

No. _____

In the

Supreme Court of the United States

Christopher J. Abbate,

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

REPLY TO BRIEF IN OPPOSITION

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REPLY TO BRIEF IN OPPOSITION

From inception, the government has brushed aside as hyperbolic Mr. Abbate's contention that the vagueness and overbreadth of his "pornographic matter" condition of supervised release puts him at risk of returning to prison for watching ordinary movies, reading ordinary books, or looking at commonplace advertisements. (BIO at 11). Yet we know that the district court placed him behind bars once already, over objection, for watching adult women dancing in bathing suits on the beach. And the court did so *without hesitation*.

There is no doubt, if brought before the same court again with a salacious book or advertisement, the court would send Mr. Abbate back to prison yet again. Accordingly, Mr. Abbate must live the rest of his life in an unprincipled, arbitrary world in which the consequences of one's actions are unpredictable and, at times, counterintuitive. He must do so when the stakes are at their highest—a loss of liberty—requiring him to start over with his employment, his family, and his friends each time this occurs.

The reason we, as a society, do not tolerate vague criminal prohibitions is to avoid the arbitrary hell of capricious enforcement (as here) and a lack of notice of what is even prohibited (also here). *Johnson v. United States*, 576 U.S. 591, 595 (2015) (explaining that due process protects against "a criminal law so vague that it fails to give ordinary people fair notice of the conduct it punishes, or so standardless that it invites arbitrary enforcement"). Unless this Court grants certiorari and reverses, that

is Mr. Abbate's (and others') reality, which is by no means assuaged by the government's contention that he is somehow overreacting.

CONCLUSION

Petitioner requests that this Court grant his Petition for Writ of Certiorari and allow him to proceed with briefing on the merits and oral argument.

Respectfully submitted,

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