NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

RONALD BEDFORD,

PETITIONER,

vs.

UNITED STATES OF AMERICA,

RESPONDENT.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

Whether an employee of a private trucking contractor that maintains a contract with the United States Postal Service ("USPS") to haul mail is a person assisting an officer or employee of the USPS in the performance of their official duties within the meaning of 18 U.S.C. § 111 and 18 U.S.C. § 1114.

LIST OF PARTIES

All parties to the proceeding are identified in the style of the case.

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Statutory Authority

[1] Available at: 1996 WL 183509, 1996 U.S.C.C.A.N. 944 (leg. Hist.)

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner, Ronald Bedford, respectfully prays that a writ of certiorari issue to review the judgment below.

OPINION BELOW

The opinion of the United States Court of Appeals for the Sixth Circuit appears in Appendix A to this Petition, filed concurrently herewith.

JURISDICTION

On January 23, 2019, a three-judge panel of the Sixth Circuit Court of Appeals entered its opinion in United States v. Bedford, No. 18-5627, 2019 U.S. App. LEXIS 2069 (Jan. 23, 2019). This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

STATUTES, ORDINANCES AND REGULATIONS INVOLVED

(1) 18 U.S.C § 111

(a) In General.—Whoever—

(1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties; or

(2) forcibly assaults or intimidates any person who formerly served as a person designated in section 1114 on account of the performance of official duties during such person's term of service,

shall, where the acts in violation of this section constitute only simple assault, be fined under this title or imprisoned not more than one year, or both, and where such acts involve physical contact with the victim of that assault or the intent to commit another felony, be fined under this title or imprisoned not more than 8 years, or both.

(b) Enhanced Penalty.—

Whoever, in the commission of any acts described in subsection (a), uses a deadly or dangerous weapon (including a weapon intended to cause death or danger but that fails to do so by reason of a defective component) or inflicts bodily injury, shall be fined under this title or imprisoned not more than 20 years, or both.

18 U.S.C. § 111(a), (b).

(2) 18 U.S.C. § 1114

Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished—

(1) in the case of murder, as provided under section 1111;

(2) in the case of manslaughter, as provided under section 1112; or

(3) in the case of attempted murder or manslaughter, as provided in section 1113.

18 U.C.C. 1114.

STATEMENT OF THE CASE

A federal grand jury in the Western District of Tennessee returned an indictment charging Mr. Bedford with forcibly assaulting, resisting, opposing, impeding, intimidating and interfering with "P.D.," a person assisting officers and employees of the United States Postal Service ("USPS"), and in doing so, utilizing a dangerous weapon, in violation of 18 U.S.C. §§ 111(a)(1), (b), 1114. See United States v. Bedford, No. 18-5627, 2019 U.S. App. LEXIS 2069, at *1-2 (Jan. 23, 2019). It was alleged that Mr. Bedford fired a weapon at P.D., a commercial truck driver for P & R Trucking, while driving on Interstate 40 in Memphis, Tennessee. Id. at *2-3. P & R Trucking is located in Sparta, Tennessee. Id. at *2. In addition to its freight hauling services, P & R Trucking maintains a mail-hauling contract with the USPS. Id. at *1.

Mr. Bedford filed a motion to dismiss the indictment, arguing that P.D. was not an officer or employee of the USPS, and so the indictment should be dismissed for lack of subject matter jurisdiction. Id. at *2. The district court denied the motion, finding that P.D. was a person assisting a federal officer or employee and therefore fell within the statutes' reach. Id. at *2. Mr. Bedford appealed this decision and a three-judge panel of the Sixth Circuit affirmed the district court's holding. Id.

Both courts read the provisions of the relevant statutes expansively. For instance, the district court concluded that P.D. qualified as a person assisting a federal officer or employee, even though he was an employed by a contractor, which held the contract with the USPS. The court reasoned that P.D. was "performing the same functions as a Postal Service employee" and that his work supported the Postal Service's function." Id. at *5. Likewise, the appellate panel found that P.D. was transporting mail on behalf of the USPS, pursuant to his employer's contract with the

USPS, and therefore was a person assisting a federal officer or employee in the performance of official duties. Id. at *6.

