No. _____

IN THE SUPREME COURT OF THE UNITED STATES

RAMON SIMPSON,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Eighth Circuit

PETITION FOR A WRIT OF CERTIORARI

RAMON SIMPSON, Petitioner

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QUESTIONS PRESENTED

1. Does a conviction for aiding and abetting kidnapping resulting in death, in violation of 18 U.S.C. §§ 1201(a)(1) and 2, require proof that the aider and abettor intended, or had some advance knowledge, a death would result from the kidnapping?

2. Does a suspect, during a custodial interrogation, sufficiently invoke his Fifth Amendment right to remain silent when he repeatedly asks to leave and "go home"?

LIST OF PARTIES TO THE PROCEEDING

All parties appear in the caption of the case on the cover page.

STATEMENT ON RELATED CASES

There are no related cases.

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PETITION FOR A WRIT OF CERTIORARI

Ramon Simpson, an inmate currently incarcerated for a term of life at the United States Penitentiary in Atwater, California, by and through his undersigned counsel, respectfully petitions this Court for a writ of certiorari to review the opinion and judgment of the United States Court of Appeals for the Eighth Circuit.

OPINIONS BELOW

Mr. Simpson was charged with offenses in connection with the disappearance and death of Phyllis Hunhoff in November 2018. A co-defendant, Mr. Joseph Lloyd James, resolved his case by way of a plea agreement. He entered a plea of guilty to first degree murder in Indian Country, in violation of 18 U.S.C. §§ 1111(a) and 1153(a), and was thereafter sentenced to imprisonment for a term of life. *United States of America v. Joseph Lloyd James*, United States District Court, District of Nebraska, Case No. 8:18-cr-00333-BCB-1, the Honorable Brian C. Buescher.

Mr. Simpson proceeded to trial. A jury found him guilty of conspiracy to commit kidnapping and kidnapping resulting in death. The jury's verdict form was general in nature, and it is unknown whether the jury found Mr. Simpson guilty of kidnapping resulting in death on the basis of principal, or aiding and abetting, liability. *United States of America v. Ramon Simpson*, United States District Court, District of Nebraska, Case No. 8:18-cr-00333-BCB-2. On June 30, 2021, the District Court sentenced Mr. Simpson to concurrent life terms for each count of conviction. Thereafter, Mr. Simpson appealed to the United States Court of Appeals for the Eighth Circuit.

The Eighth Circuit affirmed. Its decision is found at Case No. 21-2463 and is reported as *United States v. Ramon Simpson*, 44 F.4th 1093 (8th Cir. 2022). On September 19, 2022, the Eighth Circuit entered an Order denying Mr. Simpson's timely petition for rehearing by the panel and his petition for rehearing *en banc*. Copies of the opinion and Order are included in Appendices A (opinion) and C (Order).

JURISDICTION

The Eighth Circuit denied Mr. Simpson's timely petitions for rehearing and rehearing *en banc* on September 19, 2022. Mr. Simpson invokes this Court's jurisdiction pursuant to 28 U.S.C. § 1254(1) and Supreme Court Rule 13. Mr. Simpson files this Petition for a Writ of Certiorari within ninety (90) days of the Eighth Circuit's denial of his petitions for rehearing and rehearing *en banc*.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. U.S. Const. amend V.

> 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.

2. 18 U.S.C. § 1201(a)(1)

> (a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent, when—

(1) the person is willfully transported in interstate or foreign commerce, regardless of whether the person was alive when transported across a State boundary, or the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense;

***

shall be punished by imprisonment for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment.

The text of entire 18 U.S.C. § 1201 is included in Appendix D.

3. 18 U.S.C. § 2

(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

(b) Whoever willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal.

STATEMENT OF THE CASE

On November 7, 2018, local law enforcement agents found Phyllis Hunhoff dead, and her body burned, inside her vehicle on the Santee Indian Reservation in rural Knox County, Nebraska. According to the trial testimony of the pathologist, the causes of her death were strangulation and evisceration of the bowel. After her body was found, an investigation involving law enforcement agents from several different agencies—local, tribal, state, and federal—ensued.

In February 2019, co-defendant James was charged with various offenses related to Ms. Hunhoff's death, including murder in Indian Country and kidnapping resulting in death.

