NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES
OF AMERICA

JABREON DESHON MOSLEY
Petitioner-Defendant

v.

UNITED STATES OF AMERICA
Respondent

On Petition for Writ of Certiorari from the
United States Court of Appeals for the Fifth Circuit.
Fifth Circuit Case No. 26-60031

PETITION FOR WRIT OF CERTIORARI

Omodare B. Jupiter (Miss. Bar # 102054)
Federal Public Defender
N. and S. Districts of Mississippi
200 South Lamar Street
Suite 200 North
Jackson, MS 39201
Telephone: 601-948-4284
Facsimile: 601-948-5510

Abby Brumley Edwards (Miss. Bar # 101929)
First Assistant
Office of the Federal Public Defender
Assistant Federal Public Defender

Attorney for Defendant-Petitioner

QUESTION PRESENTED FOR REVIEW

Whether Mr. Mosley's conviction must be reversed because trial counsel provided constitutionally deficient representation to him.

PARTIES TO THE PROCEEDING

JABREON DESHON MOSLEY, defendant, petitioner

UNITED STATES OF AMERICA, respondent

TABLE OF CONTENTS

Page

QUESTION PRESENTED FOR REVIEW 2

PARTIES TO THE PROCEEDING....3

TABLE OF CONTENTS....4

TABLE OF AUTHORITIES....6

I. OPINIONS BELOW 8

II. JURISDICTIONAL STATEMENT....10

III. CONSTITUTIONAL PROVISION INVOLVED....11

IV. STATEMENT OF THE CASE 12

A. Basis for federal jurisdiction in the court of first instance....12

B. Statement of material facts....12

1. Mr. Mosley's background....12

2. The charges 13

3. The plea offers 13

4. The trial....14

5. The sentencing hearing 16

V. ARGUMENT: Trial counsel provided constitutionally deficient representation to Mr. Mosley....17

A. Review on certiorari should be granted in this case 17

B. Argument....17

1. Introduction.....17

2. Trial counsel's admission to guilt to count one fell below an objective standard of reasonableness 18

VI. CONCLUSION.....23

CERTIFICATE OF SERVICE 24

(Appendices 1 and 2)

TABLE OF AUTHORITIES

Page(s)

Cases:

Gideon v. Wainwright,
372 U.S. 335 (1963).....17

Martinez v. Ryan,
566 U.S. 1 (2012).....17, 18

McFadden v. United States,
576 U.S. 186 (2015 19

Powell v. Alabama,
287 U.S. 45 (1932).....18

United States v. Gamez-Gonzalez,
319 F.3d 695 (5th Cir. 2003) 19

United States v. Moton,
951 F.3d 639 (5th Cir. 2020) 19

Statutes:

18 U.S.C. § 841 .....8, 12, 19

18 U.S.C. § 3231 12

28 U.S.C. § 1254.....10

Rules:

Rule 10, Supreme Court Rules.....18

Rule 13.1, Supreme Court Rules.....10

Rule 29.5, Supreme Court Rules.....24

Provisions of the United States Constitution:

U.S. Const. amend VI 11, 17

I. OPINIONS BELOW

On April 10, 2024, a Federal Grand Jury for the Southern District of Mississippi returned an Indictment against Mr. Mosley. The district court case number is 2:24cr37-KHJ-ASH. The Indictment charged:

count 1: Possession with intent to distribute 500 grams or more of methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A).

count 2: Possession with intent to distribute five kilograms or more of cocaine, in violation of 21 U.S.C. §841(a)(1) and (b)(1)(A).

count 3: Possession with intent to distribute 400 grams or more of fentanyl, in violation of 21 U.S.C. §841(a)(1) and (b)(1)(A).

Trial began on July 28 and ended on July 31, 2025. The jury returned guilty verdicts all three counts. The court conducted a sentencing hearing on January 12, 2026. It sentenced Mr. Mosley to serve a total of 300 months in prison, followed by five years of supervised release. The court entered a Judgment reflecting this sentence on January 13, 2026. The Judgment is attached hereto as Appendix 1.

