Public Copy - Sealed Materials Redacted

No. _____

In the Supreme Court of the United States

SEALED APPELLANT [redacted],

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

J. Matthew Wright
Counsel of Record
FEDERAL PUBLIC DEFENDER'S OFFICE
600 South Tyler Street
Suite 2300
Amarillo, Texas 79101
(806) 324-2370
Matthew_Wright@fd.org

Counsel for Petitioner

June 22, 2026

QUESTIONS PRESENTED

After a defendant is found not guilty only by reason of insanity, the district court must conduct a hearing to determine whether he should be released or civilly committed. *See* 18 U.S.C. § 4243. Here, Petitioner was required to show "by clear and convincing evidence that his release would not create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease or defect." § 4243(d).

1. Does the statutory phrase "mental disease or defect" include non-psychotic mood disorders like depression or bipolar disorder?

2. Does the party presentation principle apply to a civil commitment hearing under 18 U.S.C. § 4243?

PARTIES TO THE PROCEEDING

Petitioner, [redacted], is an individual. He was identified below as Sealed Appellant. Respondent is the United States of America, who was identified as Sealed Appellee below. Neither party is a corporation.

DIRECTLY RELATED PROCEEDINGS

United States v. [redacted], No. [redacted]

Sealed Appellee v. Sealed Appellant, No. 24-10861 (5th Cir. Mar. 23, 2026)

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PETITION FOR A WRIT OF CERTIORARI

Petitioner [redacted] (Sealed Appellant) asks the Court to issue a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINIONS BELOW

According to the docket below, the Fifth Circuit's decision was selected for publication. Even so, Petitioner's counsel has not found a copy of that decision in the Federal Reporter.

JURISDICTION

The Fifth Circuit entered its judgment on March 23, 2026. This petition is timely under S. Ct. R. 13.1. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

Title 18 of the United States Code, Section 4243 provides in pertinent part:

> § 4243. Hospitalization of a person found not guilty only by reason of insanity
>
> (a) Determination of present mental condition of acquitted person.--If a person is found not guilty only by reason of insanity at the time of the offense charged, he shall be committed to a suitable facility until such time as he is eligible for release pursuant to subsection (e).
>
> (b) Psychiatric or psychological examination and report.--Prior to the date of the hearing, pursuant to subsection (c), the court shall order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c).
>
> (c) Hearing.--A hearing shall be conducted pursuant to the provisions of section 4247(d) and shall take place not later than forty days following the special verdict.
>
> (d) Burden of proof.--In a hearing pursuant to subsection (c) of this section, a person found not guilty only by reason of insanity of an offense involving bodily injury to, or serious damage to the property of, another person, or involving a substantial risk of such injury or damage, has the burden of proving by clear and convincing evidence that his release would not create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease or defect. With respect to any other offense, the person has the burden of such proof by a preponderance of the evidence.
>
> (e) Determination and disposition.--If, after the hearing, the court fails to find by the standard specified in subsection (d) of this section that the person's release would not create a substantial risk of bodily injury to another person or serious damage of

> property of another due to a present mental disease or defect, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility until--
>
> (1) such a State will assume such responsibility; or
>
> (2) the person's mental condition is such that his release, or his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment, would not create a substantial risk of bodily injury to another person or serious damage to property of another;

STATEMENT

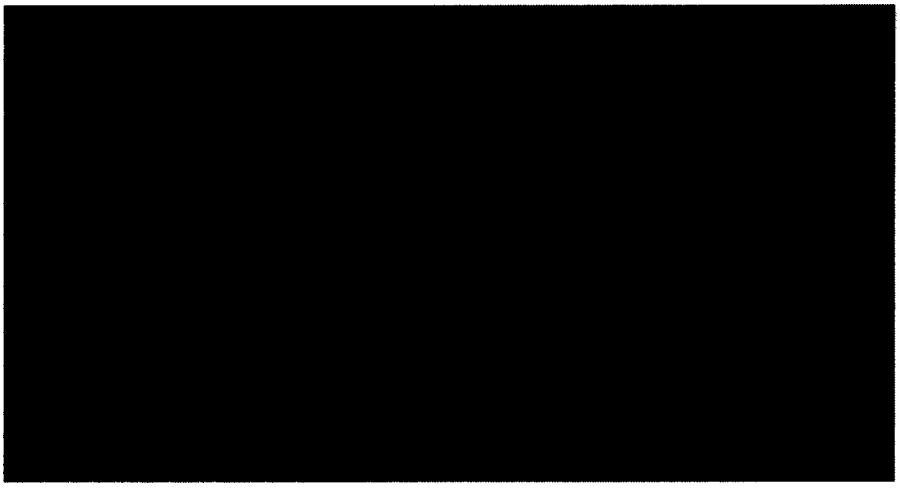
After Petitioner was found not guilty of bank robbery by reason of insanity, the district court convened a hearing to determine whether he should be civilly committed. 5th Cir. ROA 350-52. After a panel of experts from the Bureau of Prisons agreed that Petitioner did not meet the standard for civil commitment, the parties agreed that he should not be committed. 5th Cir ROA 317-21; *see* 5th Cir ROA 247-69. The district court initially accepted the agreement, 5th Cir ROA 159, but later "withdr[ew]" and "suspend[ed]" that decision. 5th Cir ROA 161. Ultimately, the court ordered him civilly committed. 5th Cir ROA 350-52.