On July 17, 2019, Mr. Simpson was charged with violations of 18 U.S.C. §§ 1201(a)(1) and 2 (kidnapping resulting in death, as principal or aider and abettor) and 18 U.S.C. § 1201(c) (conspiracy to commit kidnapping). On that same date, Mr. James was also charged for the first time with conspiracy to commit the kidnapping of Ms. Hunhoff.

1. ***Miranda* Violations.**

During the course of the investigation of Ms. Hunhoff's disappearance and death, FBI Special Agent Jeff Howard interviewed Mr. Simpson multiple times—on November 8, 2018; November 21, 2018; and on December 10, 2018. The November 21, 2018, interview is the focus of this Petition.

On that date, Special Agent Howard interviewed Mr. Simpson at the police station in Norfolk, Nebraska. No *Miranda* warnings preceded the interview. Only after initial questioning by Mr. Howard did FBI Special Agent Laura Zeisler give *Miranda* warnings to Mr. Simpson; thereafter, she conducted a polygraph examination of Mr. Simpson that lasted for hours. After the polygraph examination concluded, Mr. Howard questioned Mr. Simpson even more. In total, Mr. Simpson was at the police station for hours—from approximately 10:00 a.m. through approximately 5:30 p.m.

During the polygraph examination, Mr. Simpson began to state he wanted to leave the police station and go home. Special Agents Howard and Zeisler conceded as much. In addition, after the polygraph examination concluded, Mr. Simpson made no less than 23 similar statements, each of which made clear he wanted to

terminate the interrogation, leave the police station, and go home, such as: "I gotta go home."; "I wanna go home, Jeff."; "I need to go home." But Special Agent Howard persisted and continued the interrogation. This colloquy between Special Agent Howard and Mr. Simpson is set forth in the Magistrate Judge's Findings and Recommendation that Mr. Simpson's pretrial Motion to Suppress Statements be denied. The Findings and Recommendation may be found at pages B6 through B23 of Appendix B.

The Magistrate Judge concluded Mr. Simpson was not in custody before, during, or after the polygraph examination—and therefore no *Miranda* violation occurred. The Magistrate Judge further concluded that even if Mr. Simpson had been in custody at some point, "his statements that he wanted to go home were not a clear and unequivocal invocation of his right to remain silent." Appendix B, page B21. Mr. Simpson, according to the Magistrate Judge, "did not articulate a desire to remain silent in such a way that a reasonable police officer would understand he wished to exercise his right to remain silent." Appendix B, page B22. Mr. Simpson objected to the Magistrate Judge's findings and recommendations.

The District Court overruled the objections and entered a Memorandum and Order adopting the Findings and Recommendations. Appendix B, pages B1 through B5. In particular, the District Court concluded, "Defendant's numerous statements indicating his desire to go home are not clear or unequivocal invocations of his right to remain silent, particularly when he continued speaking with Agent Howard following such statements." Appendix B, page B4.

In its opinion, the Eighth Circuit explained Special Agent Zeisler advised Mr. Simpson of his *Miranda* warnings. "At that point … Simpson had been warned under *Miranda*, so it is immaterial whether he was in custody, and we need not consider the point further." *Simpson*, 44 F.4th at 1097. The Eighth Circuit further reasoned: "Simpson's repeated statements that he wished to go home were not unambiguous invocations of his right to remain silent." *Id.* The Eighth Circuit concluded no *Miranda* violation occurred.

2. Aiding and Abetting Kidnapping Resulting in Death Jury Instruction.

The United States pursued against Mr. Simpson the charge of kidnapping resulting in death on both a principal and aiding and abetting theory of liability. Prior to and during Mr. Simpson's trial, he proffered an aiding and abetting jury instruction. It provided in part, "In order to have aided and abetted the commission of a crime, a person must … (4) have intended a kidnapping resulting in death to occur." A copy of this instruction is included in Appendix E, at page E3.

