

No. 25-49

In the Supreme Court of the United States

ALEXANDER SITTENFELD A.K.A. P.G. SITTENFELD,
PETITIONER

v.

UNITED STATES OF AMERICA

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

BRIEF FOR THE RESPONDENT

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QUESTION PRESENTED

Whether a conviction for bribery based on campaign contributions requires “unambiguous” evidence of a quid pro quo.

(I)

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-105a) is reported at 128 F.4th 752. A prior order of the court of appeals (Pet. App. 106a-108a) is available at 2024 WL 3025509. The opinion and order of the district court (Pet. App. 109a-136a) is reported at 669 F. Supp. 3d 672.

JURISDICTION

The judgment of the court of appeals was entered on February 11, 2025. On April 9, 2025, Justice Kavanaugh extended the time within which to file a petition for a writ of certiorari to and including June 11, 2025. On June 4, 2025, Justice Kavanaugh further extended the time to and including July 11, 2025, and the petition was filed on that date. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a jury trial in the United States District Court for the Southern District of Ohio, petitioner was convicted of federal-program bribery, in violation of 18 U.S.C. 666(a)(1)(B), and attempted extortion under color of official right, in violation of 18 U.S.C. 1951(a) and (b)(2). Pet. App. 137a-138a. The court sentenced him to 16 months of imprisonment, to be followed by one year of supervised release, and to a fine of \$40,000. *Id.* at 139a-149a. The court of appeals affirmed. *Id.* at 1a-105a. Between the time of the court of appeals' decision and the filing of the petition for a writ of certiorari, the President pardoned petitioner. <https://justice.gov/pardon/media/1402061/dl?inline>.

1. In 2020, a federal grand jury indicted petitioner on two counts of honest-services wire fraud, in violation of 18 U.S.C. 1343 and 1346; two counts of federal-program bribery, in violation of 18 U.S.C. 666; and two counts of attempted extortion under color of official right, in violation of 18 U.S.C. 1951. Pet. App. 15a. The charges rested on allegations that petitioner, a Cincinnati city council member, had solicited or accepted campaign contributions that were in fact bribes in a quid pro quo exchange for petitioner's promise to support a property-development project. *Id.* at 3a.

The jury found petitioner guilty of one of the federal-program-bribery counts and one of the extortion counts, and acquitted him on the remaining counts. Pet. App. 16a. The district court sentenced petitioner to 16 months of imprisonment, to be followed by one year of supervised release, and fined him \$40,000. *Id.* at 139a-148a.

2. The court of appeals affirmed. Pet. App. 1a-105a. The court rejected petitioner's claim that insufficient

evidence supported his conviction. *Id.* at 17a-31a. The court observed that conviction for federal-program bribery or extortion “in the campaign-contribution context” requires proof beyond a reasonable doubt that the defendant accepted or solicited campaign contributions “in return for an explicit promise or undertaking.” *Id.* at 17a-18a (citation omitted). And the court found that “a reasonable juror could conclude” that the government had met that burden. *Id.* at 31a. It rejected petitioner’s contention that the proof of a quid pro quo must be “unambiguous” and that “the evidence is insufficient as a matter of law if it is susceptible [of] a ‘legitimate explanation.’” *Id.* at 23a (citation omitted).

Judge Murphy issued a concurring opinion. Pet. App. 57a-77a. He stated that bribery laws “can raise constitutional concerns as applied to campaign donations” but that petitioner “wrongly relies on an atextual gloss to reduce the concerns.” *Id.* at 73a.

Judge Bush dissented. Pet. App. 77a-105a. In his view, the evidence “fell short of the minimum required for a rational juror to find beyond a reasonable doubt that [petitioner] had the corrupt intent for bribery or extortion.” *Id.* at 78a.

3. In May 2025, after the court of appeals affirmed petitioner’s conviction, the President granted petitioner a full and unconditional pardon for the offenses charged in this case. <https://justice.gov/pardon/media/1402061/dl?inline>.

DISCUSSION

Petitioner renews his contention (Pet. 19-38) that insufficient evidence supported his convictions for bribery and extortion. But because petitioner has received a full and unconditional pardon for those offenses, his challenges to his convictions are now moot. Petitioner

expresses concerns (Pet. 37-38) that the pardon does not return his \$40,000 fine or eliminate the collateral consequences of his conviction, but those concerns rest on an unduly narrow view of the President’s pardon power. Regardless, to effectuate the pardon and avoid any doubt about its effects, the government has filed a motion in the district court under Federal Rule of Criminal Procedure 48(a) to vacate the judgment and dismiss the indictment with prejudice. This Court should grant the petition for a writ of certiorari, vacate the court of appeals’ judgment, and remand the case to the district court so that it can grant the government’s motion.

1. The Constitution grants the President “Power to grant Reprieves and Pardons for Offences against the United States.” U.S. Const. Art. II, § 2, Cl. 1. A full pardon “releases the offender from the punishment prescribed for the offence” and “obliterates in legal contemplation the offence itself.” *Carlisle v. United States*, 16 Wall. 147, 151 (1873). “If granted before conviction, [a full pardon] prevents any of the penalties and disabilities consequent upon conviction from attaching; if granted after conviction, it removes the penalties and disabilities, and restores [the offender] to all his civil rights.” *Ex parte Garland*, 4 Wall. 333, 380 (1867).