The main thrust of the appellate panel's holding was that the statute was plain on its face, and thus, the inquiry ended with the text itself. Id. at *7. The panel stated:

> In our analysis, "[w]e start, as always, with the language of the statute." Williams v. Taylor, 529 U.S. 420, 431 . . . (2000). When looking at the language of the statute, this court "examines the plain meaning of its words." In re Corrin, 849 F.3d 653, 657 (6th Cir. 2017). "It is well established that 'when the statute's language is plain, the sole function of the courts—at least where the disposition required by the text is not absurd—is to enforce it according to its terms.'" Lamie v. United States Tr., 540 U.S. 526, 534 . . . (2004) (quoting Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A., 530 U.S. 1, 6 . . . (2000)). In doing so, "no clause, sentence, or word of a statute should be read as superfluous, void, or insignificant." In re City of Detroit, 841 F.3d 684, 696-97 (6th Cir. 2016) (internal quotation marks and citation omitted). "The plain meaning of legislation should be conclusive, except in the "rare cases [in which] the literal application of a statute will produce a result demonstrably at odds with the intentions of its drafters." United States v. Ron Pair Enters., Inc., 489 U.S. 235, 242 . . . (1989) (quoting Griffin v. Oceanic Contractors, Inc., 458 U.S. 564, 571 . . . (1982) (brackets in original)). Thus, in cases where "the language is ambiguous or leads to an absurd result, the court may look at the legislative history of the statute to help determine the meaning of the language." In re Corrin, 849 F.3d at 657 (citing Chrysler Corp. v. Comm'r, 436 F.3d 644, 654 (6th Cir. 2006)). But where the statutory language is unambiguous, our inquiry both begins and ends with the text itself. See Ron Pair Enters., Inc., 489 U.S. at 240-41 (noting that "as long as the statutory scheme is coherent and consistent, there generally is no need for a court to inquire beyond the plain language of the statute").
>
> Here, the language of 18 U.S.C. § 1114 is unambiguous, coherent, and consistent with the broader statutory scheme. Thus, we do not inquire beyond the plain meaning of the statute. See id.

Bedford, 2019 U.S. App. 2069, at *7-8.

The panel's reasoning honed in upon the meaning of the word "assist," as used in § 1114. The panel relied upon a dictionary definition wherein "assist" was defined as "to give supplementary support or aid to" or "to give support or aid." Id. at *8 (citing Merriam-Webser.com). The panel found that by carrying U.S. mail in his truck, P.D. provided

"supplemental help or support" to the USPS, an agency of the federal government. Id. at *9. The panel thus concluded that, under a plain and ordinary interpretation of "assist," P.D. assisted an officer or employee of the USPS in official duties when he transported mail, a job that the USPS would otherwise do itself. Id.

The panel dismissed Mr. Bedford's argument that P.D. did not fall into the ambit of the relevant statutes because there was no direct federal participation on the date in question, P.D. was not acting on loan to a federal agency, nor was he acting upon orders or instructions from anyone at the USPS. Id. at *10. The panel relied upon case law from several jurisdictions in several different contexts, none of them addressing the question in the current context. Id. at *11-15.

Finally, in a somewhat unfair characterization of Mr. Bedford's appellate brief, the panel accused him of making an "off-hand remark" that P.D. would not fall within the ambit of 18 U.S.C. § 111 because he was not targeted as a federal employee. Id. at *15. The panel found that this Court had squarely foreclosed such argument in United States v. Feola, 420 U.S. 671, 684 (1975), when it said that "[a]ll the statute requires is an intent to assault, not an intent to assault a federal officer." Id. at *15. The panel thus found that whether Mr. Bedford targeted P.D. as a federal employee was irrelevant. Id.