The instruction is predicated on this Court's decision in *Rosemond v. United States*, 572 U.S. 65 (2014). In that case, the defendant was charged with aiding and abetting a violation of 18 U.S.C. § 924(c) (using or carrying a firearm during and in relation to a crime of violence or drug trafficking crime). This Court held, "the Government makes its case by proving that the defendant actively participated in the underlying drug trafficking or violent crime *with advance knowledge that a confederate would use or carry a gun during the crime's commission*." *Id.* at 67 (emphasis added). "[A]n aiding and abetting conviction requires … a state of mind

extending to the entire crime." *Id.* at 76. "[T]he intent must go to the specific and entire crime charged." *Id.* So too, argued Mr. Simpson to the District Court, it must be proven he had some advance knowledge, if not intent, a kidnapping resulting in a death—as distinct from simply a kidnapping—would occur.

The District Court refused to give Mr. Simpson's instruction. Instead, it gave an instruction that made no mention whatsoever that Mr. Simpson must have had some intent or at least advance knowledge that a kidnapping resulting in death might occur. The District Court reasoned in part: "Since the aiding and abetting statute makes an aider and abettor punishable as a principal, a showing of specific intent should be required of an aider and abettor only if specific intent is also a necessary element for liability as a principal, end quote." (TR., Vol. V, pp. 720:22—721:1). The District Court cited *United States v. Bell*, 573 F.2d 1040, 1046, (8th Cir. 1978) ("It would be anomalous to hold that specific intent was a necessary element of aiding and abetting a crime, but not of the crime itself") and *United States v. Burkhalter*, 583 F.2d 389 (8th Cir. 1978) (quoting *Bell*).

The Eighth Circuit concluded the District Court did not err when it refused to use Mr. Simpson's proffered instruction. The Eighth Circuit explained 18 U.S.C. § 1201(a)(1) does not require that a principal offender intend or know that a death will result from the kidnapping; and so, it is not required that an aider and abettor must intend or know that a death will result, either. In support, the Eighth Circuit, like the District Court, relied on *United States v. Bell*, 573 F.2d at 1046 ("It would be anomalous to hold that specific intent was a necessary element of aiding and

abetting a crime, but not of the crime itself."). The Eighth Circuit decided a case from the First Circuit, *United States v. Encarnación-Ruiz*, 787 F.3d 581 (1st Cir. 2015), was inapplicable. In that case, the First Circuit applied *Rosemond*, and it concluded the Government must prove an aider and abettor of production of child pornography, in violation of 18 U.S.C. § 2251(a), must know the victim is a minor, *even though the principal need not know the victim is a minor*.

REASONS FOR GRANTING THE PETITION

I. To avoid erroneous and varying applications of aiding and abetting theories of criminal liability among the Courts of Appeals, this Court should further address, clarify, and settle the circumstances under which this Court's decision in *United States v. Rosemond* applies.

This Court's intervention is necessary to address, further clarify, and settle the circumstances under which the aiding and abetting theory of criminal liability, as outlined in *United States v. Rosemond*, 572 U.S. 65 (2014), applies.

Rosemond itself speaks strictly to what must be proven to aid and abet a violation of 18 U.S.C. § 924(c) (using or carrying a firearm during and in relation to a crime of violence or drug trafficking crime). In that case, this Court explained, "a person aids and abets a crime when (in addition to taking the requisite act) he intends to facilitate that offense's commission," and "*the intent must go to the specific and entire crime charged*." *Rosemond*, 572 U.S. at 76 (emphasis added). It is not enough for the aider and abettor to further a different or lessor offense. *Id.* Rather, "an aiding and abetting conviction requires not just an act facilitating one or another element, but also a state of mind *extending to the entire crime*. And under that rule, a defendant may be convicted of abetting a § 924(c) violation only if

his intent reaches beyond a simple drug sale, to an armed one." *Id.* (emphasis added). Because the jury instructions permitted the jury to find the defendant guilty of aiding and abetting the § 924(c) offense, without having any advanced knowledge that the principal offender would be carrying a firearm, this Court vacated Mr. Rosemond's conviction.

