No. 23-7295

In the Supreme Court of the United States

GLEN TAYLOR HELZER,

Petitioner,

v.

THE PEOPLE OF THE STATE OF CALIFORNIA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE CALIFORNIA SUPREME COURT

BRIEF IN OPPOSITION

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June 24, 2024

CAPITAL CASE
QUESTION PRESENTED

Whether the California Supreme Court correctly affirmed the trial court's denial of petitioner's motion to suppress all of the evidence collected by police officers while executing search warrants at the home petitioner shared with his co-defendants.

DIRECTLY RELATED PROCEEDINGS

California Supreme Court:

In re Glen Taylor Helzer on Habeas Corpus, No. S283398 (filed January 12, 2024) (pending).

People v. Glen Taylor Helzer, No. S132256 (January 22, 2024) (judgment affirmed).

California Court of Appeal, First Appellate District:

Glenn Taylor Helzer v. Superior Court of Contra Costa County, et al., No. A105741 (March 11, 2004) (motion to stay and petition for writ of mandate denied).

Glenn Taylor Helzer et al. v. Superior Court of Contra Costa County, et al., No. A103679 (September 4, 2003) (petition for writ of mandate denied).

Glenn Taylor Helzer v. Superior Court of Contra Costa County, et al., No. A100518 (November 12, 2002) (motion to stay and petition for writ of mandate denied).

Superior Court of Contra Costa County:

People v. Glenn Taylor Helzer, Justin Alan Helzer, and Dawn Godman, No. 5-012057-6 (March 11, 2005) (entering judgment of conviction and sentence of death).

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STATEMENT

Petitioner Glen Taylor Helzer pleaded guilty to the murder of five people along with several additional crimes, and he was sentenced to death following a penalty phase trial. *See* Pet. App. A 1. He challenges the California Supreme Court's affirmance of the trial court's denial of a motion for blanket suppression of all the evidence seized from his residence during the execution of three search warrants.

1. Petitioner worked at a Morgan Stanley branch in Concord, California. Pet. App. A 3. Sometime in 1998, he devised a plan with the help of co-defendants Justin Helzer and Dawn Godman to steal money from some of his past Morgan Stanley clients. *Id.* at 5-6.[1] The plan involved kidnapping the clients; forcing the clients to transfer money to petitioner's girlfriend, Selena Bishop; having Bishop deposit the proceeds into bank accounts and then withdraw and give the money to petitioner; and then killing the clients and Bishop to cover-up the conspirators' scheme. *See id.* at 6, 7. Petitioner, Justin, and Godman moved into a residence on Saddlewood Court in Concord in March or April 2000. *Id.* at 6. The conspirators intended to use this residence as the base of operations for their scheme. *See id.*

Petitioner identified former Morgan Stanley clients Ivan and Annette Stineman as targets for his scheme. *See* Pet. App. A 3-4, 7. Petitioner and

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[1] Justin Helzer is petitioner's brother. To avoid confusion, this brief will refer to Justin Helzer by his first name.

Justin armed themselves, and they made plans to dispose of the victims' remains after the murders. *See id.* at 6-7. On the night of July 30, 2000, the conspirators kidnapped the Stinemans and brought them to the Saddlewood residence. *See id.* at 7-8. The following day, the Stinemans' Morgan Stanley account was liquidated, and petitioner forced the Stinemans to write checks to Bishop totaling $100,000. *Id.* at 9. After the Stinemans had signed the checks, petitioner and Justin murdered them in the bathroom, dismembered their bodies, and placed their remains in several black plastic bags. *See id.* at 9-10.

Two days later, petitioner and Justin also murdered Bishop at the Saddlewood residence, disposing of her remains in the same manner as the Stinemans'. Pet. App. A 10. Petitioner then realized that Bishop's mother, Jennifer Villarin, could identify him. *Id.* at 10. So he drove to Bishop's apartment in Woodacre, in Marin County, where he shot and killed Villarin while she slept. *See id.* at 10-11. He also shot and killed James Gamble, who had been asleep next to Villarin. *Id.* at 11. The conspirators then drove to the Delta River and discarded the remains of Bishop and the Stinemans at various spots on the river using a jet ski. *See id.* Upon returning to the Saddlewood residence, Justin and Godman disposed of several incriminating items and tried to clean the blood-stained carpet at the residence themselves—though they eventually hired professional cleaners to finish the job. *See id.*

