No. 23-638

In the Supreme Court of the United States

KENNETH WENDELL RAVENELL,
Petitioner,

v.

UNITED STATES
Respondent.

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

BRIEF OF *AMICI CURIAE* NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS AND MARYLAND CRIMINAL DEFENSE ATTORNEYS' ASSOCIATION IN SUPPORT OF PETITIONER

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STATEMENTS OF INTEREST OF *AMICI CURIAE*[1]

I. THE NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

The National Association of Criminal Defense Lawyers ("NACDL") is the preeminent organization in the United States advancing the goal of the criminal defense bar to ensure justice and due process for persons charged with a crime or wrongdoing. NACDL envisions a society where all individuals receive fair, rational, and humane treatment within the criminal justice system.

Founded in 1958, NACDL has a rich history of promoting education and reform through steadfast support of America's criminal defense bar, Amicus Curiae advocacy, and myriad projects designed to advance the proper, efficient, and fair administration of justice. Its members include private criminal defense lawyers, public defenders, military defense counsel, law professors, and judges.

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[1] Pursuant to this Court's Rule 37.2, counsel of record for all listed parties received notice at least 10 days prior to the due date of the Amici Curiae's intention to file this brief. Pursuant to Rule 37.6, Amici Curiae affirm that no counsel for any party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than Amici Curiae, their members, or their counsel made a monetary contribution to this brief's preparation or submission.

Petitioner Ravenell's petition for a writ of certiorari presents issues critical to NACDL's members, those they represent, and the criminal justice system itself. Two stand out: First, the need to ensure that factual disputes pertaining to criminal defenses are resolved by the jury – not by trial or appellate courts. Second, the obligation on the part of trial courts to ensure that juries are provided with instructions on all defenses raised by defendants, and here in particular the statute-of-limitations defense, a bedrock protection for more than two centuries for criminal defendants. Without such instructions, juries are rendered unable to assess and decide the merits of the defense or even that it constitutes a defense at all.

II. MARYLAND CRIMINAL DEFENSE ATTORNEYS' ASSOCIATION

The mission of the Maryland Criminal Defense Attorneys' Association ("MCDAA") includes research, education, and advocacy relating to criminal defense practice, the proper administration of justice, and the protection of individual rights. MCDAA respectfully joins this Amici Curiae brief to address the serious implications of the circuit split deepened by the decision below, whether the government must prove to a jury that a non-overt act conspiracy existed in the limitations period. The Fourth Circuit's decision, that the government need not do so; that a requested statute-of-limitations instruction need not be

given; and that the court – not the jury – can decide statute-of-limitations defenses, contravenes this Court's precedent and undermines criminal defendants' right to trial by jury.

INTRODUCTION AND SUMMARY OF ARGUMENT

Attorney Kenneth Ravenell's petition raises fundamental constitutional issues that, left unresolved, jeopardize the right of all criminal defendants to have a jury – not a judge – determine whether the government has met its burden of proving that the crime was committed within the limitations period. At Mr. Ravenell's trial, the district court refused to instruct the jury on the statute of limitations, despite defense counsel's request based on evidence introduced at trial. The Fourth Circuit panel majority found no fault in depriving the jury of any instruction on the statute of limitations notwithstanding that Petitioner was thereby stripped of any ability to advance this defense. As if to justify its faulty position, the Fourth Circuit panel majority compounded its error by undertaking its own evidentiary analysis of Petitioner's statute-of-limitations defense and then concluding, "All told, there was ample evidence that the conspiracy continued past the July 2, 2014 limitations date." Petitioner's Appendix ("Pet. App.") 22a. This was not for either the district court or circuit court to decide. Had the jury been instructed and allowed to assess the statute-

of-limitations defense, Petitioner may well have been acquitted.