Since *Rosemond*, some Circuit Courts of Appeals have restricted it to apply to § 924(c) offenses only. The Seventh Circuit has been particularly steadfast in doing so, declining to apply it as recently as May 2022 to healthcare fraud and distribution of prescription medication offenses. *See Patel v. Watson*, No. 21-3099, 2022 WL 1464736, *1 (7th Cir. May 9, 2022) (unpublished) ("More important, [Patel] was not convicted under § 924(c), so we do not see how *Rosemond* affects his case."). *See also Cano v. Daniels*, No. 18-2722, 2021 WL 9493759, *1 (7th Cir. Aug. 20, 2021) (unpublished) ("Yet Cano was not convicted under § 924(c), so it is not clear how *Rosemond* affects his case...."); *Nix v. Daniels*, No. 16-2605, 2016 WL 9406711, *1 (7th Cir. Nov. 23, 2016) (unpublished) ("Even so, *Rosemond* does not apply to either set of convictions because neither charged Nix with any type of § 924(c) offense.").

The Third and Eleventh Circuits have similarly declined to apply *Rosemond* to offenses other than § 924(c). *See Troiano v. Warden Allenwood USP*, 614 Fed.Appx. 49, 51-52 (3rd Cir. 2015) (per curiam, unpublished) ("Troiano's situation is distinguishable from *Rosemond*. *Rosemond* addresses the requirements and jury instructions concerning aiding and abetting a § 924(c) offense, but Troiano's claim relates to the jury instructions concerning aiding and abetting a Hobbs Act

robbery."); *United States v. Persaud*, 605 Fed.Appx. 791, 800 (11th Cir. 2015) (per curiam, unpublished) ("Mr. Wilson's *Rosemond* arguments are unavailing in this context [of conspiracy to possess marijuana with intent to distribute and aiding and abetting possession of marijuana with intent to distribute].").

The Fifth Circuit initially expressed uncertainty whether *Rosemond* applies to offenses other than § 924(c). *See United States v. Gibson*, 709 Fed.Appx. 271, 274 (5th Cir. 2017) (per curiam, unpublished) ("[It is not clear or obvious that *Rosemond's* 'advance knowledge' requirement applies to the charge against Gibson of aiding and abetting aggravated bank robbery[.]"). But the Fifth Circuit later concluded *Rosemond* applies to "combination offenses" only, which "punish[] the temporal and relational conjunction of two separate acts, on the ground that together they pose an extreme risk of harm." *United States v. Baker*, 912 F.3d 297, 314 (5th Cir. 2019) (*Rosemond* not applicable to wire fraud, 18 U.S.C. § 1343, because wire fraud is not a "combination offense"), *amended and superseded on denial of rehearing by*, 923 F.3d 390 (5th Cir. 2019). *See also United States v. Carbins*, 882 F.3d 557, 565 (5th Cir. 2018) (discussing *Rosemond* in terms of a "combination crime").

In contrast, the Second, Fourth, Sixth, and Tenth Circuits have readily extended *Rosemond* to offenses other than 18 U.S.C. § 924(c)—some doing so without in-depth discussion or analysis, and without discussion of whether its holding should be limited to "combination offenses." *See, e.g., United States v. Delgado*, 972 F.3d 63 (2nd Cir. 2020) (aiding and abetting murder in aid of

racketeering, in violation of 18 U.S.C. § 1959); *United States v. Oloyede*, 933 F.3d 302 (4th Cir. 2019) (aiding and abetting jury instruction determined sufficient, pursuant to *Rosemond*, for aggravated identity theft in violation of 18 U.S.C. § 1028A); *United States v. Jackson*, 858 Fed.Appx. 802, 806 (6th Cir. 2021) (unpublished) (aiding and abetting use of unauthorized access devices in violation of 18 U.S.C. § 1029(a)(2)); *United States v. Aguilar-Banuelos*, 768 Fed.Appx. 864, 866 (10th Cir. 2019) (unpublished) (aiding and abetting kidnapping in violation of 18 U.S.C. § 1201(a)(1)).

For its part, the Eighth Circuit has applied *Rosemond* to offenses other than § 924(c). *See United States v. Wortham*, 990 F.3d 586 (8th Cir. 2021) (aiding and abetting carjacking and aiding and abetting distribution of PCP); *United States v. Borders*, 829 F.3d 558 (8th Cir. 2016) (aiding and abetting transportation of stolen goods and aiding and abetting possession of stolen vehicles). In these applications prior to Mr. Simpson's case, the Eighth Circuit did not describe *Rosemond* in terms of its applicability to a so-called "double-barreled crime"—though it did so in Mr. Simpson's case. *Simpson*, 44 F.4th 1099. It is now unclear whether the Eighth Circuit has now restricted *Rosemond* to a "double-barreled crime." The crimes in *Wortham* (carjacking and distribution of PCP) and *Borders* (transportation of stolen goods and possession of stolen vehicles) are not obviously "double-barreled crimes."

