No. 24-522

IN THE

Supreme Court of the United States

Eghbal Saffarinia, aka Eddie Saffarinia,

Petitioner,

v.

United States of America,

Respondent.

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

Brief of Former Federal Prosecutors as *Amici Curiae* Supporting Petitioner

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Interest of *Amici Curiae*[1]

Amici curiae Preston Burton, Barak Cohen, Justin Dillon, Glen Donath, Adam Fels, Daniel Fridman, Andrew Levchuk, Jonathan Lopez, Adam Lurie, Gregory Marshall, Alejandro Soto, Robert Trout, and Peter Zeidenberg are former federal prosecutors. Many of them have experience investigating, prosecuting, and supervising public-corruption and white-collar cases, and many of them currently practice as white-collar defense attorneys. With their experience, *amici* understand the incentives within the government—and the likely effects on criminal prosecutions—when overbroad statutory interpretations expand the government's charging options for conduct already covered by other statutes. *Amici* offer that perspective in support of petitioner Eghbal Saffarinia's request that the Court grant his petition for a writ of certiorari and cabin the government's expansive interpretation of obstruction of justice in 18 U.S.C. § 1519.

Introduction and Summary of Argument

When a targeted criminal prohibition transforms into an unbounded "coverall" statute, it significantly affects prosecutors' charging decisions, plea bargaining, and the day-to-day operation of the criminal justice system.

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[1] No counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund the preparation or submission of the brief. No person other than *amici curiae* and their counsel made such a monetary contribution, either. As required by Supreme Court Rule 37.2, timely notice of the intent to file this brief was provided to all parties.

That is true here too, and the Court should head off those problems by granting defendant Eghbal Saffarinia's petition for a writ of certiorari and rejecting the D.C. Circuit's unbounded interpretation of 18 U.S.C. § 1519.

First, the D.C. Circuit's interpretation of § 1519 turns every filing of a federal form into a possible 20-year obstruction charge. The federal government requires a lot of forms, and Congress chose to police those filings with a targeted series of statutes and penalties that vary based on the type of form and significance of the conduct. Under the D.C. Circuit's reasoning, though, many false statements on some of the most commonplace forms—including all sorts of tax, disclosure, and business forms—are now considered obstruction of justice under § 1519, triggering statutory-maximum penalties of 20 years' imprisonment. This expansive interpretation of § 1519 cannot be reconciled with this Court's repeated admonition to "exercise[] restraint" when "assessing the reach of a federal criminal statute." *Fischer v. United States*, 603 U.S. 480, 497 (2024) (quoting *Marinello v. United States*, 584 U.S. 1, 11 (2018)).

Second, by swallowing Congress's more targeted prohibitions and recasting broad categories of conduct as obstruction of justice, the D.C. Circuit's "coverall" view of § 1519 threatens to affect the prosecution of false-statements cases nationwide. Overbroad statutory theories tend to metastasize quickly among prosecutors, because they increase the government's leverage during plea negotiations and the government's odds of success at trial and sentencing. And as Saffarinia's case shows, the government's expansive view of § 1519—treating ordinary false-statements offenses as obstruction of justice—now

adds a 20-year statutory maximum and higher sentencing guidelines to the government's charging repertoire, without requiring proof of anything beyond an ordinary false-statements charge. Because the government's overbroad theory will affect a significant number of false-statements prosecutions, often in ways that are unreviewable, the Court should grant Saffarinia's petition and address the scope of § 1519 sooner rather than later.

Argument

The D.C. Circuit's unrestrained view of 18 U.S.C. § 1519 will significantly affect the prosecution of false-statements cases.

A. Under the D.C. Circuit's reasoning, § 1519 swallows the most commonly charged false-statements statutes across many everyday contexts.