A. Shortly after completing a federal sentence for a 2020 bank robbery, Petitioner was arrested in March 2023 for robbing the very same bank.

On March 23, 2023, Petitioner walked into the downtown branch of Amarillo National Bank and passed a teller a note reading, "IT'S A BANK ROBBERY PUT

MONEY IN BAG DON'T DO ANYTHING STUPID." 5th Cir ROA 12; *see* 5th Cir ROA 90-93. He left with $1,467 in bank-owned cash; police arrested him a few minutes later. 5th Cir ROA 92.

At the time, Petitioner had just finished serving a federal sentence for robbing the very same bank; he had been released from BOP custody about three weeks earlier. 5th Cir ROA 236. The facts of the 2020 robbery were nearly identical to the facts of the 2023 robbery:



5th Cir ROA 252. In the 2020 prosecution, federal authorities concluded that Petitioner was competent to stand trial and *not* insane when he committed the 2020 robbery. 5th Cir ROA 224.[1]

B. The district court determined that Petitioner was competent to stand trial, but insane at the time of the 2023 offense.

During the second prosecution, events took a different turn. In June of 2023, defense counsel began to worry that Petitioner might not be competent to stand trial.

[1] The 2020 report is not reprinted in the record below, but its contents are summarized in the 2023 Competency Report. *See* 5th Cir. ROA 196.

5th Cir ROA 49-50. While the attorney had observed Petitioner to be "terribly lonely, hopeless, and alone," he had never behaved in an "angry, irritated, violent, or accusatory" fashion. 5th Cir ROA 195. But then officials accused Petitioner of writing three partially incoherent but obscene and threatening letters about the bank robbery. 5th Cir ROA 242-43.

Petitioner could not explain why he would have written those letters or even recall what they said. 5th Cir ROA 195. When shown copies of the letters, Petitioner said it does not "look like his writing" and the words are not "something he would say." 5th Cir ROA 244. The letters gave Petitioner's defense counsel reason to worry about his mental health. Specifically, Counsel was concerned that Petitioner might not be fully aware of what was happening. 5th Cir ROA 195. He asked the court to order a psychological evaluation. 5th Cir ROA 49-50. The district court obliged, directing the BOP to evaluate Petitioner's competence to stand trial and to render an opinion on his sanity at the time of the offense. 5th Cir ROA 52-54.

1. Competence

In a forensic report dated December 28, 2023 (the "Competency Report"), a BOP Forensic Psychologist diagnosed Petitioner with [redacted]" 5th Cir ROA 207. Despite that diagnosis, the author determined that Petitioner was competent to stand trial:

[redacted]

[redacted]

5th Cir ROA 210.

Relying on the Competency Report, the parties stipulated that Petitioner was competent to stand trial. 5th Cir ROA 216-17. At a competency hearing on February 6, 2024, the district court accepted the stipulation and found Petitioner competent. 5th Cir ROA 115-22.

2. Insanity

The examiner who prepared the Competency Report also wrote an addendum (the "Insanity Report") addressing Petitioner's sanity at the time of the offense. 5th Cir ROA 241-45. To establish an affirmative defense of insanity, a defendant must prove, by clear and convincing evidence, that "at the time of the commission of the acts constituting the offense, the defendant, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of his acts." 18 U.S.C. § 17. Critically, the standard for insanity does *not* require any causal relationship between the disease and the crime.

The Insanity Report diagnosed Petitioner with "[redacted]" but did not spend much time grappling with whether that would count as "a severe mental disease or defect." The legislative history of 18 U.S.C. § 17 suggests an intention to exclude "non-psychotic behaviour disorders" and "neuroses," but does not

specifically speak to mood disorders like [redacted] or related conditions. *United States v. Dixon*, 185 F.3d 393, 399 (5th Cir. 1999) (quoting S. Rep. 98-225, 1984 U.S.C.C.A.N. 3182, 3411).