In district court, Attorney Eric Hessler of Eric J. Hessler Law Firm represented Mr. Mosley. Mr. Hessler filed Mr. Mosley's Notice of Appeal on January 15, 2026. The same day, he filed a Motion to Withdraw as Attorney. On January 20, 2026, the district court granted the Motion, and appointed the Office of the Federal Public to represent Mr. Mosley on appeal.

The Fifth Circuit case number is 26-60031. On August 25, 2026, the Fifth Circuit filed an Opinion affirming the district court's rulings. It filed a Judgment on the same day. The Fifth Circuit's Opinion and Judgment are attached hereto as composite Appendix 2.

II. JURISDICTIONAL STATEMENT

The United States Court of Appeals for the Fifth Circuit filed both its Opinion and its Judgment August 25, 2026. This Petition for Writ of Certiorari is filed within 90 days after entry of the Fifth Circuit's Judgment, as required by Rule 13.1 of the Supreme Court Rules. This Court has jurisdiction over the case under the provisions of 28 U.S.C. § 1254(1).

III. CONSTITUTIONAL PROVISION INVOLVED

At issue is Mr. Mosley's constitutional right to effective legal representation, as

Guaranteed by the Sixth Amendment. The Sixth Amendment states:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to *have the Assistance of Counsel for his defence*.

U.S. Const. amend. VI (emphasis added).

IV. STATEMENT OF THE CASE

A. Basis for federal jurisdiction in the court of first instance.

This case arises out of a criminal conviction entered against Mr. Mosley for three counts of possession with intent to deliver illegal drugs, in violation of 18 U.S.C. § 841(a) and (b). The court of first instance, which was the United States District Court for the Southern District of Mississippi, had jurisdiction over the case under 18 U.S.C. § 3231 because the criminal charge levied against Mr. Mosley arose from the laws of the United States of America.

B. Statement of material facts.

1. Mr. Mosley's background.

Mr. Mosley grew up in Meridian, Mississippi. He was one of five children. His father was disabled and his mother worked at Walmart. Because of his mother's work schedule, "he was back and forth from his mother[']s and his grandmother's home[.]"

Mr. Mosely graduated from Meridian High School in 2010. After that, he attended Nashville Auto-Diesel College. He obtained a welding license, but apparently never worked as a welder.

In 2015 and 2016, Mr. Mosley owned and operated D & D Customs in Meridian. Through that business, he cleaned, detailed and repaired cars. From 2021

through 2024, Mr. Mosley owned and operated Mosley Landscaping and Construction, which was a lawn care business.

Mr. Mosley never had issues abusing alcohol or prescription drugs. In fact, he tested negative for all screened substances after his arrest.

2. The charges.

As presented in detail above, the prosecution charged Mr. Mosley with three crimes. Count one charged possession with intent to distribute methamphetamine. Count two charged possession with intent to distribute cocaine. Count three charged possession with intent to distribute fentanyl.

3. The plea offers.

Before jury selection, the court and the parties discussed three plea offers made by the prosecution. The first offer, which was made in December of 2024, was to count one, possession with intent to distribute methamphetamine. The prosecution offered to recommend a sentence in the lower 50 percent of the Guidelines range. After the prosecution made this offer, the administration changed and the offer was withdrawn before Mr. Mosley had a chance to accept it.

The second offer was made in May of 2025. Under this offer, Mr. Mosley had the opportunity to plead guilty to count three, possession with intent to distribute fentanyl. He rejected that offer in July of 2025.

Via the third offer, the prosecution gave Mr. Mosley an opportunity for a cooperating plea agreement. If accepted, Mr. Mosely would be required to assist in the investigation of a related crime in Birmingham, Alabama. This final offer was made and rejected in July of 2025.

4. The trial.

Mr. Mosley is *not* conceding that the prosecution presented sufficient evidence at trial for the jury to return guilty verdicts on the three counts in the Indictment. But that is not the focus of this appeal.