REASONS FOR GRANTING THE PETITION

This Court should grant certiorari because a panel of the Sixth Circuit has decided an important question of federal that has not been, but should be settled by this Court. Section 1114 was amended in 1996, long after this Court decided Feola. Prior to the amendment, the statute contained a lengthy list of specific federal officers and employees, and the only non-governmental employees covered were those "employed to assist [a United States marshal] or deputy marshal." 18 U.S.C. § 1114 (1995), amended by, 18 U.S.C. § 1114(a) (Supp. 1996). It is easy to assume that by changing the statute's ambit to cover persons assisting any officer or employee of the United States in the performance of their duties or on account of that assistance, Congress' intent was to broaden its scope. Mr. Bedford cannot disagree with this general premise. However, just how broadly the statute may reach is an unanswered question and that is where the ambiguity lies. In focusing upon the word "assist," the Sixth Circuit's reading is that § 1114's ambit is so wide that it covers anyone assisting, no matter how tangentially or remotely tied to a governmental employee that person may be. That was not Congress's intent. Instead, the legislative history reflects that the focus remained upon the types of federal employees falling within the statute's reach. Consequently, the analysis does not end with the text of the statute as the panel determined, and that is why this Court's intervention to help answer this question is necessary.

Prior to the 1996 amendment to the statute, it was a fairly simple matter to find that § 1114 would not apply to contract drivers such as P.D. See United States v. Kirkland, 12 F.3d 199, 202 (11th Cir. 1994). This is because the prior statute unambiguously referred to "any officer or employee of the Postal Service," and such language plainly did not encompass contract drivers. Were the statute the same now, as then, the Sixth Circuit's plain textual reading analysis would have been far more apropos.

That not being the case, it is necessary to delve into what little legislative history there is regarding the amendment to the statute. Congress originally imposed federal criminal penalties for the killing of United States officials during or on account of the official's execution of his duties in Section 1 of the Act of May 18, 1934, c. 299, 48 Stat. 780, which became the basis for 18 U.S.C. § 1114 and the parallel assault statute, 18 U.S.C. § 111. See Feola, 420 U.S. at 679. In so doing, Congress did not provide for general protection of all federal employees, but chose to punish only the killing of a specific list of law enforcement officers, such as U.S. marshals and their deputies, corrections officers, and revenue agents.[2] Over the years, Congress amended the statute on numerous occasions to add to the list of federal officials protected. By 1994, section 1114 set forth a list of protected federal officials.[3] The statute not only failed to prohibit the killing

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[2] The act provided:

> Whoever shall kill . . . any United States marshal or deputy United States marshal, special agent of the Division of Investigation of the Department of Justice, post-office inspector, Secret Service operative, any officer or enlisted man of the Coast Guard, any employee of any United States penal or correctional institution, any officer of the customs or of the internal revenue, any immigration inspector or any immigration patrol inspector, while engaged in the performance of his official duties, shall be punished . . . .

Act of May 18, 1934, c. 299, 48 Stat. 780.

[3] Prior to its amendment in 1996, the statute provided:

> Whoever kills or attempts to kill any judge of the United States, any United States Attorney, any Assistant United States Attorney, or any United States marshal or deputy marshal or person employed to assist such marshal or deputy marshal, any officer or employee of the Federal Bureau of Investigation of the Department of Justice, any officer or employee of the Postal Service, any officer or employee of the Secret Service or of the Drug Enforcement Administration, any officer or member of the United States Capitol Police, any member of the Coast Guard, any employee of the Coast Guard assigned to perform investigative, inspection or law enforcement functions, any officer or employee of the Federal Railroad Administration assigned to perform investigative, inspection, or law enforcement functions, any officer or employee of any United States penal or correctional