The Insanity Report instead focused on whether Petitioner could appreciate the wrongfulness of his actions. On the one hand, "[redacted]" 5th Cir ROA 244. He "[redacted]," in part because he had previously robbed the exact same bank, leading to arrest, prosecution, and imprisonment. 5th Cir ROA 244. He wanted to either buy a gun to kill himself or to use the stolen money to [redacted] 5th Cir ROA 244.

On the other hand, Petitioner was "[redacted] 5th Cir ROA 244. [redacted] "[redacted]." 5th Cir ROA 244. Ultimately, the examiner decided that Petitioner's [redacted] rose to the level of insanity:

[redacted]

5th Cir ROA 245.

Based on the Insanity Report, the parties stipulated that Petitioner had met his burden of proving the affirmative defense of insanity by clear and convincing evidence. 5th Cir ROA 94-95. The government specifically agreed that it "does not and will not contest this finding" at trial. 5th Cir ROA 95. Petitioner waived his right to a jury trial. 5th Cir ROA 87. At a bench trial, the district court found him not guilty only by reason of insanity. 5th Cir ROA 126-47. No one testified during the bench trial.

C. A panel of BOP experts, the government, and Petitioner all agreed that he did not meet the criteria for civil commitment. The district court rejected the consensus and committed him.

Because the district court found Petitioner insane at the time of the offense, the court had to decide whether he should be released or civilly committed. That turned on whether Petitioner's release would "create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease or defect." 18 U.S.C. § 4243(d). Unlike the insanity standard in § 17, the civil commitment standard requires a causal connection between the "mental disease" and the risk of harm. As mandated by 18 U.S.C. § 4243(a), the court directed the Bureau of Prisons to conduct another "psychiatric or psychological examination" of Petitioner, this time focused on Section 4243's civil commitment standard. 5th Cir ROA 100-101; *see* 18 U.S.C. § 4243(b).

1. Risk Report

The BOP convened a panel of experts (the "Risk Assessment Panel") to conduct in-person observation and interviews supported by a thorough review of Petitioner's

records. The Risk Assessment Panel produced a report (the "Risk Report") that is reprinted at 5th Cir ROA 247-269. The Panel set out to answer three questions:

1. Whether Petitioner "is presently suffering from a mental disease or defect";
2. Whether "his release would create a substantial risk of bodily injury to another person or serious damage to property of another;" and, if so,
3. Whether "that risk would be due to a mental illness."

On the first question, the Risk Report concluded that Petitioner "[redacted]." 5th Cir ROA 267. Specifically, the Report diagnosed Petitioner with [redacted]" 5th Cir ROA 267. The report was ambivalent about whether this diagnosis would rise to the level of a "mental disease or defect" under § 4243: [redacted] The Risk Panel noted that Petitioner's "[redacted]" 5th Cir ROA 267.

On the second question, the Panel noted that Petitioner had "[redacted]." 5th Cir ROA 268. The report recognized that he had previously committed bank robbery and arson, and acknowledged a *possibility* that he would commit one of those crimes again: "[redacted]

[redacted]." 5th Cir ROA 268.

On the third question, the Risk Report was unequivocal: [redacted]" 5th Cir ROA 268 (emphasis added). The Panel therefore concluded that "[redacted]" 5th Cir ROA 269. The Report ultimately determined that Petitioner [redacted] 5th Cir ROA 269.

2. Joint Stipulation

The parties again accepted the conclusions of the BOP's mental health experts. They filed a stipulation agreeing that Petitioner had satisfied his burden of showing, by clear and convincing evidence, that his release would not pose a substantial danger because of a mental disease or defect. 5th Cir ROA 317-20.

3. Risk Hearing and Civil Commitment Order

The court then convened a hearing to determine whether Petitioner should be civilly committed. The government embraced the Risk Assessment Panel's conclusion: "it was their determination that [Petitioner] is not presently suffering from a mental disease that creates a substantial risk of bodily injury to another person or serious damage to the property of another if released." 5th Cir ROA 159.

The court initially accepted this determination:

> So because counsel for defendant bears the burden, as we discussed, this Court must find by clear and convincing evidence that that standard is satisfied. The Court will explain its reason for finding that burden is met, but subject to conditional release. So after considering their arguments capably and effectively made by defense counsel ...

5th Cir ROA 159. At that point, the parties approached the court and explained that the court had no power to impose conditions on a defendant's release at the initial commitment hearing. 5th Cir ROA 159-62. The court then "suspend[ed]" its decision in favor of release and ordered the parties to provide supplemental briefing on the authority to order conditional release. 5th Cir ROA 160.