At issue is whether trial counsel rendered constitutionally ineffective legal representation at trial.[1] Specifically, the issue revolves around counsel's admission of guilt to count one.

Count one alleged possession with intent to distribute methamphetamine. Defense counsel first addressed count one during opening statements. Counsel stated:

> This investigation began in September of 2023. It came about because of an offshoot investigation into a guy in Birmingham, Hanston Clark, who, and you will hear it in the videos, who thought that Mr. Mosley's location in Meridian, which was somewhat rural and somewhat just a house that he could use, Mr. Mosley, to print pills. *Was it right for Mr. Mosley to agree? Absolutely not. Absolutely not. And he did agree, and he agreed to – I'm going to make it easy on these men and ladies for one part, and that's the part he actually admitted to, the methamphetamine, skate*. That's what this investigation was about. That's what Mr. Mosley – that's what the facts will show, that Mr. Mosley believed that this -- that he had been brought on for,

[1] As presented above, the undersigned did not represent Mr. Mosley at trial.

> and that was being given to him, delivered to him by Hanston Clark, methamphetamine, XOs, Ecstasy, as it's known lately.

(Emphasis added).

Trial counsel addressed count one a second time during opening statements. He said: "But what he did do is *what he admitted to, possession of methamphetamine*, producing the -- just the pills, creating the pills[.]" (Emphasis added). And moments later, counsel admitted for the third time that Mr. Mosley is guilty of distributing methamphetamine. He stated:

> I'm not going to sit here and insult your intelligence and say that, you know, if somebody gives you something and you give it back to them, are you distributing it? Is that your intent or your intent to do what you were told, to make it into a pill as opposed to a powder? *I'm not going to even quibble with that. Possession of methamphetamine? Yeah, unfortunately*.

(Emphasis added).

Trial counsel reiterated the admission to count one during closing arguments. He stated: "I submit to you that the only charge that he might be guilty of is would be count 1, and that would be *knowing and intentional possession of methamphetamine over 500 grams. Nobody has quibbled about that*. But I think the government has fallen short of the others." (Emphasis added).

For reasons set forth below in the "Arguments" section of this Petition, admission to count one functionally admitted guilt to counts two and three as well. The prosecutor recognized and took advantage of this fact during closing arguments. Near the beginning of his argument, the prosecutor stated:

> But I want to start where Attorney Hessler left off, because he said, you know, go ahead and find the defendant, Jabreon Mosley, guilty of possession with intent to distribute methamphetamine because, in essence, the government has proven that beyond a reasonable doubt, and he had knowledge of that, is essentially what Attorney Hessler has said.
>
> Well, just based on that statement alone, if you actually follow the law, *the first element is the defendant knowingly possessed a controlled substance, not that it was meth, not that it was cocaine, or not that he knew it was fentanyl*. It's he knew that he was possessing a controlled substance. So logically, *it follows that if you find him guilty in having knowledge of possession with intent to distribute methamphetamine, then you can find him guilty of the fentanyl and the cocaine*.

(Emphasis added).

In the end, the jury found Mr. Mosley guilty of all three counts of the Indictment.

5. The sentencing hearing.

The recommended sentence under the Sentencing Guidelines was life in prison. The court varied downward and ordered a 300-month prison term.

V. ARGUMENT:

Trial counsel provided constitutionally deficient representation to Mr. Mosley.

A. Review on certiorari should be granted in this case.

At issue is Mr. Mosely's trial attorney provided ineffective assistance of counsel by effectively admitting guilt at trial. The United States Court of Appeals for the Fifth Circuit ruled that "[t]he record is not sufficiently developed to allow us to make a fair evaluation of the ineffective-assistance-of-counsel claim[.]" Mr. Mosely disagrees.

As discussed both above and below, trial counsel admitted guilt to one of the three counts, and that operated as an effective admission to the other two counts. Under that fact scenario, no further development of the record is necessary to rule on the ineffective assistance of counsel claim. We ask the Court to grant certiorari to address this important Sixth Amendment issue.

