No. 20-1385

In the Supreme Court of the United States

TAREK OBAID, PETITIONER

v.

UNITED STATES OF AMERICA

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

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether an *in rem* civil forfeiture proceeding brought against property involved in a crime requires a district court to establish personal jurisdiction over a third-party claimant to that property.

2. Whether the court of appeals correctly interpreted 28 U.S.C. 1355(b)(1) to provide venue for an *in rem* forfeiture action against property outside the judicial district, so long as "any of the acts or omissions giving rise to the forfeiture occurred" in the district.

ADDITIONAL RELATED PROCEEDINGS

U.S. District Court (C.D. Cal.):

United States v. *Certain Rights to and Interests in Shares of Series D Preferred Stock in Palantir Technologies*, No. 17-cv-4446 (Aug. 15, 2018)

U.S. Court of Appeals (9th Cir.):

United States v. *Tarek Obaid*, No. 18-56657 (Aug. 24, 2020)

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1-46) is reported at 971 F.3d 1095. The order of the district court (Pet. App. 47-51) is not published in the Federal Supplement but is available at 2018 WL 7076745.

JURISDICTION

The judgment of the court of appeals was entered on August 24, 2020. A petition for rehearing was denied on November 2, 2020 (Pet. App. 58-59). The petition for a writ of certiorari was filed on March 31, 2021. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Petitioner, a citizen of Saudi Arabia, participated in a massive international fraud and money-laundering conspiracy, parts of which occurred within the Central

District of California. Pet. App. 5-6. The United States brought an *in rem* civil forfeiture action against certain securities that were purchased with proceeds of the conspiracy. *Id.* at 6. Petitioner intervened to claim ownership of the securities and moved to dismiss the suit on the grounds that the district court lacked personal jurisdiction over him and that venue was improper. *Id.* at 7. The district court denied his motion. *Id.* at 47-51. The court of appeals affirmed. *Id.* at 1-46.

1. "Since the earliest years of this Nation, Congress has authorized the Government to seek parallel *in rem* civil forfeiture actions and criminal prosecutions based upon the same underlying events." *United States* v. *Ursery*, 518 U.S. 267, 274 (1996). There is, however, a "sharp distinction" between those two categories of proceedings. *Id.* at 275. While a criminal prosecution (or a civil action to collect a fine) is brought *in personam* against an individual defendant, an *in rem* forfeiture suit is brought against the property involved in the crime, relying on the fiction that "the property itself is 'guilty' of the offense." *Austin* v. *United States*, 509 U.S. 602, 615 (1993). An *in rem* forfeiture action may therefore result in condemnation of the property, but it will not result in liability for the property's owner. See, *e.g.*, *Ursery*, 518 U.S. at 283-284.

Congress has specified the circumstances under which property is subject to *in rem* civil forfeiture in 18 U.S.C. 981. As relevant here, the statute authorizes forfeiture proceedings against property that is "involved in" or "constitutes or is derived from proceeds" of certain fraud and money-laundering offenses. 18 U.S.C. 981(a)(1)(A) and (C). Those offenses include some foreign-corruption offenses, such as "bribery of a public official, or the misappropriation, theft, or embezzlement

of public funds by or for the benefit of a public official." 18 U.S.C. 1956(c)(7)(B)(iv).

Federal district courts have "original jurisdiction" over *in rem* civil forfeiture actions brought under any federal statute. 28 U.S.C. 1355(a). Such an action may be brought in "the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred." 28 U.S.C. 1355(b)(1)(A). Once a forfeiture action is commenced, third parties may file claims asserting an interest in the property and contesting the forfeiture. 18 U.S.C. 983(a)(4); Rule G of the Supplemental Rules for Certain Admiralty and Maritime Claims (Supp. R.). The government bears the burden of proving by a preponderance of the evidence that the property is subject to forfeiture. 18 U.S.C. 983(c)(1). A claimant may defeat forfeiture by establishing an "innocent owner" defense. 18 U.S.C. 983(d).