When the hearing re-convened later that day, the court recognized that it had no authority to *conditionally* release Petitioner. 5th Cir ROA 165. But the court then reversed its earlier ruling and held that Petitioner had *not* met his burden:

> [redacted]

5th Cir ROA 166-67. The court also entered a written commitment order. 5th Cir ROA 350-52.

D. The Fifth Circuit affirmed the district court's civil commitment order.

Petitioner appealed the commitment order to the Fifth Circuit. That court sealed the entire appeal, and its case caption utilized the pseudonyms "Sealed Appellant" and "Sealed Appellee." *See* App., *infra*, 1a–8a.

The Fifth Circuit affirmed the civil commitment order. As relevant here, the court first held that Petitioner's then-current diagnosis [redacted] was a "mental disease or defect" for purposes of 18 U.S.C. § 4243. App., *infra*, 5a. Then, the court affirmed the district court's decision to disregard the Risk Panel's conclusion that any risk of harm created by Appellant's release would not be caused by his present mental condition. App., *infra*, 6a–7a.

REASONS FOR GRANTING THE PETITION

I. THE COURT SHOULD GRANT THE PETITION TO ADDRESS WHETHER A NON-PSYCHOTIC MOOD DISORDER IS A "MENTAL DISEASE OR DEFECT"

The Risk Report concluded that Petitioner satisfied the diagnostic criteria for a "mental illness"—[redacted] 5th Cir. ROA 267. But it would be a mistake to assume that every mental illness is a "men-tal disease or defect"; those terms are not always synonymous. According to the Risk Assessment Panel, [redacted]." 5th Cir. ROA 267 (emphasis added).

This is consistent with legislative history. Section 4243 was enacted as part of the Insanity Defense Reform Act of 1984. See Pub. L. 98-473, ch. IV, 98 Stat. 2057–

68 (1984). Congress used the phrase "mental disease or defect" throughout that legislation, including both the definition of insanity in present-day 18 U.S.C. § 17 and in setting the criteria for civil commitment in § 4243. Congress chiefly had in mind mental diseases resulting in psychosis or a break from reality. *Dixon*, 185 F.3d at 399.

Thus, when the Risk Report explained that [redacted] " 5th Cir. ROA 267 (emphasis added), the Panel was expressing an opinion that Petitioner's current diagnosis *did not* meet the statutory criteria for a "mental disease or defect." [redacted], is not a "mental disease" for purposes of the IDRA and § 4243. No one presented any evidence in district court that Petitioner was (at the time of trial or the commitment hearing) suffering psychosis, hallucinations, or any other severe symptoms that would elevate his condition to a "mental disease or defect." The lower courts clearly erred when they equated "mental illness" with "mental disease or defect."

The Risk Assessment Report differed from the Competence and Insanity Reports in its [redacted] diagnosis, but the Risk Report also explained why [redacted] was a more accurate diagnosis. 5th Cir. ROA 264. The Risk Assessment Panel reached a different conclusion than the Insanity Report, which diagnosed him with [redacted]. Compare 5th Cir. ROA 267 ("[redacted]") with 5th Cir. ROA 207 [redacted]"). Even if Petitioner suffered

from both conditions, though, there is no evidence that either rises to the level of "mental disease or defect" as used in § 4243.

II. THE COURT SHOULD GRANT THE PETITION AND HOLD THAT THE PARTY PRESENTATION PRINCIPLE APPLIES AT A HEARING UNDER 18 U.S.C. § 4243.

"Federal courts adhere to the principle of party presentation." *Margolin v. Nat'l Ass'n of Immigration Judges*, 146 S. Ct. 1285, 1288 (2026) (citing *Clark v. Sweeney*, 607 U.S. 7, 9–10 (2025)). "That principle—the 'rule that points not argued will not be considered'—distinguishes our adversarial system of justice from an inquisitorial one." *Id.* (quoting *United States v. Burke*, 504 U.S. 229, 246 (1992) (Scalia, J., concurring in judgment)).

According to the Fifth Circuit, the district court here "was not *required* to accept" the "word" of the BOP Risk Assessment Panel on the nexus between [redacted] disorder and risk of harm. App., *infra*, 6a. But it wasn't just the BOP experts. The Government and the Defense both agreed and stipulated that Petitioner had satisfied his evidentiary burden and was therefore ineligible for civil commitment. 5th Cir. ROA 318-320.

This Court should hold that the party presentation principle applies at a civil commitment hearing, and should remand the case to the Fifth Circuit for application of that principle.

CONCLUSION

This Court should grant the petition for certiorari.

Respectfully submitted,

Original Signed

J. Matthew Wright
Counsel of Record
FEDERAL PUBLIC
DEFENDER'S OFFICE
600 South Tyler Street
Suite 2300
Amarillo, Texas 79101
(806) 324-2370
Matthew_Wright@fd.org

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