On August 3, the Stinemans' daughter realized that her parents were missing and notified Concord police, who began an investigation. Pet. App. A

11. Meanwhile, Marin County Sheriff's deputies found Villarin's and Gamble's bodies at the Woodacre apartment, and eventually discovered a connection between Bishop, Justin, and Helzer. *See id.* at 12. Marin County Sheriff's Detective Steve Nash therefore obtained a search warrant from the Marin County Superior Court for the Saddlewood residence. *Id.* at 12, 23. The warrant identified eight categories of items to be searched for and seized, including a firearm, ammunition, receipts, various documents, and indicia of ownership or occupancy for the residence. *See id.* at 12, 23-24.

On August 7, law enforcement officials executed the search warrant. Pet. App. A 12, 24. Detective Nash conducted a cursory examination of the entire premises after entering the Saddlewood residence. *Id.* at 24. He saw two carpet dryers and noticed that the carpets recently had been cleaned. *Id.* He also noticed staining on the carpet that appeared to be consistent with blood or another biological substance. *Id.* at 25. Less than an hour after his entry, Detective Nash left the house to secure a second warrant for the residence. *Id.* Other officers continued to search the residence under the authority of the first warrant. *See id.* When they located an item that they believed had evidentiary value, they stopped and checked to "'determine if it was possibly going to be seized or not seized.'" *Id.*

Early in the afternoon of August 7, Detective Nash returned with a second search warrant from the Marin County Superior Court for the Saddlewood residence. Pet. App. A 25. This warrant identified 13 categories of items to

search for and seize, including forensic evidence, biological evidence, items identifying who might have been present in the residence, various written materials, electronic storage devices, and indicia of ownership or occupancy. *See id.* at 25-26. Detective Nash briefed the officers on the scene about the terms of the second warrant and provided them with copies "so they could determine what fell within the scope of the warrant." *Id.* at 26.

During the first day of the search, Detective Nash and his team became aware that body parts in gym bags had been recovered from the Delta River. Pet. App. A 13, 26. Law enforcement officials believed that these body parts were the remains of the Stinemans and Bishop. *See id.* at 26. Detective Nash then assisted the Concord police (who were still investigating the Stinemans' disappearance) in obtaining their own search warrant from the Contra Costa County Superior Court. *See id.* Like the two prior search warrants, the Contra Costa warrant authorized a search of the Saddlewood residence and specified 15 categories of items for search and seizure, including various items that had been stolen from the Stinemans' residence, receipts, documentation, writings, handwriting exemplars, and forensic and latent-print evidence. *See id.* at 26-27. Officers executed this Contra Costa warrant beginning on the morning of August 8. *Id.* at 27.

Marin County officers concluded their search of the Saddlewood residence on August 15, and the Concord officers relinquished control of the residence around August 22. Pet. App. A 28. All told, the searches of the residence

"revealed a substantial amount of evidence implicating [petitioner], Justin, and Godman in the" murders of Bishop and the Stinemans. *Id.* at 13; *see also id.* at 35 (highlighting "the 'numerosity and . . . bulk' of the items seized" from the Saddlewood residence).

2. a. Before trial, Godman filed a motion to suppress the evidence seized during the execution of the three search warrants, and petitioner later joined that motion. *See* Pet. App. A 19, 22. Among other things, the motion argued that items seized from the Saddlewood residence fell "outside [the] scope" of the warrants. *Id.* at 19-20. Although the trial court asked defendants to be "more specific" about "which items they thought were outside the scope of the warrants," defendants declined to do so. In their view, the officers' "'search was so flagrant in exceeding the terms of the warrants . . . that all evidence must be suppressed.'" *Id.* at 22.