2. This case arises from one of the largest kleptocracy investigations in history. The entity 1Malaysia Development Berhad (1MDB) is a sovereign wealth fund owned by the Government of Malaysia that was established to promote the economic development of Malaysia through global partnerships and foreign direct investment. Pet. App. 5. Almost from its inception, however, various 1MDB insiders and their accomplices engaged in a systematic, multi-phase conspiracy to steal billions of dollars from 1MDB and use those funds to purchase luxury items. *Ibid.*

Petitioner was one of the individuals who helped orchestrate the conspiracy to steal 1MDB funds. Pet. App. 6. Petitioner was the CEO and co-founder of PetroSaudi International (PetroSaudi), an oil and gas exploration company. *Id.* at 5. Between 2009 and 2011,

under the pretense of investing in a joint venture between 1MDB and PetroSaudi, co-conspirator officials at those entities arranged for the fraudulent transfer of more than $1 billion from 1MDB to a Swiss bank account held in the name of Good Star Limited (Good Star). *Ibid.* To justify the transfer, the co-conspirators falsely stated that the Good Star account was owned by PetroSaudi and would be used to house funds for the joint venture. C.A. E.R. 81 (¶ 9). In fact, the Good Star account was beneficially owned by one of the co-conspirators, Low Taek Jho (Low). Pet. App. 5. After funds flowed into the Good Star Account, the co-conspirators used them to purchase luxury assets for their personal gratification. *Ibid.*

Petitioner played a central role in effectuating that scheme. He signed the joint-venture agreement between 1MDB and PetroSaudi that was the pretext for transferring money into the Good Star account. Pet. App. 6; C.A. E.R. 93 (¶ 57). He later signed other documents that allowed specific tranches of money to flow into that account. Pet. App. 6; C.A. E.R. 109 (¶¶ 104-105), 110 (¶ 107). He also created at least one letter falsely characterizing the account as a legitimate account of PetroSaudi, when it was in fact beneficially owned by Low. C.A. E.R. 124-125 (¶¶ 153, 155). And petitioner personally received at least $153 million from the account. Pet. App. 6. Among other things, he used $2 million of that stolen money to purchase for himself 2.5 million shares of Series D preferred stock in Palantir Technologies, a Delaware corporation that was based in California. *Ibid.*; see Gov't C.A. Br. 2.

Throughout the conspiracy, "[s]ome of the alleged acts in furtherance of the conspiracy were conducted in the Central District [of California], including expensive

real estate purchases in Beverly Hills" and "the financing of a motion picture." Pet. App. 25. A co-conspirator also "took steps in creating [a fraudulent] Swiss" bank account that was used to launder 1MDB funds "via e-mail while physically present in Los Angeles." *Id.* at 50.

3. In June 2017, the government filed this *in rem* civil forfeiture action against the Palantir shares in the Central District of California. Pet. App. 6. The government alleged that the shares were traceable to the proceeds of the 1MDB conspiracy, which violated multiple money-laundering and fraud statutes including 18 U.S.C. 1956(c)(7)(B)(iv). See Pet. App. 6.; C.A. E.R. 319-321 (¶¶ 947-957). The government simultaneously filed *in rem* civil forfeiture actions in the same district against other assets involved in the conspiracy, including "luxury hotels, yachts, certain movies rights, and expensive real estate in Beverly Hills." Pet. App. 6.

Petitioner filed a claim to the Palantir shares under Supplemental Rule G. Pet. App. 7. He then moved to dismiss the suit on the grounds that the district court lacked personal jurisdiction over him and that venue was improper in the Central District of California. *Ibid.*

The district court denied petitioner's motion to dismiss. Pet. App. 47-51. The court rejected his personal-jurisdiction argument, noting that he "cite[d] no authority holding that a court must have *in personam* jurisdiction over any particular claimant in" an *in rem* forfeiture action. *Id.* at 48. The court also found that venue was proper because "[s]everal acts in support of [the alleged] conspiracy took place in the Central District of California." *Id.* at 50.

