No. _____

In the

Supreme Court of the United States

_____

Monica Renee Metcalf,
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

_____

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QUESTIONS PRESENTED

Whether 18 U.S.C. § 3583(g) comports with the Fifth and Sixth Amendments?

PARTIES TO THE PROCEEDING

Petitioner is Monica Renee Metcalf, who was the Defendant-Appellant in the court below. Respondent, the United States of America, was the Plaintiff-Appellee in the court below.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Monica Renee Metcalf seeks a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINIONS BELOW

The unpublished opinion of the court of appeals is found at *United States v. Metcalf*, No. 26-10269, 2026 WL 2364756 (5th Cir. August 14, 2026). It is reprinted in Appendix A to this Petition. The Petition arises from the judgment revoking Ms. Metcalf's supervised release. The district court's original judgment and sentence on a substantive count is attached as Appendix B. The district court's judgment and sentence revoking supervised release is attached as Appendix C.

JURISDICTION

The panel opinion and judgment of the Fifth Circuit were entered on June 17, 2026. This Court has jurisdiction pursuant to 28 U.S.C. §1254(1).

RELEVANT STATUTES AND CONSTITUTIONAL PROVISION

Section 922(g)(1) of Title 18 reads in relevant part:

> (g) It shall be unlawful for any person—
> (1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year
> ***
> to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

18 U.S.C. §3583(g) states:

(g) Mandatory Revocation for Possession of Controlled Substance or Firearm or for Refusal To Comply With Drug Testing.—If the defendant—
(1) possesses a controlled substance in violation of the condition set forth in subsection (d);
(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm;
(3) refuses to comply with drug testing imposed as a condition of supervised release; or
(4) as a part of drug testing, tests positive for illegal controlled substances more than 3 times over the course of 1 year;
the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

Article I, Section 8 of the United States Constitution provides in relevant part:

The Congress shall have Power
***

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes…

The Fifth Amendment to the United States Constitution provides:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

The Sixth Amendment provides:

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.

STATEMENT OF THE CASE

A. Facts and Proceedings in District Court

This petition arises from the revocation of Monica Renee Metcalf's supervised release.

In 2016, Petitioner Monica Renee Metcalf pleaded guilty to a two criminal charges. ROA.325. She received a 176-month imprisonment sentence, followed by a three-year term of supervised release. ROA.236.

Ms. Metcalf's term of supervised release began on September 27, 2024. Second Am. Pet. for Person Under Supervision, *United States v. Metcalf*, No. 3:15-CR-87-L (N.D. Tex.), at 1. On February 26, 2026, probation filed a Second Amened Petition for Person Under Supervision, alleging that Ms. Metcalf had violated her conditions of supervised release by various means, including through her possession of a controlled substance and submitting more than three positive drug tests over the course of one year. *Id.* at 1-4. That amended petition included a statutory provisions section stating, "Mandatory revocation for possession of a controlled substance and more than 3 positive drug tests over the course of 1 year. Sentence to a term of imprisonment." *Id.* at 4 (citing 18 U.S.C. § 3583(g)(1) & (g)(4)). The petition listed an advisory range of six to 12 months' imprisonment, based on a violation grade of C and a criminal history category of IV. *Id.*

At the revocation hearing, Ms. Metcalf pleaded true to each allegation from the amended petition pursued by the government, which included the allegations relating to drug possession and submission of positive drug tests. *See* ROA.347-49. The district

court revoked Ms. Metcalf's supervised release and sentenced her to six months of imprisonment and three years of supervised release. ROA.156.

B. Appellate Proceedings

Ms. Metcalf appealed, arguing for the first time that the district court erred in applying the mandatory revocation provision of 18 U.S.C. §3583(g) because that provision violated the Fifth and Sixth Amendments under the rationale of *United States v. Haymond*, __U.S.__, 139 S.Ct. 2369 (2019). Ms. Metcalf conceded that her claim was foreclosed by circuit precedent, and the court of appeals agreed. *See* [Appx. A, at *1-2].

REASON FOR GRANTING THE PETITION

I. This Court should hold the instant Petition pending any plenary grant of certiorari addressing the question presented, which was reserved by the plurality in *United States v. Haymond*, __U.S.__, 139 S.Ct. 2369 (2019).

A. This case presents an unaddressed question from *Haymond* regarding the continued viability of the mandatory revocation statute of 18 U.S.C. § 3583(g).