As discussed in detail below, the Fourth Circuit panel majority's decision establishes a dangerous and unconstitutional precedent for criminal defendants. First, the Fourth Circuit ignored more than a century of Supreme Court authority concerning the essential constitutional role the jury serves in determining all controverted matters of fact. Instead, the Fourth Circuit panel majority evaluated the evidence itself, concluding that, *in its view*, "The record is full of evidence that the money laundering conspiracy . . . did not terminate before the applicable statute of limitations deadline." Pet. App. 19a. Permitting the substitution of judge for jury disassembles the structure of the criminal process.[2]

Second, if a jury is not properly instructed – or in this case, not instructed at all – on the statute-of limitations defense, the jury is left unequipped to organize and analyze the facts it is obliged to consider. As determined in *Grunewald*

[2] It bears noting that the Fourth Circuit panel majority's conclusion that the record was "full of evidence" that the prosecution was timely was not unchallenged. In his dissent, Judge Gregory determined that the majority decision "overstate[d] the persuasive value of this evidence," (Pet. App. n.4); stressed that there was "ample evidence in the record" establishing that the alleged conspiracy ended prior to July 2, 2014 (Pet. App. 51); and concluded that had the district court properly instructed the jury, it "could have led to [Mr. Ravenell's] acquittal" (Pet. App. 54a).

v. United States, 353 U.S. 391 (1957), and reaffirmed in *Smith v. United States*, 568 U.S. 106 (2013), under 18 U.S.C. § 3282, the government must factually prove to the jury that a conspiracy continued into the statute-of-limitations period. It necessarily follows that the jury must be given guidance by the court regarding what a statute of limitations is and then instructed that it has to decide whether the government has proved beyond a reasonable doubt compliance with the statute of limitations. Left uninstructed, the jury's function is erased.

By ruling that a district court need *not* instruct the jury on a statute-of-limitations defense, the Fourth Circuit panel majority precluded altogether one of Petitioner's viable defenses. The significance of this deprivation cannot be overstated. As this Court observed in *United States v. Marion*, 404 U.S. 307, 322 (1971) (White, J.), statutes of limitation "provide predictability by specifying a limit beyond which there is an irrebuttable presumption that a defendant's right to a fair trial would be prejudiced."

The failure to instruct the Ravenell jury on the statute of limitations, coupled with the Fourth Circuit panel majority's decision to weigh the facts itself, prevented Petitioner from being able to present the defense and permit the jury to acquit on this basis. Allowing this outcome to stand threatens that future criminal defendants will suffer the

same fate as Mr. Ravenell: the denial of the constitutional right to have a jury decide if the government has proved beyond a reasonable doubt that the alleged criminal activity was committed within the limitations period. Because the Fourth Circuit panel majority failed to protect the rights of an accused and undermined the standards fundamental to our system of criminal justice, Amici Curiae strongly support Mr. Ravenell's request for review.

ARGUMENT

I. PETITIONER WAS DEPRIVED OF THE RIGHT TO HAVE THE JURY MAKE ALL FACTUAL FINDINGS RELEVANT TO HIS STATUTE-OF-LIMITATIONS DEFENSE, UNDERMINING HIS AND FUTURE DEFENDANTS' CONSTITUTIONAL RIGHT TO TRIAL BY JURY

A. The Lower Courts Ignored the Fundamental Role of the Jury in the Criminal Justice System

It is indisputable that, "'[t]he basic purpose of a trial is the determination of truth,' *Tehan v. United States ex rel. Shott,* 382 U.S. 406, 416, 86 S.Ct. 459, 465, 15 L.Ed.2d 453 (1966), and it is the jury to whom we have entrusted the responsibility for making this determination in serious criminal cases." *Brown v. Louisiana*, 447 U.S. 323, 334 (1980). "[I]n the courts of the United States it is the duty of juries in criminal cases to take the law

from the court, and apply that law to the facts as they find them to be from the evidence. Upon the court rests the responsibility of declaring the law; upon the jury, the responsibility of applying the law so declared to the facts as they, upon their conscience, believe them to be." *Sparf v. United States*, 156 U.S. 51, 102 (1895) (Harlan, J.).

This right, which protects the accused from prosecutorial and judicial overreach, is firmly embedded in the Constitution and in this Court's significant jurisprudence. "The right to jury trial guaranteed by the Sixth and Fourteenth Amendments is a fundamental right, essential for preventing miscarriages of justice and for assuring that fair trials are provided for all defendants." *Brown*, 447 U.S. at 330 (internal citation omitted). As Justice Kennedy explained in *Peña-Rodriguez v. Colorado*, 580 U.S. 206, 210 (2017):

> The jury is a central foundation of our justice system and our democracy. Whatever its imperfections in a particular case, the jury is a necessary check on governmental power. The jury, over the centuries, has been an inspired, trusted, and effective instrument for resolving factual disputes and determining ultimate questions of guilt or innocence in criminal cases. Over the long course its judgments find acceptance in the community, an acceptance essential to respect for the

> rule of law. The jury is a tangible implementation of the principle that the law comes from the people.