Petitioner moved for reconsideration of the district court's rulings and in the alternative to certify the decisions for interlocutory appeal. Pet. App. 52. Petitioner

contended in part that the district court lacked personal jurisdiction over the Palantir shares themselves, an argument that he had not made in his initial motion and had raised only in "passing" in his initial reply brief. *Id.* at 53. The court declined to consider that argument or to reconsider its ruling. *Ibid.*; see Supp. R. G(5)(b) ("A claimant waives an objection to in rem jurisdiction * * * if the objection is not made by motion or stated in the answer."). The court, however, granted petitioner's request to certify the personal jurisdiction and venue rulings for interlocutory appeal, and the court of appeals accepted the appeal. Pet. App. 52-57.

4. The court of appeals affirmed. Pet. App. 1-46.

a. The court of appeals began by "distinguish[ing] among" three different "types of potential jurisdiction in federal cases." Pet. App. 8. First, "[*i*]*n personam* jurisdiction * * * is the power of a court to enter judgment against a person." *Ibid.* (citation omitted). Second, "*in rem* jurisdiction is the court's power to adjudicate rights over property." *Ibid.* Third, a "*quasi in rem* action is basically a halfway house between *in rem* and *in personam* jurisdiction." *Id.* at 9 (citation omitted) Such an "action is not really against the property; rather, the action involves the assertion of a personal claim against the defendant of the type usually advanced in an *in personam* action," but the "basis for transforming the suit from one *in personam* to an action against the defendant's property is the attachment or garnishment of some or all of the property the defendant may have in the jurisdiction." *Ibid.* (citation omitted). The court explained that "there is no dispute that the" civil forfeiture action at issue here is "*in rem*." *Ibid.*; see *id.* at 9-10.

The court of appeals then turned to petitioner's contention that this Court's decision in *Shaffer* v. *Heitner*, 433 U.S. 186 (1977), "stands for the proposition that *all* assertions of jurisdiction—*in rem*, *quasi in rem*, and *in personam*—must be evaluated according to a minimum contacts standard." Pet. App. 8. The court of appeals rejected that contention, explaining that "*Shaffer* addressed a *quasi in rem* proceeding rather than a true *in rem* proceeding." *Id.* at 13. The court noted that "the only role played by the property" in *Shaffer* was "to provide the basis for bringing the [individual] defendant into court.'" *Id.* at 14 (quoting *Shaffer*, 433 U.S. at 209). Thus, the court explained, despite this Court's use of the term "*in rem* proceedings" in some parts of its opinion, "it is apparent from [this Court's] analysis that *Shaffer* is limited to *quasi in rem* proceedings." *Ibid.*; see *Shaffer*, 433 U.S. at 199 n.17 (explaining that the opinion would "for convenience generally use the term '*in rem*' in place of '*in rem* and *quasi in rem*'"); see also *Burnham* v. *Superior Ct.*, 495 U.S. 604, 620 (1990) (plurality opinion) (explaining that *Shaffer* involved an exercise of "*quasi in rem*" jurisdiction).

The court of appeals bolstered its reading by observing that this Court in *Shaffer* did not "expressly overrule its longstanding precedent anchoring *in rem* jurisdiction to the presence of the" defendant property, rather than that of a particular person. Pet. App. 15 (citing cases dating back to 1900). The court of appeals also relied on *Tennessee Student Assistance Corp.* v. *Hood*, 541 U.S. 440 (2004), which held that, in an *in rem* bankruptcy proceeding, "jurisdiction over the person is irrelevant if the court has jurisdiction over the property." *Id.* at 453; see *ibid.* ("[T]he Bankruptcy Court's *in rem*

jurisdiction allows it to adjudicate [a] debtor's discharge claim without *in personam* jurisdiction over [creditors]."). The court explained that the *in rem* forfeiture proceeding at issue here, like the bankruptcy proceeding in *Hood*, involves "a true *in rem*" action in which the property itself "is the subject of the action, not a substitute for the person." Pet. App. 16 (emphasis omitted). The court accordingly reasoned that *Hood* "provides more direct guidance" than *Shaffer*. *Ibid.*