institution, any officer, employee or agent of the customs or of the internal revenue or any person assisting him in the execution of his duties, any immigration officer, any officer or employee or agent of the customs or of the internal revenue or any person assisting him in the execution of his duties, any immigration officer, any officer or employee of the Department of Agriculture or of the Department of the Interior designated by the Secretary of Agriculture or the Secretary of the Interior to enforce any Act of Congress for the protection, preservation, or restoration of game and other wild birds and animals, any employee of the Department of Agriculture designated by the Secretary of Agriculture to carry out any law or regulation, or to perform any function in connection with any Federal or State program or any program of Puerto Rico, Guam, the Virgin Islands or any other commonwealth, territory, or possession of the United States, or the District of Columbia, for the control or eradication or prevention of the introduction or dissemination of animal diseases, any officer or employee of the National Park Service, any civilian official or employee of the Army Corps of Engineers assigned to perform investigations, inspections, law or regulatory enforcement functions, or field-level real estate functions, any officer or employee of, or assigned to duty in, the field service of the Bureau of Land Management, or any officer or employee of the Indian field service of the United States, or any officer or employee of the National Aeronautics and Space Administration directed to guard and protect property of the United States under the administration and control of the National Aeronautics and Space Administration, any security officer of the Department of State or the Foreign Service, or any officer or employee of the Department of Education, the Department of Health and Human Services, the Consumer Product Safety Commission, Interstate Commerce Commission, [,] the Department of Commerce, or of the Department of Labor or of the Department of the Interior or of the Department of Agriculture assigned to perform investigative, inspection, or law enforcement functions, or any officer or employee of the Department of Veterans Affairs assigned to perform investigative or law enforcement functions, or any officer or employee of the Federal Communications Commission performing investigative, inspection, or law enforcement functions, or any United States probation or pretrial services officer, or any United States magistrate, or any officer or employee of any department or agency within the Intelligence Community (as defined in section 3.4(F) of Executive Order 12333, December 8, 1981 [50 USCS § 401 note], or successor orders) not already covered under the terms of this section, any attorney, liquidator, examiner, claim agent, or other employee of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Housing Finance Board, the Resolution Trust Corporation, the Board of Governors of the Federal Reserve System, any Federal Reserve bank, or the National Credit Union Administration, or any other officer or employee of the United States or any agency thereof designated for coverage under this section in regulations issued by the Attorney General engaged in or on account of the performance of his official duties, or any officer or employee of the United States or any agency thereof designated to collect

of all federal officers generally, but the list for the most part did not include penalties for the killing of persons who might be involved with federal law enforcement activities other than the federal officials themselves.

The amendment to § 1114 came as part and parcel of the passage of the Antiterrorism and Effective Death Penalty Act of 1996. In amending Section 1114, Congress replaced the long list enumerating protected federal officers with general provisions prohibiting the killing of "any officer . . . of the United States" or "any person assisting such an officer." Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, tit. VII, § 727(a) (codified in 18 U.S.C. § 1114).

The amendment of Section 1114 was initiated by Senator Bob Dole, in S. 735, subsequent to the Oklahoma City bombing. See Charles Doyle, Cong. Research Serv., CRS Report No. 96-499A, Antiterrorism and Effective Death Penalty Act of 1996: A Summary 1 (1996). The intent stated in the original bill introduced by Senator Dole as part of his "Omnibus Counterterrorism Act of 1995" was to include protection of all federal employees and their families. See 141 Cong. Rec. S 761, Vol. 74, S6206-S6217 (May 5, 1995).[4] The stated concern was providing protection

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> or compromise a Federal claim in accordance with sections 3711 and 3716-3718 of title 31 or other statutory authority shall be punished . . .

18 U.S.C. § 1114 (1995).

[4] For ease of review, the referenced section provided as follows:

> Sec. 902. Protection of Federal employees on account of the performance of their official duties.
>
> Section 902 would expand federal criminal murder and assault jurisdiction to include all federal employees and their immediate families. The provision would also include the uniformed services of the military. Under existing federal law, only certain enumerated federal employees are protected under federal law and as federal employees become targets--not only as the result of their specific job titles,

to all federal employees, not merely those with certain job titles, because of the perception that federal employees were becoming targets. Id. At the time of enactment, assaulting a federal employee or officer or one of their family members was generally not a federal crime (unless the employee or officer was one of those enumerated in the older statute), and could only be punished under state law. See id. Congress thus wanted to create a federal crime. Hence, the post-1996 Section 1114 defined the class of protected victims in a completely different manner than earlier versions.

Senator Dole's original version was obviously not the version eventually passed, though the Senate did eventually pass S. 735. Hunter v. United States, 101 F.3d 1565, 1582 (11th Cir. 1996). The House did too, but only after substituting the text of its H.R. 2703 in toto. Id. Because the provisions in the two bills were different, there was a Conference Committee. Id. The Conference Committee Report reflects that no thought was given to the substituted language of H.R. 2703's version of Section 1114, as other compromises seemed more pressing regarding other provisions in the larger bill. See H.R. Conf. Rep. No. 104-518, 91-92 (1996). Hence, there is no further explanation as to how the substituted language better addresses the original intent of protecting "all federal employees and their immediate families," as stated in Senator Dole's bill. Presumably, the concern remained the same -- the perception that federal employees were "becom[ing] targets—not only as a result of their specific job titles, but merely because they are federal employees."