In advancing an overbroad view of obstruction of justice, the government's application of 18 U.S.C. § 1519 increases the penalties for broad categories of conduct that have traditionally been prosecuted as false-statements offenses. Section 1519, as this Court has stressed, is fundamentally an obstruction statute: it "was intended to prohibit, in particular, corporate document-shredding to hide evidence of financial wrongdoing." *Yates v. United States*, 574 U.S. 528, 536 (2015). And in addressing the object of a defendant's obstructive conduct, § 1519 focuses on a specific type of administrative action. It requires the government to show that the defendant intended to affect "the investigation or proper administration of" a "matter" involving a federal agency. 18 U.S.C. § 1519.

The most natural reading of that language, as this Court has explained in a similar context, limits § 1519 to circumstances involving a federal investigation or other targeted administrative action. *Marinello v. United States*, 584 U.S. 1, 13 (2018). But in the D.C. Circuit's view, that language extends far more broadly. *See* Pet. App. 9a–12a. According to the D.C. Circuit, § 1519 covers *any* context in which any federal agency reviews a form, no matter how routine or commonplace the agency's review of that form might be. *Ibid.*

The D.C. Circuit's overbroad interpretation of § 1519 cannot be reconciled with traditional notions of obstruction of justice. Under the D.C. Circuit's view, § 1519 now encompasses "falsif[ying]" or "mak[ing] a false entry" on almost *any* form submitted to the federal government, as long as the defendant's actions were in some way intended to "influence" the government's review of that form. 18 U.S.C. § 1519. That interpretation, as Saffarinia points out, creates substantial overlap between § 1519 and the general false-statements statute, 18 U.S.C. § 1001, as well as similar false-statements statutes that Congress crafted for particular contexts. Pet. 20–22 & nn.4–5. In doing so, the D.C. Circuit's interpretation turns misdemeanors into felonies, and less serious felonies into 20-year obstruction offenses, rendering "unnecessary" the "particularized legislation" that Congress enacted to "target specific criminal acts and settings." *Fischer v. United States*, 603 U.S. 480, 492 (2024).

If anything, Saffarinia's petition *understates* the breadth of the D.C. Circuit's reasoning and the everyday circumstances in which § 1519 now swallows more targeted statutes. No matter the administration, the

federal government loves its paperwork. And each year, Americans are required to file a lot of federal forms, both as individuals and on behalf of their businesses. Those forms include tax forms, loan forms, employment forms, federal-assistance forms, and business-registration forms, to name a few. And under the D.C. Circuit's reasoning, all false entries on those forms now fall within § 1519's potential ambit as obstruction of justice.

Take the income-tax statutes. In Title 26, Congress crafted a detailed and comprehensive penalty scheme proscribing various forms of tax evasion, fraud and false statements, and fraudulent returns and other documents. 26 U.S.C. §§ 7201, 7206, 7207. Those crimes carry statutory-maximum penalties ranging from one to five years, depending on the conduct. *Ibid.* But now, under the D.C. Circuit's view, those tax offenses qualify as 20-year obstruction offenses whenever they involve the government's routine review of forms—as tax offenses usually do. It makes little sense to "create overlap and redundancy to [this] degree" using a *general* obstruction statute like § 1519, only a few years after this Court declined to create similar "overlap and redundancy" using the *tax* obstruction statute in 26 U.S.C. § 7212. *Marinello*, 584 U.S. at 9. Rather, as the Court pointed out in *Marinello*, "[j]ust because a taxpayer knows that the IRS will review her tax return every year does not transform every violation of the Tax Code into an obstruction charge." *Id.* at 13.

The recently implemented Corporate Transparency Act provides another example. Ostensibly an anti-money-laundering statute, the Corporate Transparency Act requires almost every closely held corporate entity in

the country to file a form with FinCEN reporting the details of the entity's beneficial ownership. 31 U.S.C. § 5336(a)(11)(A), (b)(1) & (2). By FinCEN's own estimates, these reporting requirements cover approximately 32.5 million existing corporate entities and another 4.9 million new entities annually. Beneficial Ownership Information Reporting Requirements, 87 Fed. Reg. 59498, 59568 (Sept. 30, 2022). And to ensure accurate reporting, Congress included a penalty provision in the statute, prohibiting any person from "willfully provid[ing], or attempt[ing] to provide, false or fraudulent beneficial ownership information . . . to FinCEN." 31 U.S.C. § 5336(h)(1)(A).