The court of appeals "acknowledge[d]" that two other courts of appeals had stated "in passing that *Shaffer* requires a minimum contacts analysis in an *in rem* proceeding," but it found those cases unpersuasive. Pet. App. 19; see *id.* at 21. In *United States* v. *Batato*, 833 F.3d 413 (4th Cir. 2016), cert. denied, 138 S. Ct. 66 (2017), the court "assumed without deciding" that the minimum-contacts test applied. *Id.* at 423; Pet. App. 20. And in *LiButti* v. *United States*, 178 F.3d 114 (2d Cir. 1999), the court declined to order a third party to pay restitution to the Internal Revenue Service on the ground that the court "had no personal or *in rem* jurisdiction under a minimum-contacts analysis." Pet. App. 21. The Second Circuit, however, "did not dismiss the *in rem* action for lack of jurisdiction." *Ibid.* Indeed, as the court of appeals below noted, "in the forty-plus years since *Shaffer* was decided, no court has dismissed a civil forfeiture action for lack of personal jurisdiction over a claimant." *Id.* at 19.

b. The court of appeals further held that venue was proper in the Central District of California under 28 U.S.C. 1355(b)(1)(A), which allows *in rem* civil forfeiture actions in "the district in which any of the acts or omissions giving rise to the forfeiture occurred." See Pet. App. 24-26. The court explained that several acts

in furtherance of the fraud and money-laundering conspiracy occurred in the Central District of California—including "expensive real estate purchases in Beverly Hills" and "the financing of a motion picture"—and therefore satisfied the venue provision. *Id.* at 25. The court rejected petitioner's narrower reading, under which "only a specific criminal act that took place in the Central District, directly implicating the Palantir shares, would establish venue." *Id.* at 24. The court explained that petitioner's reading was inconsistent with both the statutory text and its purpose to "broaden[] * * * the scope of civil forfeiture suits." *Id.* at 25.

c. Judge Ikuta dissented with respect to jurisdiction. Pet. App. 27-46. She agreed that this civil forfeiture case is an *in rem* action but concluded that "*Shaffer* held that a court cannot extinguish a person's property rights unless it first obtains personal jurisdiction over that person." *Id.* at 27; see *id.* at 34.

d. The court of appeals denied rehearing en banc with no judge requesting a vote. Pet. App. 58-59.

ARGUMENT

Petitioner renews his contention (Pet. 13-22) that the district court must have personal jurisdiction over him to adjudicate the forfeiture of the Palantir shares that are the defendant in this case. The court of appeals correctly concluded that civil forfeiture is a true *in rem* action in which personal jurisdiction over a third-party claimant is not required. That decision comports with this Court's longstanding precedent and with every decision from other federal courts to address the question. Petitioner also contends (Pet. 23-35) that the district court lacks personal jurisdiction over the defendant property. That argument was forfeited in the district

court, and the lower courts did not address it. Petitioner's attempt to raise the argument here rests on a misreading of the decision below and ultimately returns to his mistaken premise that *in rem* forfeiture jurisdiction depends on an alleged property owner's contacts with the forum. Further review is unwarranted.