The issuance of a full pardon ordinarily moots any challenge to the conviction. See, e.g., *United States v. Schaffer*, 240 F.3d 35, 38 (D.C. Cir. 2001) (en banc) (per curiam); 13B Charles Alan Wright et al., *Federal Practice and Procedure* § 3533.2 (3d ed. Sept. 2025 update). A case is moot if the parties no longer have “a legally cognizable interest in the outcome.” *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91 (2013) (citation omitted). Because petitioner’s pardon has “release[d] the punish-

ment,” *Garland*, 4 Wall. at 380, petitioner no longer has a cognizable interest in the outcome of this litigation.

2. Petitioner expresses concern (Pet. 19) that the pardon does not return his \$40,000 fine. But when a pardon is granted after conviction, it “removes the penalties” imposed for the offense. *Garland*, 4 Wall. at 380. The government has accordingly taken the position that, if the President grants a defendant a full pardon while his case is still on direct review, the defendant is entitled to the return of any fines that he has paid (either automatically or following a ministerial vacatur of the district court’s order requiring payment of those penalties). See, e.g., 21-cr-47 D. Ct. Doc. 110, at 1-4 (D.D.C. May 27, 2025).

This Court’s decision in *Knote v. United States*, 95 U.S. 149 (1877) (cited at Pet. 19) does not require otherwise. In *Knote*, this Court determined that a pardon issued after the defendant’s conviction became final does not entitle the defendant to the return of forfeited property or its proceeds. See *id.* at 154. It explained that, under the Appropriations Clause, U.S. Const. Art. I, § 9, Cl. 7, “[m]oneys once in the treasury can only be withdrawn by an appropriation by law.” *Knote*, 95 U.S. at 154. This case differs from *Knote* because petitioner received a pardon while his conviction was still on direct review, not after his conviction became final. In such a case, any fine paid by the defendant has not yet “vested” in the Treasury; instead, in the eyes of the law, it “remain[s] under control of the Executive” or “in the custody of the judicial tribunals,” and so must be “restored” to the defendant “upon his full pardon.” *Ibid.*

Underscoring the point, the Appropriations Clause binds the Executive and Judiciary equally. See *OPM v. Richmond*, 496 U.S. 414, 426 (1990). No one thinks that

the Clause precludes the government from refunding a monetary penalty when a court of appeals reverses a conviction on direct review. To the contrary, the Court has held that the Due Process Clause *required* a State to return “conviction-related assessments” when a “criminal conviction [was] invalidated by a reviewing court and no retrial will occur.” *Nelson v. Colorado*, 581 U.S. 128, 130 (2017). There is no sound reason to conclude that the Appropriations Clause precludes the return of funds when the defendant’s conviction is wiped out by a pardon rather than a reversal.

Petitioner also worries (Pet. 38) that he faces “collateral consequences from his convictions,” but that concern is likewise misplaced. Under this Court’s precedents, a pardon “relieve[s] the [defendant] from *all* penalties and disabilities attached to the offence.” *Garland*, 4 Wall. at 380-381 (emphasis added); see *Carlisle*, 16 Wall. at 153 (full pardon “effac[es] the offence, blotting it out, * * * as though it had never existed”). In particular, a full pardon “obliterate[s]” even collateral “consequence[s]” or “effect[s],” such as a defendant’s “disability to testify” in future judicial proceedings. *Boyd v. United States*, 142 U.S. 450, 453-454 (1892).

3. Nevertheless, to give full effect to the President’s pardon and to avoid any remaining doubts about its scope, the government has filed a motion in district court under Federal Rule of Criminal Procedure 48(a) to vacate the court’s judgment and dismiss the charges against petitioner with prejudice. Rule 48(a) provides that “[t]he government may, with leave of court, dismiss an indictment.” Fed. R. Crim. P. 48(a). It allows the government to seek dismissal even after a jury finds the defendant guilty and the district court enters judgment. See *Thompson v. United States*, 444 U.S. 248, 250 (1980)

(per curiam); *Rinaldi v. United States*, 434 U.S. 22, 28-32 (1977) (per curiam). In several previous cases, the Court has granted the Solicitor General’s request to grant a petition for a writ of certiorari, vacate the court of appeals’ judgment, and remand the case so that the government can pursue dismissal under Rule 48(a). See, e.g., *Bronsozian v. United States*, 140 S. Ct. 2663 (2020); *Thompson*, 444 U.S. at 250 (collecting cases).

Pursuing that course here would ensure that petitioner has obtained full relief from the pardoned convictions. A vacatur of his convictions is the most that petitioner could ever obtain in this litigation. And allowing that relief to be entered at the government’s request will avoid any needless litigation about petitioner’s now-pardoned convictions and the scope of the pardon that he has received.

CONCLUSION

This Court should grant the petition for a writ of certiorari, vacate the judgment of the court of appeals, and remand the case to the district court for further consideration in light of the government’s pending motion to vacate the district court’s judgment and dismiss the indictment.

Respectfully submitted.

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