The Fifth and Sixth Amendments to the United States Constitution require that any fact that increases the defendant's maximum or minimum range of punishment must be proven to a jury beyond a reasonable doubt. *See Apprendi v. New Jersey*, 530 U.S. 466 (2000); *Alleyne v. United States*, 570 U.S. 99 (2013). Section 3583(g)(3) of Title 18 compels the district court to impose a term of imprisonment when a defendant on supervised release refuses to comply with drug testing imposed as a condition of supervised release. A straightforward application of *Alleyne*, therefore, would tend to show that the fact of such refusal must be proven to a jury beyond a reasonable doubt. Alternatively, a reviewing court might conclude that Congress would have preferred to sever and excise the mandatory revocation provision to compelling a full-blown jury trial for every allegation of refusal to comply with required drug testing. *See United States v. Booker*, 543 U.S. 220 (2005).

Nonetheless, at least five Justices in *United States v. Haymond*, __U.S.__, 139 S.Ct. 2369 (2019), concluded that some revocation proceedings fall outside the simple rules of *Apprendi* and *Alleyne*. *See Haymond*, 139 S.Ct. at 2385 (Breyer, J., concurring); *id*. at 2391 (Alito, J., dissenting). Under the view propounded by Justice Breyer's concurrence, facts determined in a revocation proceeding should instead be

compared more globally to a "traditional element." *See id*. at 2385-2386 (Breyer, J., concurring). This analysis considers whether the fact in question sets forth an independent criminal offense, whether it triggers a mandatory minimum, and the length of the mandatory minimum. *See id.* at 2385-2386 (Breyer, J., concurring).

A four-Justice plurality expressly reserved the question at issue in this case: whether 18 U.S.C. 3583(g) violates the Fifth and Sixth Amendment, cautioning:

> Just as we have no occasion to decide whether § 3583(k) implicates *Apprendi* by raising the ceiling of permissible punishments beyond those authorized by the jury's verdict, see n. 4, supra, we do not pass judgment one way or the other on § 3583(e)'s consistency with Apprendi. Nor do we express a view on the mandatory revocation provision for certain drug and gun violations in § 3583(g), which requires courts to impose "a term of imprisonment" of unspecified length.

Id. (Gorsuch, J.)(plurality op.), 139 S. Ct. at 2382. Such reservations have previously foreshadowed grants of certiorari on the reserved issue, often promptly. ***Compare*** *Blakely v. Washington*, 542 U.S. 296, 305, n.9 (2004)("The Federal Guidelines are not before us, and we express no opinion on them.") ***with*** *United States v. Booker*, 543 U.S. 220 (2005)(rendering a holding on this question); ***compare*** *Voisine v. United States*, 136 S. Ct. 2272, 2280, n.4 (2016)(Like *Leocal*, our decision today concerning § 921(a)(33)(A)'s scope does not resolve whether § 16 includes reckless behavior.") ***with*** *Borden v. United States*, No. 19-5410, 140 S.Ct. 1262 (March 2, 2020)(granting certiorari to decide this question in the context of 18 U.S.C. 924(e), which contains a clause similarly worded to 18 U.S.C. 16); ***see also*** *Voisine*, 136 S. Ct. at 2277 ("…we expressly left open whether a reckless assault also qualifies as a "use" of force—so that a misdemeanor conviction for such conduct would trigger § 922(g)(9)'s firearms

ban. . . . The two cases before us now raise that issue.")(internal citations omitted)(*citing United States v. Castleman*, 572 U.S. 157 (2014)).

B. This Court should grant certiorari to address the issue in another case and hold the instant Petition pending the outcome.

Because Ms. Metcalf did not challenge the constitutionality of the mandatory revocation statute at the district court likely presents an insurmountable vehicle problem for a plenary grant in the present case. Nonetheless, the issue is worthy of certiorari.

In the event that the Court chooses to address this issue while the instant case remains on direct appeal, the outcome may be affected. Although the error was not preserved in district court, which compels review for plain error only, *see* Fed. R. Crim. P. 52(b), the "plain-ness" of error may be established by change of precedent on before the judgment is final. *See Henderson v. United States*, 568 U.S. 266 (2013). Accordingly, Ms. Metcalf requests that the Court hold her petition pending any case that presents the issue reserved in *Haymond*, and then grant the petition, vacate the judgment below, and remand for reconsideration. *See Lawrence on behalf of Lawrence v. Chater*, 516 U.S. 163 (1996).

CONCLUSION

Ms. Metcalf respectfully submits that this Court should grant *certiorari* to review the judgment of the United States Court of Appeals for the Fifth Circuit.

Respectfully submitted this 12th day of November, 2026.

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