1. The court of appeals correctly held that a court adjudicating an *in rem* civil forfeiture suit does not need *in personam* jurisdiction over third-party property claimants like petitioner. No conflict exists on that question, and no basis exists for this Court's review.

a. *In rem* civil forfeiture actions date back to "the earliest years of this Nation." *United States* v. *Ursery*, 518 U.S. 267, 274 (1996). Throughout that time, courts have recognized that jurisdiction over such suits depends on the court's relationship to the defendant property, not to the people or entities that claim to own it. See Pet. App. 15 (citing cases); see also, *e.g.*, *Freeman* v. *Alderson*, 119 U.S. 185, 187-188 (1886); *Ramsay* v. *Allegre*, 25 U.S. (12 Wheat.) 611, 630-631 (1827) (Johnson, J. concurring). In short, in an *in rem* suit like this one, "jurisdiction over the person is irrelevant if the court has jurisdiction over the property." *Tennessee Student Assistance Corp.* v. *Hood*, 541 U.S. 440, 453 (2004).

Petitioner attempts to refute that understanding by relying (Pet. 13-17) almost exclusively on this Court's decision in *Shaffer* v. *Heitner*, 433 U.S. 186 (1977). But as the court below thoroughly explained, *Shaffer* addressed the jurisdictional standard applicable to a *quasi in rem* suit, not a true *in rem* suit of the kind at issue here. Pet. App. 10-16. Indeed, the *Shaffer* Court expressly recognized that its adoption of minimum-contacts analysis would "result in significant change" for "the type of *quasi in rem* action typified by" *Shaffer*

itself, so it turned to "examin[ing] the arguments against adopting" the minimum-contacts standard "as they relate to this category of litigation." 433 U.S. at 208-209. In the context of that examination, the Court clarified that, in those *quasi in rem* cases, "the only role played by the property" is "to provide the basis for bringing the [individual] defendant into court." *Id.* at 209; accord *Burnham* v. *Superior Ct.*, 495 U.S. 604, 620 (1990) (plurality opinion) (describing *Shaffer* as a *quasi in rem* suit, in which courts may exercise jurisdiction "over an *absent defendant*" by using his property as "a substitute" for his physical presence). By contrast, in an *in rem* case like this one, the property itself is the defendant and the basis for jurisdiction, and the purpose of the suit is to determine ownership of the property "against the world." *Hood*, 541 U.S. at 448 (citation omitted). *Shaffer*'s reasoning accordingly does not apply.

In keeping with that understanding, *in rem* proceedings targeting specified property—rather than individual defendants—continue to be a mainstay for certain kinds of federal judicial proceeding. See, *e.g.*, *Hood*, 541 U.S. at 447 (bankruptcy); *California* v. *Deep Sea Research, Inc.*, 523 U.S. 491 (1998) (admiralty). Courts considering *in rem* forfeiture actions have routinely held that there is no need to establish that they would independently have personal jurisdiction over any claimants to the defendant property. See, *e.g.*, *United States* v. *Real Prop. Located in L.A.*, No. 20-cv-2524, 2020 WL 7212181, at *4 (S.D. Tex. Dec. 4, 2020) ("[T]he Court * * * in keeping with the other courts to have considered the issue, holds that the 'minimum contacts' test applies neither to the *res* nor to any claimants in a [forfeiture] case like this one."); *SEC* v. *Lee*, No. 14-cv-

347, 2019 WL 697130, at *2 (S.D. Cal. Feb. 20, 2019) ("Where the Court is exercising *in rem* jurisdiction, the Court need not obtain personal jurisdiction over non-parties, even if they might claim an interest in the property."); *United States* v. *Dahmash's Pers. Prop.*, No. 14-cv-21, 2016 WL 953257, at *2 (E.D.N.C. Mar. 14, 2016) ("Jurisdiction over claimant is unnecessary; the government brought this forfeiture proceeding against the defendant property *in rem*.") (emphasis omitted); *United States* v. *All Assets Held In Account No. XXXXXXXX*, 83 F. Supp. 3d 360, 368 (D.D.C. 2015) ("[W]hether a court has personal jurisdiction over claimants is not a valid jurisdictional consideration in an in rem civil forfeiture action."); *United States* v. *45 Poquito Rd.*, No. 04-cv-326, 2006 WL 2233645, at *6 (D. Or. Aug. 2, 2006) ("This is an *in rem* proceeding, which does not depend on *in personam* jurisdiction over a non-resident claimant.").