> but merely because they are federal employees--the need for federal protection grows.

141 Cong. Rec. S 761, Vol. 74, S6206-S6217 (May 5, 1995).

What can be gleaned from the limited legislative history of the 1996 amendment is that Congress's original intent was not to provide protection to any individual performing any task that was in any way remotely tangential to assisting a federal officer or employee. As such, P.D. was not among the persons intended to be covered by the statute.

It is true that Section 1114 and Section 111 have been applied to punish attacks in a variety of cases. In each of these instances, the individuals in question were either on loan to a federal agency (and therefore treated as federal officers) or acting in contemporaneous cooperation with federal officers. For instance, in United States v. Smith, 296 F.3d 344 (5th Cir. 2002), the Fifth Circuit found that officers of the Dallas Police Department who came under fire while trying to apprehend a fleeing bank robber were protected under Section 1114 because they were assisting an FBI agent who was also in pursuit of the robbers. The court rested its determination that the state officers were assisting the FBI agent on two grounds. First, the court found that the Dallas police officers were acting pursuant to a standing joint bank-robbery task force with the FBI, and that the Dallas police sergeant who supervised the car chase "knew that pursuit began with a bank robbery and that the [Dallas Police Department] and the FBI regularly work together on bank robbery cases." Id. at 347.

Also crucial to the Smith court's determination was the fact that a federal officer, FBI Agent Burkhead, had actively joined the chase before the shots, which formed the basis of the Section 1114 charge, were fired. The court found that at the point at which the FBI officer joined the chase, "a federal investigation was clearly underway, and by pursuing the bank robbery suspects, the Dallas police were assisting the FBI." Id. at 346-47. The court noted that although the suspects had also fired at Dallas police officers earlier in the pursuit, they faced charges under Section 1114 only for those shots fired after the federal officers had joined the chase. Id. at 347.

Not surprisingly, the panel here relied upon cases ruling that individuals who contracted to work with United States agencies, performing functions similar to federal officers or employees, or lending support to the agency' function, were covered persons under §§ 111 and 1114. See Bedford, 2019 U.S. App. LEXIS 2069, at *11-15 (citing United States v. Matthews, 106 F.3d 1092, 1093 (2d Cir. 1997); United States v. Ama, 97 F. App'x 900, 902 (10th Cir. 2004); United States v. Murphy, 35 F.3d 143, 146 (4th Cir. 1994)). The panel failed to recognize that in each of these cases, there was direct federal participation on the date in question. The individual was acting on loan to a federal agency (and therefore treated as a federal officer) or acting in contemporaneous cooperation with federal officers.

In Matthews, the Second Circuit was actually addressing the older statute. Though generally not applicable to those assisting any officer or employee enumerated in that statute, the older statute provided a clause that applied to United States marshals and persons employed to assist such marshals. See 18 U.S.C. § 1114 (1995) (fn.2, supra.). Hence, the language in the present statute somewhat tracks the language of the previous clause.

In the Mathews case, the United States Marshall's Service ("USMS") were charged with running the largest single-room occupancy hotel in New York City during the pendency of civil forfeiture proceedings. See 106 F.3d at 1093-94. Forfeiture was necessary because illegal conduct on the premises was pervasive. Id. Once the government assumed control of the hotel, the USMS became responsible for its maintenance. Id. at 1094.

The USMS contracted for the daily management and maintenance of the hotel with P&L Management and Consulting ("P&L"). Id. About a year later, a hotel tenant put in a work order to repair a hole in the wall and consented to the scheduled work. Id. The tenant assaulted a handyman employed by P&L who was installing drywall in the tenant's room. Id. The tenant was

charged with and convicted of assaulting an individual employed to assist the USMS, pursuant to §§ 111 and 1114. Id.

On appeal, the tenant argued that the handyman had not been employed to assist the USMS and had not been engaged in law enforcement-type duties at the time of the assault. Id. While a handyman repairing sheetrock is not "intuitively associated with these statutory protections for federal officers," the court found that this particular handyman "was 'employed to assist' the USMS in its performance of official 'law enforcement activities.'" Id. at 1096.

