Moragne-El

District Court for the District of Maryland- Northern Division

Case Number: 14-0497

Violation of Supervised Release Hearing (December 13, 2023)

3. United States v. Moragne-El

District Court for the District of Maryland- Northern Division

Case Number: 14-0497

Violation of Supervised Release Hearing (June 17, 2025)

4. United States v. Moragne-El, 2025 U.S. App LEXIS 33335 (December 19, 2025)

Docket Number: 25-4563

Appeal to the Fourth Circuit Court of Appeals

5. United States v. Moragne-El, 2026 U.S. App. LEXIS 1755 (Jan. 23, 2026)

Docket Number: 25-2563

Rehearing en Banc to the Fourth Circuit Court of Appeals

TABLE OF CONTENTS:

	<i>Page No.</i>
Questions Presented for Review	<u>2</u>
List of Parties in Court Below	<u>3</u>
Corporate Disclosure Statement	<u>3</u>
List of Cases Directly Related to this Case	<u>3</u>
Table of Authorities Cited	<u>5</u>
Citations of Opinions and Order in Case	<u>6</u>
Jurisdictional Statement	<u>7</u>
Constitutional Provisions and Statutes Involved	<u>7</u>
Statement of Facts	<u>8</u>
Argument for Allowance of Writ	<u>11</u>
Certificate of Service	<u>18</u>

TABLE OF AUTHORITIES CITED

Page No.

Nat'l Advert Co v City of Miami, 402 F.3d 1329, 1331 (11th Cir. 2005) 11

Sumrall v. Simms, 230 F.3d 1354 (4th Cir. 2000) 12

Garlotte v. Fordice, 515 U.S. 34, 41, 132 L.Ed. 2D 36, 115 S.Ct. 1948 (1995)
12

Peyton v. Rowe, 391 U.S. 54, 20 L.Ed 2d 426, 88 S.Ct. 1549 (1968) 12

Cappetta v. Wainwright, 406 F.2d 1238 (5th Cir. 1969) 13

Gentry v. Deuth, 456 F.3d 687, 694 (6th Cir. 2006) 13

Turner v Rogers, 564 U.S. 431, 439, 131 S.Ct 2507, 180 L.Ed 2d 452 (2011)
14

First Nat'l Bank of Boston v Bellotti, 435 U.S. 765, 774, 98 S.Ct. 1407, 55 L. Ed. 2D
707 (1978) 14

S. Pac. Terminal Co. v Interstate Com. Comm'n, 219 US 498, 515, 31 Sct. 279, 55 L.Ed.
310 (1911) 14

Carafas v. LaVallee, 391 U.S. 234, 237, 88 S.Ct. 1556, 20 L.Ed 2d 554 (1968)
15

<u>Sibron v. New York</u> , 392 U.S. 40, 57-58, 88 S.Ct. 1889, 20 L.Ed 2d 917 (1968)	15
<u>United States v. Baker</u> , 894 F.2d 1144 (10 th Cir 1990)	16
<u>United States v. Krueger</u> , 809 F.3d 1109, 1124-25 (10 th Cir 2015)	16
<u>McClendon v. City of Albuquerque</u> , 100 F.3d 863, 867 (10 th Cir. 1996)	16
<u>Miller v. Cox</u> , 443 F.2d 1019, 1020-21 (4 th Cir. 1971)	17

CITATIONS OF OPINIONS AND ORDER IN CASE

1. The original Judgement of Sentencing of United States District Court for the District of Maryland- Northern Division, January 16, 2015. Case No: ELH-14-497; Docket Number 89
2. The first Revocation and Judgement of Violation for Supervised Release in the United States District Court for the District of Maryland- Northern Division, December 6, 2023. CR- 1:14-cr- 00497-ELH; Docket Number 134
3. The second Revocation and Judgement of Violation for Supervised Release in the United States District Court for the District of Maryland- Northern Division, June 17, 2025. CR-ELH-14-497; Docket Number 145
4. The Decision and Opinion of the Judgement of Appeal dismissed as Moot by the United States Court of Appeals for the Fourth Circuit on December 19, 2025.

CR- 25-4563.

5. Judgement of Rehearing en Banc denied by the United States Court of Appeals for the Fourth Circuit on January 23, 2026. CR-25-4563.

JURISDICTIONAL STATEMENT

The judgement of the United States Court of Appeals for the Fourth Circuit was entered on December 19, 2025. Rehearing en Banc was sought and denied on January 23, 2026. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

1. The Fourteenth Amendment of the United States Constitution provides that no State shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.
2. The Statute under which Petitioner's Supervised Release was revoked, though nothing turns on its terms, was 18 U.S.C. § 3583.
3. The Statute under which Petitioner sought Post-Conviction Relief was USCS Federal Rules of Appellate Procedure Rule 3.