Petitioner asserts (Pet. 19 & n.13) that *Hood* cannot support the decision below because personal jurisdiction was not raised there. That contention misreads *Hood*. The entire premise of the Eleventh Amendment claim asserted by the state entity there was that the bankruptcy court could not exercise personal jurisdiction over it because of state sovereign immunity. *Hood*, 541 U.S. at 452-453 ("Nor is there any dispute that, if the Bankruptcy Court had to exercise personal jurisdiction over TSAC, such an adjudication would implicate the Eleventh Amendment."). Indeed, one key dispute between the majority and the dissent surrounded whether the service of process violated sovereign-immunity principles. Compare *id.* at 453-454, with *id.* at 458-489 (Thomas, J., dissenting). The Court concluded that it did not, precisely because the service of process

there was not, as it typically is in civil litigation, "to establish personal jurisdiction over the" party. *Id.* at 453.

Petitioner further attempts to distinguish *Hood* on the ground that, in bankruptcy, "an individual voluntarily consents to the exercise of jurisdiction over her property." Pet. 20 (emphasis omitted). While that may be true of one litigant in a bankruptcy (the debtor), it is not true of creditors seeking to collect on claims before the debts are discharged—"the very purpose of the bankruptcy proceeding." *Taggart* v. *Lorenzen*, 139 S. Ct. 1795, 1803 (2019). Yet this Court has not required a personal-jurisdiction inquiry with respect to those creditors. See *Hood*, 541 U.S. at 447-448. So too here, a claimant to property subject to an *in rem* forfeiture action is not entitled to a personal-jurisdiction inquiry, regardless of whether the claimant consented to suit.

Furthermore, petitioner's proposed rule would wreak havoc on the forfeiture system. First, his rule would create a circularity problem in some cases. One reason forfeiture proceedings are *in rem* is because it is often not clear who owns the property. See, *e.g.*, *United States* v. *M/Y Galactica Star et al.,* No. 17-cv-02166 (S.D. Tex.), D. Ct. Doc. 47 (Dec. 11, 2017) (foreign sovereign claiming to own defendant assets through constructive trust), D. Ct. Doc. 61 (Dec. 29, 2017) (private company claiming competing ownership through stock). Under petitioner's rule, in situations where competing claimants do not have minimum contacts with the same district, no court could ever adjudicate their competing claims to determine ownership because the proper forum could never be determined. Similarly, petitioner's rule would preclude *in rem* forfeiture where ownership is unknown and no claimant comes forward to assert

ownership, as is common in circumstances where asserting ownership over, for example, drug proceeds, would be tantamount to admitting criminal liability.

Petitioner's rule would also create an easy way for criminals to defeat forfeiture: transfer the relevant assets to a person who lacks sufficient contacts with the forum. Indeed, many of the 1MDB civil forfeiture cases featured claims of ownership by opaque offshore trusts that disclaimed any ties to the conspirators who beneficially enjoyed the subject assets. Allowing evasion of civil forfeiture by such tactics would undermine Congress's purpose in authorizing civil forfeiture for money-laundering crimes like those here. Particularly given the long history of *in rem* forfeiture proceedings, no basis exists to reach such a disruptive and counter-intuitive result.

b. Petitioner contends (Pet. 20-22) that the courts of appeals are divided about whether *in rem* proceedings require personal jurisdiction over those who have claims to the property. As the court of appeals correctly explained, however, no such division exists. See Pet. App. 19-24.

As an initial matter, several of the cases cited by petitioner or the dissent below were not *in rem* (or even *quasi in rem*) proceedings and thus have little to say about whether and how personal jurisdiction could apply in such proceedings. See *Pittsburgh Terminal Corp.* v. *Mid Allegheny Corp.*, 831 F.2d 522, 525 (4th Cir. 1987); *Lakeside Bridge & Steel Co.* v. *Mountain State Constr. Co., Inc.*, 597 F.2d 596, 600-602 (7th Cir. 1979), cert. denied, 445 U.S. 907 (1980); *Pickens* v. *Hess*, 573 F.2d 380, 387 (6th Cir. 1978).