It is difficult to imagine many circumstances in which a person could violate that penalty provision without also violating § 1519 under the D.C. Circuit's reasoning here. And the resulting overlap would create significantly higher statutory penalties than Congress chose in the Corporate Transparency Act itself—increasing the maximum sentence of imprisonment from two years to 20 years. *Compare* 31 U.S.C. § 5336(h)(3)(A)(ii), *with* 18 U.S.C. § 1519. So as in other contexts, the D.C. Circuit's broad interpretation of § 1519 would "override Congress's careful delineation of which penalties were appropriate for which offenses." *Fischer*, 603 U.S. at 494.

By contrast, the limiting construction that this Court adopted in *Marinello* maintains the distinctions that Congress chose, while still empowering § 1519 to reach the conduct that Congress proscribed with its 20-year penalties. Similar to the tax obstruction statute in *Marinello*, § 1519 is limited to conduct that is directed at "the investigation or proper administration of any matter" within a federal agency's jurisdiction. 18 U.S.C. § 1519.

And as in *Marinello*, the best reading of that language requires "a particular administrative proceeding, such as an investigation, an audit, or other targeted administrative action." 584 U.S. at 13. That "targeted administrative action" does not include an agency's routine review of forms. *Id.* at 13–14. Instead, it reserves § 1519's more significant penalties for the conduct that Congress addressed in that statute—obstruction of justice—while leaving most false statements to other statutes.

B. The D.C. Circuit's overbroad view of § 1519 will alter the framework for charging and prosecuting false-statements cases.

The government's unbounded application of § 1519 is concerning not just in the abstract, but because of how significantly it will affect the day-to-day prosecution of many false-statements offenses. Especially over the last decade, this Court has stressed that criminal convictions should not rest on "clever" or "unrestrained" constructions of equivocal statutory language. *Dubin v. United States*, 599 U.S. 110, 129–30 (2023). In doing so, the Court has resisted the government's attempts to create "coverall" statutes that swallow or unduly expand upon more targeted prohibitions. *Fischer*, 603 U.S. at 496. When presented with "opaque" statutory language, the Court has "prudently avoided" reading that language with "incongruous breadth" and has instead "exercised restraint." *Dubin*, 599 U.S. at 129–30.

The Court's consistent messaging in this area plays an important role in prosecutorial decision-making. Just like the Court's resistance to "criminaliz[ing] traditionally civil matters and federaliz[ing] traditionally

state matters," *Ciminelli v. United States*, 598 U.S. 306, 316 (2023), the Court's repeated disapproval of "coverall" statutes deters line prosecutors from overbroad charging theories during the heat of an investigation or litigation. In the same vein, the Court's consistency provides supervisors with the ammunition needed to impose restraint, because they can point to this Court's unbroken skepticism of capacious charging theories when facing pushback from line prosecutors or higher-ranking officials. And the effects of the Court's decisions transfer across charging contexts: line prosecutors and supervisors know that even if the Court hasn't *yet* nixed an overbroad interpretation of a particular statute, the Court is likely to do so if prosecutors push the issue. The Court's early and consistent intervention thus plays an important role in ensuring that prosecutors refrain from creative charging decisions from the get-go.

By contrast, when broad statutory interpretations are left unchecked—or even just gain a toehold—they run at cross-purposes to this Court's otherwise-clear messaging and spark the very problems the Court has sought to avoid. Broad statutory interpretations tend to spread quickly within the government because they make prosecutors' lives easier. Line prosecutors can charge more counts, with higher penalties and sometimes simpler legal theories, increasing their leverage during plea negotiations and boosting their odds of obtaining a conviction or higher sentence. Supervisors become more reluctant to push back, reasoning that if a federal court of appeals has endorsed a broad interpretation of the statute, the supervisor's lingering hesitation should not stand in the way of a successful case. Simply put, government actors are much more likely to indulge a questionable

charging theory if a federal court of appeals has already blessed it.