After hearing testimony from witnesses and argument from the parties, the trial court denied the motion. *See* Pet. App. A 20, 21–29. As relevant here, the court found that the detectives who appeared at the suppression hearings had offered "credible" testimony about what items law enforcement seized and why they seized those items. *Id.* at 28; *see also id.* at 23-28 (summarizing the detectives' testimony). The court also concluded that, under the terms of the authorizing warrants, those detectives "had a right to search the entire house and look for trace evidence, which allowed them to look 'virtually in every nook and cranny' of the premises." *Id.* at 28. The court therefore "found that every

seized item was either within the scope of the warrant or within plain view and incriminating in nature." *Id.* at 28-29.

b. The California Supreme Court unanimously affirmed. Pet. App. A 2, 82. On appeal, petitioner abandoned any claim that the warrants issued for the Saddlewood residence were insufficiently particular or were unsupported by probable cause. *See id.* at 31. He nevertheless continued to argue for "blanket suppression" of all of the evidence collected from the residence under the Fourth Amendment because the officers executing the concededly valid warrants "acted with flagrant disregard of the terms of the warrants and used the term 'indicia' to justify seizing items they did not have probable cause to seize under the plain view doctrine." *Id.*

The California Supreme Court rejected that argument. Although the court assumed that blanket suppression might be appropriate in a "'sufficiently egregious case,'" it concluded that the facts of this case did not warrant that "extreme remedy." Pet. App. A 32. As the court explained, "the warrants authorized particularized but broad seizures" involving a range of items, and thus there could be no argument that the officers had "exceed[ed] the scope of the warrant[s] in the places searched." *Id.* at 33-34. Nor did the record suggest that the officers used the warrants "as a pretext to search for evidence of unrelated crimes" or otherwise engaged in "indiscriminate fishing" for evidence. *Id.* at 34, 35 (internal quotation marks omitted). Instead, the record established that the officers "made a conscientious effort to seize only those

items of evidence either listed in the warrants or those they had probable cause to seize." *Id.* at 34; *see also id.* at 36-37. Finally, the court concluded that "substantial evidence support[ed] the trial court's determination that seizures of items not specifically described in the warrant were nonetheless appropriate under the plain view doctrine," because "it would have been immediately apparent to officers conducting this search that many seized items might have had some bearing on the current offenses." *Id.* at 38, 39 (internal quotation marks omitted).

The court was careful to note, however, that the nature of its Fourth Amendment "inquiry" was "limited." Pet. App. A 40. The issue presented by petitioner's appeal was "not whether the officers properly seized every specific item of evidence . . . under the [] challenged warrants." *Id.* "Rather, the question" was "whether the unusual remedy of blanket suppression of all seized evidence should be applied." *Id.* And based on "the entire record" of this case "and the totality of the officers' conduct," the court held that petitioner's requested relief would be inappropriate because he had not shown "the kind of flagrant disregard of Fourth Amendment protections that might justify the extraordinary remedy of wholesale suppression of all seized evidence." *Id.*; *see also id.* at 42 (concluding that petitioner had "not demonstrated that the executing officers grossly exceeded or flagrantly disregarded the terms of the warrants at issue").

ARGUMENT

In the courts below, petitioner sought blanket suppression of all of the evidence collected under the authority of the search warrants issued for his residence. *See* Pet. App. A 22, 31. He now argues that the California Supreme Court erred when it held that the plain view doctrine supported the officers' seizure of certain items that arguably fell outside the scope of those authorizing warrants. *See* Pet. 4. But the court below did not misapply the plain view doctrine. What is more, petitioner has failed to identify any relevant conflict among the lower courts concerning that doctrine, and this case would be an especially poor vehicle in which to further develop that doctrine.

1. The law governing the plain view doctrine is well-settled. "[U]nder certain circumstances the police may seize evidence in plain view without a warrant." *Coolidge v. New Hampshire*, 403 U.S. 443, 465 (1971) (plurality opinion). The plain view doctrine is not "an independent 'exception' to the warrant clause," but is "simply . . . an extension of whatever the prior justification for an officer's 'access to an object' may be." *Texas v. Brown*, 460 U.S. 730, 738-739 (1983). Thus, for the plain view doctrine to apply: (1) the officer must not have "violate[d] the Fourth Amendment in arriving at the place from which the evidence could be plainly viewed"; (2) the "incriminating character" of the item in plain view must be "immediately apparent"; and (3) the officer must "have a lawful right of access to the object" that "can be plainly seen." *Horton v. California*, 496 U.S. 128, 136-137 (1990); *see also Minnesota v. Dickerson*, 508 U.S. 366, 375 (1993).