Though the court decided in the government's favor in the Mathews case, the court went on to reject the more expansive reading of the statute urged by the panel here -- that anyone that a contractor hired under its contract to provide services to the USMS should be covered by the statute. Id. The court found that such a reading would furnish no limiting principle, and would extend the coverage of §§ 111 and 1114 to anyone employed in any capacity under any contract with the USMS. Id. "For example, the government's reading would cover a mechanic on a road call, en route to repair a Marshals Service car, who is punched by another motorist in a traffic dispute. Maybe these statutes can be stretched that far, but we doubt it." Id.

The reason that the court decided the case in the government's favor was instead because it had been demonstrated that the handyman was working at the direction of a law enforcement officer. Id. at 1097. The repairs and maintenance of the building were not extraneous or irrelevant the USMS's presence in a high crime building. Id. Hence, the maintenance was part of enforcing federal law in a troublesome facility for which the federal government had responsibility. Id.

In Ama, the Salt Lake County Adult Detention Center (Detention Center) had contracted with the United States Marshals Service to provide for the "custody, care and safekeeping of federal prisoners." 97 F. App'x at 900-01. Ama was placed in a section of the jail containing

federal prisoners, and there, engaged in a fight with another inmate. Id. at 901. When they attempted to subdue the fight, Ama became combative with corrections officers, striking an officer unconscious. Id. He was indicted for assaulting a federal officer under 18 U.S.C. § 111. Id. He pled guilty reserving the issue of whether the officer was a federal employee or officer or assisting such officer at the time of the assault. Id.

On appeal, the parties agreed that the Detention Center officer was not a federal employee, so like this case, the question boiled down to whether he was assisting a federal officer in the performance of his official duties. Id. at 901-02. Citing this Court's Feola decision, the Tenth Circuit stated that § 111 is "intended to protect both federal officers and federal functions, and that, indeed, furtherance of the one policy advances the other." Id. at 902 (quoting Feola, 420 U.S. 671, 679 (1975)). The court noted that the physical presence of a federal agent at the time of the assault was not required because the Detention Officer was engaged in performing the same duties and functions that a federal officer would perform. Id. Indeed, Ama had been moved to the section of the jail housing federal prisoners.

In Murphy, a local jailer maintaining custody of a federal prisoner in a county jail pursuant to a contract with the United States Marshals Service was found to be within the protection of §§ 111 and 1114. The court reasoned, "the common usage of 'employed to assist' means that a person is being used to help a federal agent, and that is exactly what transpired in this case." Id. at 145. Of course, like the Matthews case, Murphy was construing the narrower language in § 1114's predecessor, which included "any United States marshal or deputy marshal or person employed to assist such marshal or deputy marshal . . . ." Id. (citing 18 U.S.C.A. § 1114 (West Supp. 1994)).

In fact, all of the cases relied upon by the panel addressed law enforcement officers assisting United States marshals. These cases are not particularly helpful in determining the scope of the amended statute because this class of individual has always fallen within the scope of § 1114's protections. Moreover, the facts of the cases tend to indicate a much more closely related working relationship between the U.S. Marshals Service and the contractors employed to work within the corrections facilities the agency uses.

Perhaps the bigger issue here is that these courts have tended to evaluate the cases in terms of the federal function in question, based upon this Court's reasoning from the pre-amendment Feola case. But, not all courts have agreed with such analysis since the statute's amendment.

In United States v. Sapp, 272 F. Supp. 2d 897, 899 (N.D. Cal. 2003), a task force of federal, state, and local law enforcement agencies had together established goals related to an investigation of a gang. Pursuant to this investigation, state and local officials were seeking to arrest Defendant Sapp, an "enforcer" with the gang, based upon an outstanding parole warrant. Id. The United States Attorney's Office played a significant role in the efforts to apprehend Sapp by, among other things, obtaining a federal arrest warrant. Id. The ATF also became involved, performing a few spot checks for Sapp at suspected locations. Id. at 900.

Despite federal involvement in the search for Sapp, state and local officers apprehended him pursuant to their own surveillance operation. Id. During the take down, Sapp fired on two of these officers and a gun battle ensued. Id. Sapp was severely injured and arrested. Id. He was charged with two counts of attempting to kill persons assisting an officer of the United States in the performance of his duties, in violation of 18 U.S.C. § 1114. Id. at 901.