Another set of petitioner's cases either rejected the applicability of *Shaffer* to true *in rem* proceedings or

expressly declined to decide the issue. See *United States* v. *Batato*, 833 F.3d 413, 423 (4th Cir. 2016) (assuming without deciding that *Shaffer* applied), cert. denied, 138 S. Ct. 66 (2017); *Salazar* v. *The "Atlantic Sun,"* 881 F.2d 73, 76 (3d Cir. 1989) (rejecting due process claim by vessel owner in admiralty case because *Shaffer* was not an admiralty case); *Inland Credit Corp.* v. *M/T Bow Egret*, 552 F.2d 1148, 1152 (5th Cir. 1977) (declining to decide); see also *Conlon ex rel. Conlon* v. *Heckler*, 719 F.2d 788, 798 (5th Cir. 1983) (determining that one spouse's residence sufficed to provide *in rem* jurisdiction to grant a divorce; "in personam jurisdiction over [the other spouse] was not necessary").

LiButti v. *United States*, 178 F.3d 114 (2d Cir. 1999) was a *quasi in rem* case: the property at issue (a racehorse) was a means for the IRS to collect unpaid taxes, not the true subject of dispute. *Id.* at 116. Thus, to the extent the Second Circuit applied *Shaffer* to release the non-present third-party part-owner of the horse from paying restitution to the IRS, *id.* at 122-123, that holding is consistent with the court of appeals' decision here to treat *in rem* and *quasi in rem* actions differently.

Finally, *Harrods Ltd.* v. *Sixty Internet Domain Names*, 302 F.3d 214 (4th Cir. 2002), applied the minimum-contacts test to the defendant property, not to a third-party claimant. Specifically, the court asked whether the defendant domain names—not their owner—had minimum contacts with the district. *Id.* at 224 (challenge premised "on the ground that the Names lack sufficient minimum contacts with the forum"). The court held that they did because the domain names were registered in Virginia. *Id.* at 225.

Ultimately, petitioner has identified no case where any court has ever required pleading or proof of personal jurisdiction over a third-party claimant to adjudicate a civil forfeiture case. That is unsurprising because civil forfeiture cases are and have always been true *in rem* actions, premised solely on the defendant property.

2. Petitioner next contends (Pet. 23-35) that the district court lacked personal jurisdiction over the property because 28 U.S.C. 1355(b)(1) is not a "federal property situs" law. That argument is flawed for multiple reasons. As an initial matter, petitioner forfeited the claim that the district court lacked personal jurisdiction over the property. His argument in this Court misreads the decision below. And his position ultimately returns to the mistaken premise that a property owner's contacts with the forum are relevant to a court's exercise of *in rem* jurisdiction.

a. As an initial matter, the district court correctly explained that petitioner forfeited the claim that the court lacked "personal jurisdiction" over the defendant property. Pet. App. 53. The court of appeals likewise did not address that objection. Further review is unwarranted on that basis alone. See *United States* v. *Williams*, 504 U.S. 36, 41 (1992) (explaining that this Court's "traditional rule * * * precludes a grant of certiorari" when a "'question presented was not pressed or passed upon below'") (citation omitted); see also *Cutter* v. *Wilkinson*, 544 U.S. 709, 718 n.7 (2005) (explaining that this Court is a "court of review, not of first view").

b. In any event, petitioner's argument in this Court relies on a misreading of a single sentence of the decision below. In the court of appeals, petitioner contested venue under 28 U.S.C. 1355(b)(1)(A), which authorizes an *in rem* forfeiture action in a "district in which any of

the acts or omissions giving rise to the forfeiture occurred." The court of appeals interpreted the statute according to its plain language and history, finding that venue was proper for this forfeiture suit because multiple acts in furtherance of the conspiracy—including "expensive real estate purchases in Beverly Hills" and "the financing of a motion picture"—took place within the Central District of California. Pet. App. 25. The court rejected petitioner's narrower reading of the statute, under which "only a specific criminal act that took place in the Central District, directly implicating the Palantir shares, would establish venue." *Id.* at 24; see *id.* at 24-26.