The California Supreme Court applied this precedent when it noted that the plain view doctrine helped rebut petitioner's claim that the Marin County and Concord officers engaged in "a general, indiscriminate search of the [Saddlewood] premises." Pet. App. A 38. It accurately summarized this Court's rules concerning the plain view doctrine. *See id.* And it held that "substantial evidence support[ed] the trial court's determination" that the three requirements described above had been satisfied. *Id.* Regarding the first and third requirements, for example, the court explained that "the seizure of various items in plain view did not involve officers searching in places that the warrants did not allow." *Id.* at 39. That was a reasonable conclusion, given that the warrants in this case authorized the officers to search for (among other things) "trace evidence," which meant they could look in most every "'nook and cranny'" of the residence. *Id.* at 28.

The California Supreme Court also reasonably held that the facts as found by the trial court satisfied the second requirement, because "it would have been immediately apparent" that the seized items were incriminating. Pet. App. A 39. Indeed, the testifying detectives had offered "credible" testimony that justified their seizure of items found in plain view. *Id.* at 28. For example, "Detective Nash testified that seizures were made in light of '[t]he entire picture of what [they] were getting as [they] were getting it and whether it was related to this series of murders and financial stuff.'" *Id.* at 38. And Detective Steve Chiabotti of the Concord Police Department similarly "testified

that the evidence that was seized at the premises 'related to instrumentality of the crimes [they] were investigating, evidence that would tend to show who committed the crimes, how the crimes were committed, evidence which went to state of mind . . . , planning, [and] preparation.'" *Id.* at 39. In light of this credible testimony, the California Supreme Court did not err when it held that the plain view doctrine undermined petitioner's demand for "total suppression" based on "flagrant government misconduct." *Id.* at 42.

Petitioner disputes this conclusion. He argues that the California Supreme Court should not have relied on the plain view doctrine to reject his Fourth Amendment claim because "the purpose and intensity of the intrusion" in this case "far exceeded that necessary to locate the objects of the warrant." Pet. 4. But there is no factual basis for that claim. As the court below explained, the "plain terms" of the warrants in this case "authorized particularized but broad seizures" of a range of objects, including firearms, ammunition, receipts, keys, documents, indicia of occupancy or ownership, and forensic evidence. Pet. App. A 33; *see also id.* at 23-27. That broad authorization—combined with the officers' credible testimony concerning their rationale for seizing particular items of evidence—"belie[d]" petitioner's allegation that the officers "exceed[ed] the scope of the warrant in the places searched" or otherwise "used the warrants 'as a pretext to search for evidence of unrelated crimes.'" *Id.* at 33-34. Because petitioner offers no persuasive

reason to disturb the court's well-supported conclusions about the permissible "purpose" and "intensity" of the officers' search, his petition should be denied.

Petitioner's proposed rule also fails as a legal matter. He urges this Court to hold that the scope of permissible seizures under the plain view doctrine is "limited not only to a particular area" to be searched, but also "to a particular purpose." Pet. 4. Put differently, he argues that courts may apply the plain view doctrine only after conducting "an ex post examination of the purpose of the searches actually conducted to see if they were all directed to the objects of the warrant." *Id.* at 8.

But this Court has made clear that the "[s]ubjective intentions" of searching officers "play no role in ordinary, probable-cause Fourth Amendment analysis." *Whren v. United States*, 517 U.S. 806, 813 (1996). And that general rule holds true in the context of seizures of incriminating items found in plain view. As the Court explained in *Horton*, "[t]he fact that an officer is interested in an item of evidence and fully expects to find it in the course of a search should not invalidate its seizure" under the plain view doctrine "if the search is confined in area and duration by the terms of the warrant." 496 U.S. at 138. Here, the courts below reasonably found that the Marin County and Concord officers properly limited their search to areas authorized by their warrants. The plain view doctrine thus applies—regardless of the "subjective state of mind of the" searching officers concerning the purpose of their search. *Id.*; *cf. Arizona v. Hicks*, 480 U.S. 321, 325 (1987) (rejecting argument that officers'

plain view seizure was "*ipso facto* unreasonable" merely because their "action directed to the stereo equipment was unrelated to the justification for their entry into respondent's apartment").