The D.C. Circuit's decision here injects those problems into false-statements cases and dilutes this Court's otherwise-clear messaging. Somewhat strangely, the D.C. Circuit relied heavily on its previous decision in *Fischer*, *see* Pet. App. 10a, yet declined to revisit its reasoning here after this Court vacated the decision in *Fischer*, *see* Pet. App. 106a–109a. So in the D.C. Circuit, at least, *Fischer*'s unbounded reasoning is still good law—even after this Court has rejected it—but as applied to a statute covering a far greater range of conduct than the statute at issue in *Fischer* itself. It makes little sense to tell prosecutors, on the one hand, not to pursue an overbroad view of 18 U.S.C. § 1512(c)(2), while also permitting them, on the other hand, to advance a similarly overbroad view of § 1519 and "seek a 20-year maximum sentence for acts Congress saw fit to punish only with far shorter terms of imprisonment." *Fischer*, 603 U.S. at 497.

The D.C. Circuit's unbounded interpretation of § 1519 also changes the entire *post*-charging structure of false-statements cases. Most notably, it boosts the government's leverage during plea bargaining by increasing the potential penalties that a defendant faces if convicted at trial. Here, for instance, Saffarinia's statutory-maximum penalties and sentencing guidelines were higher because he was convicted of violating § 1519, rather than just § 1001. Pet. 28–29. If Saffarinia had been charged solely under § 1001, the framework of the parties' plea negotiations and Saffarinia's sentencing would have looked a lot different. *See ibid.*

It would be one thing if the additional § 1519 charges reflected Congress's view that some aspect of Saffarinia's conduct was more culpable and deserved additional punishment than reflected in § 1001 alone. Congress frequently legislates in that fashion, *e.g.*, 18 U.S.C. § 924(c), and plea bargaining over those differences in culpability is an established and accepted part of criminal practice. But the D.C. Circuit's reasoning allows the government to pile on charges all targeting the exact *same* conduct—with much higher penalties for the § 1519 offenses. "Some overlap in criminal provisions is, of course, inevitable," *Marinello*, 584 U.S. at 9, but nothing suggests that Congress intended to alter false-statements cases in this fashion by making the Venn diagram with § 1519 a circle.

Even apart from the effects on charging and plea bargaining, overbroad statutory interpretations affect the criminal-justice system in outsized ways. Among other things, defendants who are subjected to those overbroad interpretations risk being "convict[ed] and punish[ed] . . . for an act that the law does not make criminal." *Davis v. United States*, 417 U.S. 333, 346 (1974). And because of the justice system's interest in finality, Congress has limited the post-judgment avenues for challenging those convictions. *See* 28 U.S.C. § 2255(h).

This tension—between overbroad convictions and finality—has precipitated some of the most difficult and hotly contested debates on the scope of post-judgment review in recent years. The depth of this Court's disagreement over the scope of the saving clause, 28 U.S.C. § 2255(e), provides one example. *Jones v. Hendrix*, 599 U.S. 465 (2023). So does the government's flip-flopping on that issue in the years leading up to *Jones*. The escalating circuit split on the boundaries of compassionate

release, 18 U.S.C. § 3582(c)(1)(A), offers a related example. *United States v. Rutherford*, 120 F.4th 360, 366 & n.7 (3d Cir. 2024).

Those contentious debates have all stemmed, albeit in different ways, from previously broad statutory interpretations that were later narrowed by the Court or Congress. And those debates demonstrate the pressure that overbroad statutory interpretations place on other aspects of the justice system. One simple way to ease that pressure is to police those overbroad interpretations sooner rather than later, before they spread too widely and become embedded in too many cases. The Court should take that approach here.

Conclusion

Saffarinia's petition for a writ of certiorari should be granted.

Respectfully submitted,

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