In a different part of its opinion (analyzing personal jurisdiction), the court of appeals drew an analogy between Section 1355(b) and federal bankruptcy law, which deems a debtor's estate to be "legally located within the jurisdictional boundaries of the [bankruptcy court's] district." Pet. App. 17 (citation and emphasis omitted). The court stated that Section 1355(b) "creates a similar legal fiction." *Ibid.* Petitioner seizes on that sentence to contend that the court read Section 1355(b) as a "federal property situs law," Pet. 23, and then mounts an extended attack on that purported construction, Pet. 23-35. But petitioner substantially overreads the court's position. The court's straightforward point was that, for purposes of establishing *in rem* jurisdiction, both forfeiture and bankruptcy focus on the property itself, not its owner or others who might have claims. See Pet. App. 11-17. As explained above (pp. 10-16, *supra*), the court's jurisdictional analysis is correct. Contrary to petitioner's assertion, neither that analysis nor the court's holding that venue was proper under Section 1355(b) depends on the premise that the

defendant property was physically within the judicial district. See Pet. App. 24-26.

Nor is there any basis for reading Section 1355(b) to have that effect. In an *in rem* forfeiture action, a district court has subject-matter jurisdiction by virtue of Section 1355(a), which provides exclusive federal jurisdiction "of any action or proceeding for * * * forfeiture * * * under any Act of Congress." 28 U.S.C. 1355(a). Under that grant of subject-matter jurisdiction, there is no need for a district court to have the property within its district; the forfeiture action alone provides the basis for jurisdiction. *Ibid.* And neighboring provisions make clear that the court's *in rem* jurisdiction extends to defendant property that is located outside the district, whether in the United States or abroad. Section 1355(b)(1) provides for venue "in the district in which * * * the act[] or omission[] giving rise to the forfeiture took place." 28 U.S.C. 1355(b)(1)(A). By its plain terms, that does not require the property to be within the judicial district; it requires the "act[] or omission[] giving rise to the forfeiture" to have taken place within the district. *Ibid.* Similarly, Section 1355(b)(2) provides for venue in the same court (or the District of Columbia) and expressly contemplates *in rem* jurisdiction over property that "is located in a foreign country." 28 U.S.C. 1355(b)(2). Section 1355(d) permits a court to "issue and cause to be served in any other district such process as may be required to bring before the court the property that is the subject of the forfeiture action." 28 U.S.C. 1355(d); see also Supp R. G(3)(c)(iv) (providing for execution of "a warrant on property outside the United States"). That authorization further undermines any argument that Section 1355(b)(1) acts as the property situs law that petitioner envisions; if it did,

there would be no reason for Section 1355(d) to authorize process in other districts to bring the defendant property before the court.

c. In any event, petitioner's position ultimately rests on the premise that *in rem* civil forfeiture proceedings require personal jurisdiction over the owner of the defendant property. The conclusion of petitioner's argument regarding Section 1355(b)(1)'s supposed operation as a property situs provision is that "[d]eeming property to be sited in a particular venue * * * does not relieve the court from engaging in a meaningful evaluation as to whether the property owner himself has actual, purposeful, minimum contacts with the forum." Pet. 35 (emphasis omitted); see Pet. 3, 16 n.9, 26 n.16. Petitioner's argument on this issue thus depends on his principal contention that a district court cannot exercise *in rem* jurisdiction over property in a civil forfeiture action without exercising *in personam* jurisdiction over the property's alleged owner. For the reasons explained above and articulated in detail by the court of appeals, that contention is mistaken.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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JULY 2021