2. Petitioner nevertheless contends that his case warrants plenary review by this Court because the California Supreme Court's application of the plain view doctrine conflicts with *Florida v. Jardines*, 569 U.S. 1 (2013), and "with many lower federal court decisions respecting warrants to search computers and phones that produce evidence of new crimes." Pet. 4. The cases that petitioner cites do not support that contention.

In *Jardines*, for example, this Court considered a Fourth Amendment challenge to a police officer's warrantless use of "a drug-sniffing dog on a homeowner's porch to investigate the contents of the home." 569 U.S. at 3. The question at issue in that case had nothing to do with the plain view doctrine. Instead, the sole question was "whether the officers' behavior was a search within the meaning of the Fourth Amendment." *Id.* at 5. This Court answered that question in the affirmative, explaining that the defendant's front porch was "a constitutionally protected area," and the officers' warrantless intrusion into that protected area was not "objectively reasonable" because they did not have an "express or implied" license to enter the porch for purposes of conducting a canine search. *Id.* at 7-10.

That holding is entirely consistent with the California Supreme Court's decision in this case. Petitioner does not dispute that valid warrants

authorized the Marin County and Concord officers to search the Saddlewood residence for a broad range of items—including forensic and other "trace" evidence. *See* Pet. App. A 31 (noting that petitioner "concedes the warrants here satisfied the particularity requirement and were supported by probable cause"); *see also id.* at 28. As a result, there was no reason here—unlike in *Jardines*—to believe that the officers "exceed[ed] the scope" of their license to enter the residence for purposes of investigating petitioner's crimes. *Id.* at 33-34. Indeed, based on the terms of the concededly valid warrants, the officers had the ability "to look 'virtually in every nook and cranny' of the premises," which of course rendered many seized items subject to the officers' plain view. *Id.* at 28.

Nor do petitioner's remaining cases support his assertion of a conflict of authority about the plain view doctrine. For example, petitioner cites *United States v. Rettig*, 589 F.2d 418 (9th Cir. 1978), *Creamer v. Porter*, 754 F.2d 1311 (5th Cir. 1985), *United States v. Loera*, 923 F.3d 907 (10th Cir. 2019), and *People v. Hughes*, 506 Mich. 512 (2020), for the unremarkable proposition that "[a] search pursuant to [a] warrant must be directed toward the objects specified in the warrant or for other means and instrumentalities by which the crime charged had been committed." Pet. 6 (internal quotation marks omitted); *see also id.* at 7-8 (discussing *Loera* and *Hughes*). The California Supreme Court said nothing to the contrary. Instead, the court reasoned that the plain view doctrine supported the officers' seizures because this case "did

not involve officers searching in places that the warrants did not allow"; that is, the officers here "merely looked in a spot where the specified evidence of crime plausibly could be found." Pet. App. A 39 (internal quotation marks omitted); *see also id.* at 34 (rejecting petitioner's claim that the officers "used the warrants 'as a pretext to search for evidence of unrelated crimes'").

Indeed, *Hughes* underscores the absence of any conflict requiring this Court's intervention. The Michigan Supreme Court held that "[a]ny search of digital cell-phone data . . . directed at uncovering evidence of criminal activity not identified in the warrant[] is effectively a warrantless search that violates the Fourth Amendment absent some exception to the warrant requirement." 506 Mich. at 516-517. But the court also clarified that where "the officer was reasonably reviewing data for evidence of [the crime described in the warrant] and happened to view data implicating defendant in other criminal activity[,] . . . the plain-view exception would likely apply." *Id.* at 550. Because this case is akin to that latter scenario, there is no reason to believe that the Michigan Supreme Court would have resolved petitioner's claim any differently than the California Supreme Court.

