

No. 24-525

In the Supreme Court of the United States

JOHN L. STANTON, PETITIONER

v.

UNITED STATES OF AMERICA

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT*

MEMORANDUM FOR THE UNITED STATES
IN OPPOSITION

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Petitioner contends (Pet. 10-22) that insufficient evidence supported his conviction and sentence for conspiring to distribute a controlled substance, in violation of 21 U.S.C. 846, because in his view the government failed to prove an agreement to issue controlled-substance prescriptions that lacked a legitimate medical purpose under the regulatory standard in 21 C.F.R. 1306.04(a). This Court has recently denied petitions for writs of certiorari raising similar claims, and it should follow the same course here.

It is unclear that the court of appeals considered any of petitioner's current claims, at least in the form that he now presents them. See Pet. App. 1a-16a; *Cutter v. Wilkinson*, 544 U.S. 709, 718 n.7 (2005) ("[W]e are a court of review, not of first view."). In any event, to the extent that petitioner is claiming that the regulatory standard is flawed because it is phrased disjunctively

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rather than conjunctively, the Court recently denied a similar claim in *Lubetsky v. United States*, No. 24-137 (Nov. 12, 2024), and the claim does not warrant further review for the reasons explained on pages 10-15 of the brief in opposition in that case. To the extent that petitioner is challenging the validity of the regulation, or the application of it in this case, the Court recently denied a similar claim in the (second) petition for a writ of certiorari in *Ruan v. United States*, 144 S. Ct. 377 (2023) (No. 22-1175), and the claim does not warrant further review for the reasons stated on pages 14-19 of the brief in opposition in that case.¹ See also *Gonzales v. Oregon*, 546 U.S. 243, 257 (2006); *id.* at 302 n.2 (Thomas, J., dissenting).

The petition for a writ of certiorari should be denied.²

Respectfully submitted.

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¹ The government has served petitioner with a copy of its responses in *Lubetsky* and *Ruan*, which are also available on the Court’s electronic docket.

² The government waives any further response to the petition for a writ of certiorari unless this Court requests otherwise.