This principle has been emphasized repeatedly by the Court. For example, Justice Scalia explained in *Apprendi v. New Jersey*, 530 U.S. 466, 499 (2000) (concurring), "[The Constitution] means what it says. And the guarantee that in all criminal prosecutions, the accused shall enjoy the right to . . . trial, by an impartial jury, has no intelligible content unless it means that *all the facts which must exist in order to subject the defendant to a legally prescribed punishment must be found by the jury*." (emphasis added). For example, "Determining the weight and credibility of witness testimony, therefore, has long been held to be the part of every case that belongs to the jury, who are presumed to be fitted for it by their natural intelligence and their practical knowledge of men and the ways of men." *United States v. Scheffer*, 523 U.S. 303, 313 (1998) (Thomas, J.) (internal citations and quotations omitted).

This Court has recognized that the underlying purpose of reserving factfinding to juries is to protect the accused from courts unilaterally finding the elements required for a conviction. "Trial by jury in serious criminal cases has long been regarded as an indispensable protection against the possibility of governmental oppression; the history of the jury's development demonstrates a long tradition attaching great importance to the concept of

relying on a body of one's peers to determine guilt or innocence as a safeguard against arbitrary law enforcement." *Brown*, 447 U.S. at 330 (internal citations and quotations omitted). "The constitutional right to a jury trial embodies a profound judgment about the way in which law should be enforced and justice administered. . . . It is a structural guarantee that reflects a fundamental decision about the exercise of official power – a reluctance to entrust plenary powers over the life and liberty of the citizen to one judge or to a group of judges." *Carella v. California*, 491 U.S. 263, 268 (1989) (Scalia, J., concurring) (internal citations and quotations omitted).

Most recently, in *Ciminelli v. United States*, 598 U.S. 306, 316-317 (2023), Justice Thomas wrote, "With profuse citations to the records below, the Government asks us to cherry-pick facts presented to a jury charged on the right-to-control theory and apply them to the elements of a different wire fraud theory in the first instance. In other words, the Government asks us to assume not only the function of a court of first view, but also of a jury. That is not our role." Indeed, "the very reason the Framers put a jury-trial guarantee in the Constitution was to ensure the jury trial right would limit the power of judges and not be ground down to nothing through a balancing of interests by judges themselves." *United States v. Haymond*, 139 S. Ct. 2369, 2384 n.9 (2019) (Gorsuch, J.) (internal quotations and citations omitted).

B. It is Critical that Juries—Not Judges—Determine Statute-Of-Limitations Defenses In Criminal Cases, Particularly Given the Historical Significance of Statutes of Limitation

The Fourth Circuit's decision is particularly harmful because this case involves the application of a statute of limitations, which has long been recognized as one of the most critical "laws for administering justice." *Hawkins v. Barney's Lessee,* 5 Pet. 457, 463, 8 L.Ed. 190 (1831) (Johnson, J.). As such, the district court's refusal to instruct the jury on Petitioner's statute-of-limitations defense, and the Fourth Circuit panel majority's condoning of this abdication, was highly prejudicial to Petitioner and especially dangerous to all criminal defendants.

Statutes of limitations have been a fixture of the American judicial system since its nascency. *See Hanger v. Abbott*, 73 U.S. 532, 538 (1867) ("When our ancestors immigrated here, they brought with them the statute of 21 Jac I, c. 16, entitled 'An act for limitation of actions, and for avoiding of suits in law,' known as the statute of limitations. . . ."). In fact, they "have long been respected as fundamental to a well-ordered judicial system," *Bd. of Regents of Univ. of State of N. Y. v. Tomanio*, 446 U.S. 478, 487 (1980) (Rehnquist, J.), and "are found and approved in all systems of enlightened jurisprudence." *United*

States v. Kubrick, 444 U.S. 111, 117 (1979) (internal citation omitted) (White, J.).