STATEMENT OF FACTS

I. Course of Proceedings in the District Court and State Courts now Before this Court

1. On October 24, 2023, the Appellant was sentenced to 3 years of Maryland State Probation, with a Suspended Sentence of 3 years. As a result of this Judgement, this State Probation is set to expire in October of 2026.
2. On June 17, 2025, the Appellant's Federal Probation was revoked and he was sentenced to a term of 5 months, followed by no term of Federal Supervision.
3. Shortly thereafter, the Appellant filed an Appeal to this Federal Probation Revocation, specifically arguing that the Court lacked Subject Matter Jurisdiction to revoke his Probation because his Federal Probation had already expired prior to the District Court issuing a Warrant for his Arrest. Another issue raised in this Appeal was the fact that the Sentencing Court committed a 'Rogers error' by including Discretionary Conditions in the Petitioner's judgement that weren't orally pronounced at his sentencing. These conditions that were not imposed on the Petitioner in the first place, were the reason for his revocation.
4. On December 19, 2025, the United States Court of Appeals for the Fourth Circuit did not discuss the merits of the Petitioner's 'Rogers-error' arguments, and instead determined that the Petitioner's Appeal should be dismissed as Moot because he had already served his Federal term of imprisonment, with no Federal supervision

to follow. The Court found that the Petitioner did not “demonstrate any collateral consequences to meet Article III's case-or-controversy requirement”.

5. On January 23, 2026, the United States Court of Appeals for the Fourth Circuit denied the Petitioner's Rehearing en Banc.
6. On March 16, 2026, the Petitioner was sentenced to 6 months in Adams County, Pennsylvania, set to be run Consecutive to the time that he served in Federal Custody. As a result of this Consecutive sentence, even though the Petitioner has been incarcerated for 11 months, he was not given credit for the 5 months that he spent in Federal Prison.

II. Relevant facts Concerning the Defendant's Continuing Collateral Consequences as a result of this Revocation

1. The Defendant avers that he is serving two Consecutive Sentences to his Federal Sentence that is under attack. If this Federal Sentence can be redressed by a favorable decision, the Defendant will be given jail credit towards his consecutive sentences.

III. Existence of Jurisdiction Below

Petitioner's Violation of Supervised Release was revoked in the United States District Court for the District of Maryland on June 17, 2025. An appeal was timely filed

as to this Revocation in the Fourth Circuit Court of Appeals. The Fourth Circuit Court of Appeals denied this Appeal as moot on December 19, 2025, because it determined that the Petitioner had completed his Federal Sentence with no supervision to follow. On January 4, 2026, the Petitioner sought a Rehearing en Banc, which was denied by the Fourth Circuit Court of Appeals on January 23, 2026. The Petitioner avers that he is filing this Writ of Certiorari to the Supreme Court within the 90-day time limit of the denial of his Rehearing en Banc.

IV. The Court of Appeals for the Fourth Circuit has Decided a Federal

Question in a way in Conflict with the Applicable Decisions of the Court

- Garlotte v. Fordice, 515 U.S. 34, 41, 132 L.Ed. 2D 36, 115 S.Ct. 1948 (1995)
- Peyton v. Rowe, 391 U.S. 54, 20 L.Ed 2d 426, 88 S.Ct. 1549 (1968)
- Sibron v. New York, 392 U.S. 40, 57-58, 88 S.Ct. 1889, 20 L.Ed 2d 917 (1968)
- Turner v Rogers, 564 U.S. 431, 439, 131 S.Ct 2507, 180 L.Ed 2d 452 (2011)

In reaching its decision to affirm, the Court below decided that these settled principles were not to be applied to the case at bar because:

1. "There is no longer a 'Case' or 'Controversy' for purposes of Article III – when the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome". United States v. Ketter, 908 F.3d 61, 65 (4th Cir. 2018).

2. "Challenges to revocations of supervised release... become moot when the term of imprisonment for that revocation ends" and is not followed by another term of supervised release". United States v. Hardy, 545 F.3d 280, 284 (4th Cir. 2008).

We respectfully urge that all aspects of this decision are erroneous and at variance with this Court's decisions as explained in the argument below.