Finally, the First Circuit, in *United States v. Encarnación-Ruiz*, 787 F.3d 581 (1st Cir. 2015), applied *Rosemond* to a violation of 18 U.S.C. § 2251(a). In that case, it held the government must prove beyond a reasonable doubt that an aider and

abettor to production of child pornography must have known that the victim was a minor—even though it need not b1e proven that the principal violator of § 2251(a) had any such knowledge of the victim's age.

The application of *Rosemond* amongst the Circuits is less than uniform. Some patently do not extend it to offenses other than 18 U.S.C. § 924(c). Others have more or less automatically done so, sometimes without detailed discussion and as if it is assumed to apply. Still others restrict it to so-called "combination offenses," while others apparently do not. At least one—the First Circuit—has extended it to the point that a greater *mens rea* is required for aiding and abetting liability than it is for principal liability. Finally, it is significant in some instances one Circuit has concluded *Rosemond* applies to the very same offense to which another has determined it does not. *Compare United States v. Tibbs*, 685 Fed.Appx. 456 (6th Cir. 2017) (unpublished) (citing *Rosemond* in analysis of sufficiency of the evidence supporting conviction for aiding and abetting Hobbs Act robbery), *with Troiano v. Warden Allenwood USP, supra* (*Rosemond* inapplicable to Hobbs Act robberies).

In Petitioner's view, it is the First Circuit that has most correctly applied *Rosemond*. In any case, and notwithstanding which application is or is not correct, the Circuits' varying applications of *Rosemond* is significant, deserves this Court's attention, and is reason for this Court to grant this Petition.

II. This Court's intervention is warranted because the Eighth Circuit's decision below incorrectly applied *Rosemond* to Mr. Simpson's case.

The Eighth Circuit's decision that the District Court's jury instruction pertaining to aiding and abetting kidnapping resulting in death—which required absolutely no proof that Mr. Simpson intended or had advance knowledge a death would result from the kidnapping—is contrary to and misapplies the principles of *Rosemond.* The Eighth Circuit reasoned:

> *Rosemond* does not require, however, that a defendant charged with aiding and abetting a kidnapping resulting in death must have advance knowledge of the death. Under § 924(c), a principal offender must knowingly commit both requisite acts, and it followed in *Rosemond* that the aider and abettor must have advance knowledge of both acts [of the drug transaction and use of a gun]. But under § 1201(a), the government must prove the principal's knowledge and intent only with respect to the kidnapping. The government also must prove that the kidnapping *caused* the victim's death, but not that the principal intended or knew that death would result. *United States v. Barraza*, 576 F.3d 798, 807 (8th Cir. 2009). Therefore, the district court properly concluded that the government was required to show that Simpson had advance knowledge of the kidnapping, but not that death would result, to establish an aiding and abetting offense. *See United States v. Bell*, 573 F.2d 1040, 1046 (8th Cir. 1978) ("It would be anomalous to hold that specific intent was a necessary element of aiding and abetting a crime, but not of the crime itself.").
>
> *Simpson*, 44 F.4th at 1099 (emphasis in original).

The Eighth Circuit's emphasis on its prior holdings in *Bell* and *United States v. Barraza*, 576 F.3d 798 (8th Cir. 2009), each of which predate *Rosemond*, and its conflation of *mens rea* for principal liability purposes with *mens rea* for aiding and abetting purposes, miss the point of *Rosemond.* In Petitioner's view, *Rosemond* precisely stands for the idea that intent or at least advance knowledge is required for an aider and abettor, though not necessary for a principal.

For example, prior to *Rosemond*, this Court held that "Section 924(c)(1)(A)(iii) requires no separate proof of intent. The 10-year mandatory minimum applies if a gun is discharged in the course of a violent or drug trafficking crime, whether on purpose *or by accident*." *Dean v. United States*, 556 U.S. 568, 577 (2009) (emphasis added). The Eighth Circuit has also held as much. *United States v. Coyle*, 998 F.2d 548, 551 (8th Cir. 1993) (§ 924(c), for purposes of principal liability, "is not a specific intent offense") (citing *United States v. Brown*, 915 F.2d 219 (6th Cir. 1990)).