Statutes of limitations "are made for the repose of society and the protection of those who may (during the limitation) . . . have lost their means of defence." *Public Schools v. Walker*, 9 Wall. 282, 288 (1870). "The purpose of a statute of limitations is to limit exposure to criminal prosecution to a certain fixed period of time" to "protect individuals from having to defend themselves against charges when the basic facts may have become obscured by the passage of time." *Toussie v. United States*, 397 U.S. 112, 114 (1970) (Black, J.). They are designed to protect citizens from stale and vexatious claims and to eliminate the possibility of litigation after the lapse of a reasonable time. *Guar. Tr. Co. of New York v. United States*, 304 U.S. 126, 136 (1938) (Stone, J.).

Statutes of limitation are born from the credo that "[a] federal cause of action 'brought at any distance of time' would be 'utterly repugnant to the genius of our laws.'" *Adams v. Woods*, 2 Cranch 336, 341 (1805) (Marshall, J.); *see also United States v. Cadarr*, 197 U.S. 475, 478 (1905) ("It is doubtless true that in some cases the power of the government has been abused, and charges have been kept hanging over the heads of citizens, and they have been committed for unreasonable periods, resulting in hardship."). Centuries after their initial implementation, statutes of limitation

continue to hold their respected role in the American judicial system as "the primary guarantee against bringing overly stale criminal charges." *United States v. Marion*, 404 U.S. at 322 (internal citation omitted) (explaining that statutes of limitation are a "mechanism[ ] to guard against possible as distinguished from actual prejudice from the passage of time between crime and arrest or charge."); *see Railroad Telegraphers v. Railway Express Agency*, 321 U.S. 342, 349 (1944) (holding it is unjust to fail to put the adversary on notice to defend within a specified period of time and that "the right to be free of stale claims in time comes to prevail over the right to prosecute them").

Statutes of limitations provide predictability by specifying a limit beyond which there is an irrebuttable presumption that a defendant's right to a fair trial would be prejudiced because after a certain time, no quantum of evidence is sufficient to convict. *See United States v. Marion*, 404 U.S. at 322. The Court explained the relationship between the time bars and fact-finding:

> Making out the substantive elements of a claim for relief involves a process of pleading, discovery, and trial. The process of discovery and trial which results in the finding of ultimate facts for or against the plaintiff by the judge or jury is obviously more reliable if the witness or testimony in question is relatively fresh. Thus in the judgment

> of most legislatures and courts, there comes a point at which the delay of a plaintiff in asserting a claim is sufficiently likely either to impair the accuracy of the fact-finding process or to upset settled expectations that a substantive claim will be barred without respect to whether it is meritorious.

Bd. of Regents of Univ. of State of N. Y., 446 U.S. at 487; *see also Agency Holding Corp. v. Malley-Duff & Assocs., Inc.*, 483 U.S. 143, 156 (1987) (internal citation omitted) (O'Connor, J.) ("Just determinations of fact cannot be made when, because of the passage of time, the memories of witnesses have faded or evidence is lost. In compelling circumstances, even wrongdoers are entitled to assume that their sins may be forgotten.").

Evidentiary concerns are at the heart of the purpose of the statute of limitations, such as that the passage of time has eroded memories or made witnesses or other evidence unavailable, and limitations protect defendants and the courts from having to deal with cases in which the search for truth may be seriously impaired by the loss of evidence, whether by death or disappearance of witnesses, fading memories, disappearance of documents, or otherwise. *United States v. Kubrick*, 444 U.S. at 117.

Statutes of limitation also "provide clarity"; specifically, they "provide predictable, legislatively enacted limits on prosecutorial delay." *United States v. Lovasco*, 431 U.S. 783, 789 (1977) (Marshall, J.) (internal citation omitted). The "great weight of modern authority," to include this Court, regards the defense of the statute of limitations as a "substantial and meritorious" defense to be determined at trial via the development of facts and evidence. *United States v. Oregon Lumber Co.*, 260 U.S. 290, 299 (1922) (internal citation omitted).

In enacting the statute of limitations applicable here, Congress intended for it to apply to all "person[s]" being prosecuted "for any offense, not capital," "[e]xcept as otherwise expressly provided by law." 18 U.S.C. § 3282(a). In other words, the statute of limitations – like "[t]he procedural protections of the Constitution" – protect[s] the guilty as well as the innocent." *Minnick v. Mississippi*, 498 U.S. 146, 166 (1990) (Scalia, J., dissenting). Thus, this Court endorses strict adherence to and application of the procedural requirements established by Congress for gaining access to federal courts because, "[i]n the long run, experience teaches that strict adherence to the procedural requirements specified by the legislature is the best guarantee of evenhanded administration of the law." *Baldwin Cnty. Welcome Ctr. v. Brown*, 466 U.S. 147, 152 (1984) (internal citation omitted).