ARGUMENTS FOR ALLOWANCE OF WRIT

ARGUMENT I

THE COURT OF APPEALS FOR THE FOURTH CIRCUIT ERRED IN DENYING THE PETITIONER'S CASE AS MOOT BECAUSE THE PETITIONER'S CONSECUTIVE SENTENCES THAT HE IS CURRENTLY SERVING ARE COLLATERAL CONSEQUENCES OF THIS CONVICTION UNDER ATTACK

Because the question of mootness is jurisdictional in nature, it may be raised by the court sua sponte, regardless of whether a party briefed the issue. Nat'l Advert Co v. City of Miami, 402 F.3d 1329, 1331-32 (11th Cir. 2005). The Petitioner argues that there are two "live controversys" that currently exist, and that he is subject to some "concrete and continuing injury other than the now-ended incarceration" that is a "collateral consequence" of the revocation of his Federal Supervised Release. The live controversies that the Appellant is referring to are his Consecutive Sentences that he is

currently serving, and his State Probation that he is presently on. This unlawful revocation of his Federal Supervision in June 2025 has a direct impact on his current State sentences, because he was not given any jail credit from this unlawful revocation towards his sentences. If, however, this Federal Revocation is redressed by a favorable decision, the Petitioner will receive credit for these 5 months that he spent in Federal Custody. The Fourth Circuit has recognized that a jail credit claim may involve a federal constitutional claim. (see Sumrall v. Simms, 230 F.3d 1354 (4th Cir. 2000) (Inmates may have a protectable liberty interest in credits against their sentences, if the state statute creating those credits is mandatory rather than permissive). Even where an Appellant's sentence has expired, challenges that impact the length of an inmate's sentence can still present a live case or controversy, so long as the former inmate identifies an ongoing collateral consequence that can be redressed by the relief sought. In Garlotte v. Fordice, 515 U.S. 39, 41, 132 L.Ed 2d 36, 115 S.Ct 1948 (1995), the Supreme Court held that a prisoner's challenge to the validity of his conviction was *not moot* despite the fact that he was no longer in custody for that conviction. The Court reasoned that because Garlotte was still in custody for sentences consecutive to that already served, he could attack the conviction underlying the sentence that ran first in the series. Garlotte allows us to review a completed sentence when the prisoner is still serving a sentence imposed by a different court at a different time. Additionally, in Peyton v. Rowe, 391 U.S. At 67, 88 S.Ct. at 1556 (1968), it was held that "a prisoner serving consecutive sentences was 'in custody' under any one of them for purposes of

§2241(c)(3). Those courts which have considered the issue presented here have held that there is jurisdiction where a prisoner who is in custody pursuant to one conviction might receive credit on that sentence if he prevails on his attack on a prior, fully served, and unrelated sentence. Cappetta v. Wainwright, 406 F.2d 1238 (5th Cir. 1969).

The issue of jail credits has also been reiterated in the case of Gentry v. Deuth, 456 F.3d 687, 694 (6th Cir. 2006). In this case, the United States Court of Appeals for the Sixth Circuit stated that “plaintiff Gentry would still benefit from a 30-day sentence credit even after his release, because such a credit would reduce the length of time that he has to spend under state custodial control, which would still constitute meaningful relief”. “If Gentry is still serving his sentence, we agree that awarding him the credit he requests and thereby reducing his sentence by 20 days would provide meaningful relief”. There can be no doubt that the legality of the Petitioner's sentence which has already expired has direct criminal consequences. The Petitioner may be entitled to credit for the time served on his illegal conviction and sentence... even though the sentence which was illegal has been fully served, the issue of the legality of the sentence is not moot in this case.

ARGUMENT II

THE COURT OF APPEALS FOR THE FOURTH CIRCUIT ERRED BY NOT CONSIDERING THAT THE PETITIONER'S CASE FALLS UNDER AN EXCEPTION TO THE MOOTNESS DOCTRINE, BECAUSE IT IS “CAPABLE OF REPETITION, YET EVADING REVIEW

In Turner v Rogers, 564 U.S. 431 (2011), the Supreme Court determined that a Defendant arguing against the mootness doctrine must show that the circumstance which compromises the predicate for his claim is "capable of repetition". To do so, he must show that there is a "reasonable expectation" or demonstrated probability that the challenged action will occur again involving the same complaining party. In Turner's case, the Supreme Court found that the Petitioner was "likely to suffer future imprisonment because he frequently received jail sentences for contempt of court". In the Appellant's case sub justice, the same can be said. For the past 25 years, Mr. Moragne-El has been frequently in and out of jail, with criminal convictions in 4 different states. He has been on probation for most of his adulthood life, and is even on 2 different terms of Probation as we speak. Because of the fact that he is currently on Probation in 2 different states, and the issue at hand concerns an attack on a "Probation Revocation", there is no question that the circumstances discussed are 'capable of repetition'. As far as the "Evading Review" prong of the Mootness Exception Doctrine, this too is also met. While no brightline rule exists, courts have repeatedly found that a "challenged action" lasting 12 months or less too short in duration to be fully litigated before the challenged condition fails to exist. Turner. (Compare First Nat'l Bank of Boston v Bellotti, 435 U.S. 765, 774, 98 S.Ct. 1407, 55 L. Ed. 2D 707 (1978) (concluding that 18 months was too short of a time frame "to obtain complete judicial review"). S. Pac. Terminal Co., 219 U.S. At 514-16 (holding that a 2-year period was too short to permit judicial review). Fundamental fairness should require any Defendant to