This Court's holding in *Dean*—that § 924(c) "requires no separate proof of intent" for principal liability purposes—was left undisturbed by *Rosemond*. Read together, though a principal § 924(c) offender, pursuant to *Dean*, need not have intended the discharge of a firearm, an aider and abettor, pursuant to the principles of *Rosemond*, must have intended or had advance knowledge of it.

So too in this case, and contrary to the Eighth Circuit's decision, it is no anomaly that Mr. Simpson, as an aider and abettor, must have intended or had some advance knowledge death would result from the kidnapping—*even if* for 18 U.S.C. § 1201(a) principal liability purposes no such intent or advance knowledge may be required.

Moreover, and more basically, kidnapping resulting in death—not the different or lesser offense of plain kidnapping—is in the parlance of *Rosemond* "the entire crime charged." *Rosemond*, 572 U.S. at 76. Death is no less an element of aiding and abetting kidnapping resulting in death than is use or carrying of a firearm an element of aiding and abetting a § 924(c) violation. "The entire crime

charged"—kidnapping resulting in death—is how the District Court should have instructed the jury.

The Eighth Circuit erred in affirming the District Court's use of an instruction that permitted the Government to escape its burden of proving Mr. Simpson, as an aider and abettor, intended or at least had some advance knowledge that the "entire crime charged"—kidnapping resulting in death—would occur. This Court's intervention is now warranted to correctly apply the principles of aiding and abetting, pursuant to *Rosemond*, to Mr. Simpson's case.

III. This Court's intervention is warranted because the Eighth Circuit's decision below incorrectly applied *Miranda v. Arizona* to Mr. Simpson's case.

If, during a custodial interrogation, "the individual indicates in any manner, at any time prior to or during questioning, that he wishes to remain silent, the interrogation must cease." *Miranda v. Arizona*, 384 U.S. 436, 473-74 (1966). A suspect must articulate a desire to invoke his *Miranda* rights such that a reasonable officer in the circumstances would understand the statement to be a request to do so, though "a suspect need not speak with the discrimination of an Oxford don." *Davis v. United States*, 512 U.S. 452, 459 (1994) (invocation of right to counsel). *See also Berghuis v. Thompkins*, 560 U.S. 370 (2010) (invocation of right to remain silent must also be unambiguous).

During his November 21, 2018, custodial interrogation, Mr. Simpson *repeatedly, and no less than two dozen times* stated he wanted to "go home," "I wanna go," "I need to go home," and words of like effect. Appendix B, pages B6 through B23. Simply, these repeated statements were Mr. Simpson's manner of

expressing his desire to remain silent and not talk to the police. *See Berghuis*, 560 U.S. at 381 ("Thompkins did not say he wanted to remain silent or that he did not want to talk with the police. Had he made either of these simple, unambiguous statements, he would have invoked [his right to remain silent.]." But law enforcement agents did not scrupulously honor these requests, did not cease the interrogation, and did not permit him to "go home." Instead, agents continued the interrogation and elicited statements from Mr. Simpson that the Government later featured prominently at trial.

The repeated, consistent, two dozen statements Mr. Simpson made to "go home" are patently distinguishable from the isolated, single requests to do so, like that on which the Eighth Circuit relied. *Simpson*, 44 F.4th at 1097 (citing *Moore v. Dugger*, 856 F.2d 129, 134 n.1 (11th Cir. 1988) (one-time request "[w]hen will you all let me go home?" insufficient invocation of right to remain silent) and *United States v. Adams*, 820 F.3d 317 (8th Cir. 2016) (singular statement, "Nah, I don't want to talk, man. I mean, I---." held insufficient invocation of right to remain silent).

This Court's intervention is warranted to faithfully apply *Miranda* and its progeny that a suspect need not use any particular magic words to invoke the right to remain silent, and that repeated statements wanting to "go home" sufficiently express a desire to not speak any further with the police but instead remain silent.

CONCLUSION

For the foregoing reasons, Mr. Simpson respectfully requests this Court grant certiorari to review the judgment of the Eighth Circuit.

Dated this 15th day of December, 2022.

Respectfully submitted,

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By _____

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