There is likewise no conflict between this case and the three appellate cases petitioner cites in a footnote regarding searches of digital devices. *See* Pet. 4 n.1. In each of those cases, officers executing a search warrant for digital evidence related to one crime (*e.g.*, "voyeurism") found digital evidence of another crime (*e.g.*, "child pornography"). *See, e.g.*, *United States v. Mann*, 592

F.3d 779, 786 (7th Cir. 2010). And in two of those cases, the officers conducting the digital search elected to pause their search and seek an additional warrant before searching for more evidence of the newly discovered crime. *See United States v. Williams*, 592 F.3d 511, 516 n.2 (4th Cir. 2010); *United States v. Giberson*, 527 F.3d 882, 890 (9th Cir. 2008). Petitioner leverages that fact to suggest that "the Fourth Amendment demands that the police obtain a new warrant describing the intended objects of the search" every time they find evidence of a new crime in plain view. Pet. 4. But none of the three cases held that officers must always seek additional warrants after discovering evidence of new crimes.[2] Indeed, in all three cases, the appellate court affirmed the denial of the defendant's suppression motion concerning evidence discovered *before* obtaining an additional warrant. *See id.* at 889-890; *Mann*, 592 F.3d at 786. And in one case the court used the plain view doctrine to support that holding. *See Williams*, 592 F.3d at 516 n.2, 521-524.[3]

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[2] In any event, the searching officers in this case *did* seek additional warrants once it became clear that evidence of new crimes might be found in the Saddlewood residence. *See* Pet. App. A 24-25 (explaining that Detective Nash left the Saddlewood residence "[a]fter less than one hour" to get a "second warrant" upon discovering what appeared to be bloodstains on the carpet); *see also id.* at 26-27 (describing a third warrant issued by the Contra Costa County Superior Court concerning evidence related to the Stinemans' disappearance).

[3] Petitioner also cites three district court cases as additional examples of officers temporarily halting a digital search in order to obtain a new warrant specifically authorizing searches for evidence of newly discovered crimes. *See* Pet. 4 n.1. As with Helzer's appellate cases, however, none of those three district court decisions stand for the proposition that officers must always

3. Finally, the petition fails to acknowledge an array of factors that would make this case an especially poor vehicle in which to further develop the plain view doctrine.

To start, the petition ignores the fact that the California Supreme Court explicitly "limited" its Fourth Amendment analysis to the question of "whether the unusual remedy of blanket suppression of all seized evidence should be applied." Pet. App. A 40. That would severely circumscribe any assessment of the plain view doctrine by this Court. The Court would have to consider the doctrine in the context of whether the officers acted in "flagrant disregard of Fourth Amendment protections." *Id.* It would not be in a position to assess whether any "specific item of evidence" was "properly seized" under the plain view doctrine because petitioner declined to present a legal argument preserving such a claim. *Id.*; *see also id.* at 22. As a result, the analysis would have to focus on petitioner's "vague[] assert[ions]" of widespread government misconduct—an argument "so lacking in specificity that it virtually defies review." *Id.* at 40 (internal quotation marks omitted).

Moreover, even if this Court were to offer additional guidance about the plain view doctrine, that guidance likely would not affect the judgment below. As the California Supreme Court explained, the few items of evidence that

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obtain an additional warrant after seeing incriminating evidence in plain view. Indeed, in *United States v. Gray*, the court held that the plain view doctrine justified the officer's seizure of child pornography images that the officer found while searching computer files for evidence of a different crime. *See* 78 F. Supp. 2d 524, 528-531 & n.11 (E.D. Va. 1999).

petitioner highlighted as "indicative of a general search" included "eyeglasses, a day planner, posters depicting a marijuana leaf and fantasy themes, items perceived to be connected to witchcraft, and various receipts." Pet. App. A 36. But the court held that "some of these items could reasonably be regarded as falling within the warrant descriptions authorizing the seizure of indicia of occupancy or ownership." *Id.* In other words, the seizure of the bulk of these items was justified not by the plain view doctrine, but by the terms of the warrants themselves—terms that petitioner does not challenge. *See id.* at 31. A decision one way or the other about the plain view doctrine therefore is unlikely to change the California Supreme Court's bottom-line conclusion that blanket suppression is inappropriate in this case. *See id.* at 35 n.7.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

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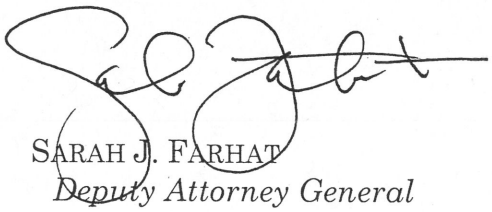

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