B. Argument.

1. Introduction.

In *Martinez v. Ryan*, this Court recognized the vital importance of a defendant's right to effective counsel. The Court held:

> The right to the effective assistance of counsel at trial is a bedrock principle in our justice system. It is deemed as an "obvious truth" the idea that "any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him." *Gideon v. Wainwright,* 372 U.S. 335, 344, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963). Indeed, the right to

> counsel is the foundation for our adversary system. Defense counsel tests the prosecution's case to ensure that the proceedings serve the function of adjudicating guilt or innocence, while protecting the rights of the person charged. See, *e.g., Powell v. Alabama,* 287 U.S. 45, 68–69, 53 S.Ct. 55, 77 L.Ed. 158 (1932) ("[The defendant] requires the guiding hand of counsel at every step in the proceedings against him. Without it, though he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence").

Martinez v. Ryan, 566 U.S. 1, 12 (2012).

Rule 10 of the Supreme Court Rules states, "[r]eview on writ of certiorari is not a matter of right, but of judicial discretion." We ask the Court to exercise its discretion and grant certiorari in this case because it involves the vitally important Sixth Amendment right to effective assistance of trial counsel.

2. Trial counsel's admission of guilt to count one fell below an objective standard of reasonableness.

Trial counsel admitted guilt to count one – possession with intent to distribute methamphetamine. While the admission technically did not relieve the jury from finding guilt beyond a reasonable doubt, it established an unobstructed path leading to guilty verdicts on not only count one, but also counts two and three.

The admission of guilty to count one arguably represents ineffective assistance of counsel in and of itself. But what is more troubling is defense counsel's misunderstanding about how admitting guilt to count one affected counts two and three as well.

Counsel was under the misguided understanding that to find Mr. Mosley guilty of count two – possession with intent to distribute cocaine – and count three – possession with intent to distribute fentanyl – he had to have *actual knowledge* that the substances at issue in counts two and three were in fact *cocaine* and *fentanyl*. That simply is not the case.

This Court addressed the knowledge requirement in *McFadden v. United States*, 576 U.S. 186 (2015). "[Section] 841(a)(1) requires the Government to establish that the defendant knew he was dealing with 'a controlled substance" … *even if he did not know its identity*." *Id.* at 188-89 (emphasis added).

Fifth Circuit precedent is consistent with the holding in *McFadden*. "The Government must establish that the defendant 'knew he was dealing with a controlled substance' … '*even if he did not know its identity*.'" *United States v. Moton*, 951 F.3d 639, 643 (5th Cir. 2020) (emphasis added) (internal and end footnotes omitted). The knowledge element of § 841(a)(1)

> can be established by evidence that a defendant knew that the substance with which he was dealing is some controlled substance—that is, one actually listed on the federal drug schedules or treated as such by operation of the Analogue Act—*regardless of whether he knew the particular identity of the substance*.

Id. (emphasis added); *see also United States v. Gamez-Gonzalez*, 319 F.3d 695, 700 (5th Cir. 2003).

The jury instructions on each of counts one through three were similar. Each contained three elements that had to be proven beyond a reasonable doubt. The first element of each count "is that the defendant *knowingly possessed a controlled substance*[.]" (Emphasis added). The second element is "that the substance was in fact a mixture or substance containing a detectable amount of methamphetamine" (count one), "cocaine" (count two) and "fentanyl" (count three). The third element for each count is "that the defendant possessed the substance with intent to distribute it."

The court went on to describe the "knowledge" element of each count.

> The term "knowingly," as used in these instructions, means that the act was done voluntarily and intentionally, not because of mistake or accident. The government must prove beyond a reasonable doubt that the defendant knew he was possessing some kind of controlled substance. But *the government does not have to prove that the defendant knew the precise identity of the substance*.

(Emphasis added).