C. Juries Cannot Apply the Law Without Instruction from the Court

In order to fulfill their important function – here with respect to the statute-of-limitations defense – juries must be instructed on the applicable law by the court. *See, e.g.*, *Sparf v. United States*, 156 U.S. at 106 ("it was the duty of the court to expound the law, and that of the jury to apply the law as thus declared to the facts as ascertained by them. In this separation of the functions of court and jury is found the chief value, as well as safety, of the jury system."). As Justice Scalia recognized for the Court in *Griffin v. United States*, 502 U.S. 46 (1991), jurors need instruction to be able to fulfill their obligation to weigh theories of criminal conviction and defenses – including statute-of-limitations defenses – writing:

> Jurors are not generally equipped to determine whether a particular theory of conviction submitted to them is contrary to law – whether, for example, the action in question is protected by the Constitution, *is time barred*, or fails to come within the statutory definition of the crime. When, therefore, jurors have been left the option of relying upon a legally inadequate theory, there is no reason to think that their own intelligence and expertise will save them from that error.

Id. at 59 (emphasis added). Justice Scalia further noted, however, that jurors are "well equipped to analyze the evidence" and, for this reason, issues of fact bearing on the application of a statute of limitations are submitted, as are other issues of fact, for determination by the jury. *Id.*

It is a principle fundamental to this Court's jurisprudence "that a jury is to decide the facts and apply to them the law as explained by the trial judge. Were it otherwise, trial by jury would be no more rational and no more responsive to the accumulated wisdom of the law than trial by ordeal. *It is the function of jury instructions, in short, to establish in any trial the objective standards that a jury is to apply as it performs its own function of finding the facts*." *United States v. Park*, 421 U.S. 658, 682 (1975) (Stewart, J., dissenting) (emphasis added). The Court has recognized that "[i]t is the almost invariable assumption of the law that jurors follow their instructions. We presume that jurors, conscious of the gravity of their task, attend closely the particular language of the trial court's instructions in a criminal case and strive to understand, make sense of, and follow the instructions given them." *United States v. Olano*, 507 U.S. 725, 740 (1993) (O'Connor, J.) (internal citations and quotations omitted).

D. The District Court Improperly Failed to Instruct the Jury and the Fourth Circuit Assumed the Role of Factfinder with Respect to Petitioner's Statute-of-Limitations Defense

Petitioner plainly raised a statute-of-limitations defense and asked the district court to instruct the jury accordingly. The district court improperly rebuffed this request. Pet. App. 8a-9a.

Upon review, the Fourth Circuit panel majority—even further removed from the jury—undertook its own factfinding mission at both the merits appeal stage and again in denying en banc review. The Fourth Circuit panel majority evaluated and weighed the evidence itself, concluding that, in the court's view, "[t]he record is full of evidence that the money laundering conspiracy . . . did not terminate before the applicable statute of limitations deadline." Pet. App. 19a. Similarly, in Judge Wilkinson's concurrence in the Fourth Circuit's denial of en banc review, he summarized the facts and evidence adduced at trial, Pet. App. 61a-62a, and then determined on his own that "[t]hese acts not only show further that Ravenell neither terminated the conspiracy nor withdrew from it, but they also show acts in furtherance of a criminal conspiracy that enabled it to continue its operations during the applicable period." Pet. App. 62a (internal quotations omitted). Altogether, the lower courts' refusal to instruct the

jury on Petitioner's potential defense deprived Petitioner of his constitutional right to have all the facts which may subject him to punishment found by a jury. *See Apprendi*, 530 U.S. at 499.

Because the trial court refused to provide a statute-of-limitations instruction, the jury had no way of knowing that Congress set a temporal limit on Mr. Ravenell's criminal exposure or of its duty to make factual determinations pertaining to whether the the government brought this prosecution in a timely manner. Lacking a jury instruction on the statute of limitations, Mr. Ravenell was left without this defense and the protections Congress provided all defendants in ensuring that the government is not given an unlimited amount of time to prosecute what it contends is criminal conduct. As set forth below in Section II, *infra* at 18-21, in Mr. Ravenell's case, an instruction may have made all the difference between conviction and acquittal.