challenge his conviction and sentence, whether it be 5 days, 5 months, or 5 years. To determine mootness on sentences because they aren't long enough in duration would imply that judges have unlimited authority to give Defendants short, illegal sentences without bother from the higher courts because they know that it is impossible to be litigated before the Defendant's release from custody: "He should not be thwarted now and required to bear the consequences of an assertedly unlawful conviction simply because the path has been so long that he has served his sentence". Carafas v. LaVallee, 391 U.S. At 240, 88 S.Ct. At 1561 (1968). An appellant attacking his conviction on Federal Constitutional grounds is not moot where: (1) there was no way for him to bring his case to the United States Supreme Court before the expiration of his sentence, his release occurring well before he had any opportunity to argue his case in the intermediate state appellate court; and (2) his criminal conviction entailed adverse collateral consequences.." Sibron v. New York, 392 U.S. 40, 57-58, 88 S.Ct. 1889, 20 L.Ed 2d 917 (1968)

ARGUMENT III

THE PETITIONER CURRENTLY HAS A LEGAL INTEREST IN THE OUTCOME OF THIS APPEAL

Upon the Defendant's release from Federal custody, he was transferred to State Custody to serve his consecutive sentences, as well as to adjudicate pending charges against him. These charges initiated on May 9th, 2025 pursuant to an illegal search and

seizure, stemming from his Federal Probation Violation that formed the basis for this Appeal. The Defendant is attacking this Federal Arrest Warrant and conviction because the magistrate lacked authority and subject matter jurisdiction to issue a Probation Violation Warrant for a term of probation that had already expired. Due to this defect, the warrant should be deemed "void ab initio" (void from its inception). Courts have found that warrants issued without jurisdiction are void from their inception, and the legal equivalent to 'no warrant at all'. United States v. Baker, 894 F.2d 1144 (10th Cir 1990); United States v. Krueger, 809 F.3d 1109, 1124-25 (10th Cir 2015). If an arrest warrant is issued without proper jurisdiction, then any fruits derived as a result of this unconstitutional search and seizure should be deemed 'fruits of the poisonous tree' and therefore suppressed. Mootness is a threshold issue because the existence of a live case or controversy is a constitutional prerequisite to Federal Court jurisdiction. This requirement exists at all stages of the federal judicial proceedings. McClendon v. City of Albuquerque, 100 F.3d 863, 867 (10th Cir. 1996). There is no case more 'live' in the Defendant's life than the cases that he is currently in custody for. His Fourth Amendment Rights, which protect him against unreasonable searches and seizures, were violated due to this warrant in question that was issued without subject matter jurisdiction. Any favorable decision by this Court will address this unreasonable search, and reiterate that the Constitution is still applicable in today's day and age.

Conclusion

In conclusion, as a result of this sentence, the Petitioner is suffering a deprivation of a constitutionally protected liberty interest in his freedom. Such time impacts the duration of his confinement. As to date, the Defendant continues to face collateral consequences if this challenged action is allowed to stand. As stated above, the Defendant is currently serving 2 Consecutive Sentences to this unlawful conviction. If this conviction is deemed invalid, then the jail credit from his Federal sentence will be credited towards his State sentences. A result of these consecutive sentences is the prolonged restraint on his liberty, which satisfies the prong of a continuing concrete injury as a result of his Federal Supervision Revocation. Common sense and fundamental fairness require that the time spent on prison on a voided conviction be credited towards the Petitioner's remaining valid convictions and sentences. (see Miller v. Cox, 443 F.2d 1019, 1020-21 (4th Cir. 1971). Precedent case law gives a prisoner that is confined pursuant to one judgement of conviction the right to attack the validity of a separate, prior conviction if it prolongs the period of his confinement. This restraint is no less unlawful because the sentence for which he is attacking has been fully served. The possibility of consequences collateral to the imposition of this Sentence is sufficiently substantial to justify the Appeals Court in dealing with the merits.

Unsworn Declarations under Penalty of Perjury

I declare, under penalty of perjury that the foregoing is true and correct.

5/14/26

Date



Brandon Moragne-El, Pro Se

No. 25-4363

IN THE SUPREME COURT OF THE UNITED STATES

United States of America

Respondent

vs.

Brandon Wade Moragne-El

Petitioner