To recap, to return guilty verdicts on each count, the government had to prove the following:

Count 1:

(1) That Mr. Mosley possessed a controlled substance; (2) that the substance contained a detectable amount of methamphetamine, *regardless of whether he actually knew that the controlled substance was methamphetamine*; and (3) that he intended to distribute the controlled substance.

Count 2:

(1) That Mr. Mosley possessed a controlled substance; (2) that the substance contained a detectable amount of cocaine, *regardless of whether he actually knew that the controlled substance was cocaine*; and (3) that he intended to distribute the controlled substance.

Count 3:

(1) That Mr. Mosley possessed a controlled substance; (2) that the substance contained a detectable amount of fentanyl, *regardless of whether he actually knew that the controlled substance was fentanyl*; and (3) that he intended to distribute the controlled substance.

Notwithstanding binding precedent and the trial court's clear jury instructions, trial counsel maintained during closing argument that the jury should return not guilty verdicts on counts two and three because Mr. Mosley believed that all of the substance was methamphetamine, and he did not know that any of it was cocaine and/or fentanyl. He argued, "[a]nd I think the main thrust of what I don't believe they were able to prove was knowledge" that some of the substances were cocaine and fentanyl. He went on to argue that "[n]obody quibbled about" Mr. Mosley's possession with intent to distribute methamphetamine, "[b]ut I think the government has fallen short of the others." That is, counsel contended that it should return not guilty verdicts on counts two and three because Mr. Mosely did

not know that any of the substances related to those counts contained cocaine and/or fentanyl.

Several chemists testified as expert witnesses and provided 25 Lab Reports on their drug analyses. The reports indicated that the tested substances consisted of methamphetamine (about 87 pounds), cocaine (about 11 pounds) and fentanyl (about 45 pounds).

During deliberations, the jurors apparently followed the court's instructions. That is, notwithstanding the possibility that Mr. Mosely might have believed that the only illegal substance in his possession was methamphetamine, they found him guilty of possession with intent to distribute methamphetamine (count 1), cocaine (count 2) and fentanyl (count 3).

That brings us to the crux of the matter. Based on binding law, trial counsel's admission that Mr. Mosley possessed methamphetamine with intent to distribute allowed the jury to return guilty verdicts not only on count one, but also on counts two and three. Providing the jury with this avenue leading to guilt on all counts prejudiced Mr. Mosley's defense. That is true because the jury had little choice other than finding him guilty on all counts.

VI. CONCLUSION

Based on the arguments presented above, Mr. Jabreon Mosley asks the Court to grant his Petition for Writ of Certiorari in this case.

Submitted November 3, 2026, by:

s\ *Abby Brumley Edwards*
Abby Brumley Edwards (Miss. Bar # 101929)
First Assistant
Office of the Federal Public Defender
200 South Lamar Street
Suite 200 North
Jackson, MS 39201
Telephone: 601-948-4284
Facsimile: 601-948-5510
Email: abby_brumley_edwards@fd.org

Attorney for Defendant-Petitioner

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES
OF AMERICA

JABREON DESHON MOSLEY
Petitioner-Defendant

v.

UNITED STATES OF AMERICA
Respondent

On Petition for Writ of Certiorari from the
United States Court of Appeals for the Fifth Circuit.
Fifth Circuit Case No. 26-60031

CERTIFICATE OF SERVICE

As required by Supreme Court Rule 29.5, on November 3, 2026, the undersigned served copies of the enclosed Petition for a Writ of Certiorari and Motion for Leave to Proceed In Forma Pauperis on all parties required to be served by enclosing a copy of each in an envelope and delivering it to FedEx, a third-party commercial carrier for delivery within three calendar days to:

The Honorable D. John Sauer
Solicitor General of the United States
Room 5614, Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530-0001

I further certify that all parties required to be served with this Petition and the Motion have been served.

Respectfully submitted, November 3, 2026, by:

s\ *Abby Brumley Edwards*
Abby Brumley Edwards (Miss. Bar # 101929)
First Assistant
Office of the Federal Public Defender