II. THE LOWER COURTS' RULINGS MAY HAVE COST PETITIONER HIS FREEDOM AND COULD SIMILARLY HARM CRIMINAL DEFENDANTS IN THE FUTURE

The parties to this case do not dispute that the prosecution of a conspiracy that concluded prior to July 2, 2014, was precluded by the statute of limitations. Pet. App. 8a. The evidence pre-

sented by the government at trial, though, primarily covered the period prior to July 2, 2014. Ravenell's Petition for a Writ of Certiorari ("Pet.") 8-9. Evidence after this date was confined to showing: a) Mr. Ravenell remained counsel to Richard Byrd, one of the alleged co-conspirator clients, until October 10, 2014; b) money alleged to be drug proceeds remained in Mr. Ravenell's law firm escrow account after that date; c) testimony that Mr. Ravenell met with a drug distributor named Darnell Miller in May 2014, but that after that meeting Mr. Miller had no further contact with Mr. Ravenell; and d) on August 1, 2014, Mr. Ravenell made a payment of $750 for the storage of Mr. Byrd's cars seized following the latter's arrest in 2011. Pet. App. 19a-21a.

The Fourth Circuit panel majority recognized Mr. Ravenell's rebuttal evidence that emphasized that: a) the last payment Mr. Byrd made to the law firm was on January 6, 2014; b) Mr. Byrd was arrested on April 29, 2014, after which he testified he no longer engaged in criminal activities; and c) that the last payment made by Leonaldo Harris, the other former client and alleged co-conspirator, to the law firm was on April 25, 2014. Pet. App. 19a-20a.

Yet the jury was never advised by the trial court that such a thing as the statute of limitations exists or that if the jury were to find that the alleged conspiracy ended prior to July 2, 2014, it should acquit Mr. Ravenell. As recognized by

Judge Gregory in his dissent, "The district court's failure to so instruct the jury 'seriously impaired [Ravenell's] ability to conduct his defense.'" Pet. App. 43a-44a. (quoting *United States v. Hill*, 927 F.3d 188, 209 (4th Cir. 2019).

Instead of ruling that the district court should have instructed the jury on the statute-of-limitations defense, thereby honoring the constitutional mandate that juries determine the facts of the case, the Fourth Circuit panel majority opted to assume this role itself and render its own verdict, writing: "All told, there was ample evidence that the conspiracy continued past the July 2, 2014, limitations date." Pet. App. 22a. Judge Gregory thought otherwise, stating in his dissent, "[c]ontrary to the majority's assertion, there is ample evidence in the record that would have allowed the jury to conclude that the alleged money laundering conspiracy as to both Harris and Byrd terminated prior to July 2, 2014." Pet. App. 51a. Incorporating the ruling in *United States v. Lewis*, 53 F.3d 29, 35 (4th Cir. 1995) (finding reversible error where trial court failed to give a jury instruction that a defendant cannot be convicted for conspiring with a government agent) Judge Gregory wrote,

> for [Ravenell] to present his theory of defense, it was incumbent on the district court to instruct the jury that [Ravenell] could not be convicted of' a

> conspiracy that did not continue beyond July 2, 2014. . . . If the district court had properly instructed the jury, Ravenell could have highlighted this evidence of the conspiracy's termination in his closing argument, which could have led to his acquittal. However, because the jurors were kept in the dark about this crucial limitation on Ravenell's prosecution, they were not informed of their duty to make factual determinations regarding the temporal evidence before them. Instead, the jurors were left to view the trial evidence through the exclusive lens of culpability which, in their eyes, was an inquiry unconstrained by the passage of time.

Pet. App. 54a.

Whether there is or is not "ample evidence" supporting either side's position is not a decision to be made by a trial or appellate court. Mr. Ravenell lost the right to have a jury determine whether the government had proved that it complied with the statute of limitations. Because this goes to the heart of Mr. Ravenell's conviction, and otherwise sets a regrettable precedent for future criminal defendants and the criminal justice system itself, Amici Curiae urge this Court to grant the petition for certiorari.

CONCLUSION

For the foregoing reasons, the Court should grant Mr. Ravenell's petition for a writ of certiorari and restore the jury's place as the finder of all facts required to support a conviction.

Respectfully submitted,

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