Sapp moved to dismiss these charges, maintaining that the statute did not extend to local officers seeking to execute a federal arrest warrant without direct involvement of federal officers.

Id. at 899. Because the state and local officers who apprehended Sapp acted independently of any federal officer on the date in question, and no federal officer even knew that the operation was occurring when Sapp was apprehended, nor had discussed his apprehension with state authorities for nearly three weeks prior to the operation, the court ruled that the local officers at whom Sapp shot were not "assisting" federal officers within the meaning of 18 U.S.C. § 1114 at the time of the shooting. Id. at 910.

One of the arguments raised by the government in Sapp was that § 1114 should protect state and local officers even where no federal officer was present because § 1114 was intended to protect the federal law enforcement function, as well as the federal officers themselves. Id. at 908. In rejecting this argument, the Sapp court first noted Feola, where this Court found a similar concern with the federal law enforcement function grounded in 18 U.S.C. § 111. The Sapp court observed that the Feola Court looked to the text of the statute and reasoned that Congress's decision to list only those law enforcement officers protected by § 1114 -- rather than simply to punish assault of any federal employee -- reflected concern "with the safety of federal officers insofar as it was tied to the efficacy of law enforcement activities." Id. (quoting 420 U.S. at 681). The Sapp court explained that Feola had examined an early draft of the provision that extended general protection to all employees of the federal government and found it was rejected by Congress, presumably because the draft version "strayed too far from the purpose of insuring the integrity of law enforcement pursuits." Id. (quoting Feola, 420 U.S. at 682).

The Sapp court then stated that the government's argument failed to address the 1996 amendments to § 1114, which as explained above, completely replaced the lengthy enumeration of federal law enforcement officials covered by the statute with a general protection for all federal employees. Id. The Sapp court found that this change eliminated the structural aspects of the

provision upon which this Court in Feola rested its conclusion that Congress intended to protect federal functions, and enacted in its place the Feola Court's counterexample of a statute that would indicate a congressional intent to protect only federal officials. Id. Applying the reasoning set forth in Feola to the current text of § 1114, explained the Sapp court, led to precisely the opposite conclusion reached by Feola. Id. at 908-09. The conclusion would instead be that Congress designed the current statute to protect primarily federal officers themselves and had little concern for the federal law enforcement function independent of the harm to federal officers. Id. at 909.

This reasoning makes sense, particularly when the legislative history of the specific amendment to § 1114, as introduced by Senator Dole, is recalled. Subsequent to the Oklahoma bombing incident, Congress's intent in revising the statute was founded upon a perception that federal employees were being attacked, not because of their job titles, but simply because they were federal employees. See 141 Cong. Rec. S761 (daily ed. May 5, 1995) (emphasis added). Thus, the intent was to protect such employees and their immediate families, not everyone whose employment function conceivably touched upon that similar to a federal employee. The Sapp court's reasoning is supported by the intent behind the 1996 amendment. Courts that have found otherwise have not delved this far into the legislative history.

This Court has not evaluated this statute since Feola, in 1975. Despite the 1996 amendments to § 1114, which broadened the statute's provisions and made them much more ambiguous, courts across the nation are pretending that there is no ambiguity, and reverting to Feola's functional analysis, which may no longer be valid given what is known of the legislative history behind the amendment.

There has to be a limiting principle applied to this statute somewhere, particularly given its more recent legislative history. If the Sapp court is right, and Mr. Bedford posits that it is, Feola's

reasoning would now necessarily mean that the exact opposite result should have occurred in this case. It would mean that it is indeed relevant whether P.D. was targeted as a federal employee or someone assisting a federal employee merely because of his status as such, not necessarily his function. Mr. Bedord therefore respectfully requests that this Court accept the writ of certiorari in this case to provide guidance on the ambit of this statute since its amendment in 1996.

CONCLUSION

For all of the foregoing reasons, Petitioner respectfully prays that this Court will grant certiorari to review the judgment of the Sixth Circuit in his case.

DATED: 6th day of February, 2019.

Respectfully submitted,

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