

No._____

IN THE SUPREME COURT OF THE UNITED STATES

FIDEL SALDANA RODRIGUEZ, PETITIONER

v.

UNITED STATES OF AMERICA

**PETITION FOR WRIT OF CERTIORARI
TO THE
UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**

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QUESTION PRESENTED FOR REVIEW

Whether evidence that requires a series of inferences to reach an element of an offense, rather than showing the element directly or after a single inference, is sufficient to support a conviction under the beyond-a-reasonable-doubt standard.

PARTIES TO THE PROCEEDINGS

The parties to the proceedings in the courts below were Fidel Saldana Rodriguez, Noe De Jesus Martinez-Montelongo, and the United States of America.

RELATED PROCEEDINGS

United States v. Fidel Saldana Rodriguez and Noe de Jesus Martinez-Montelongo, U.S. District Court for the Western District of Texas, Number 5:22 CR 1568, Judgment entered January 18, 2024.

United States v. Fidel Saldana Rodriguez and Noe de Jesus Martinez-Montelongo, U.S. Court of Appeals for the Fifth Circuit, Numbers 24-40031 and 24-40047, Judgment entered April 29, 2025.

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Rule

Supreme Court Rule 13.12

PETITION FOR WRIT OF CERTIORARI

Fidel Saldana Rodriguez asks that a writ of certiorari issue to review the opinion and judgment entered by the United States Court of Appeals for the Fifth Circuit.

OPINION BELOW

The opinion of the court of appeals, *United States v. Saldana Rodriguez and Martinez-Montelongo*, Nos. 24-40031 and 24-40047 is reported at ___ F.4th ___, 2025 WL 1231998 (5th Cir. Apr. 29, 2025). The opinion is attached to this petition as Appendix A.

JURISDICTION OF THE SUPREME COURT OF THE UNITED STATES

The opinion and judgment of the court of appeals were entered on April 29, 2025. This petition is filed within 90 days after entry of judgment. *See* Supreme Court Rule 13.1. The Court has jurisdiction to grant certiorari under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISION INVOLVED

The Fifth Amendment to the U.S. Constitution provides in pertinent part that “no person shall be . . . deprived of life, liberty, or property without due process of law.”

STATUTORY PROVISIONS INVOLVED

Title 21, Section 952 of the United States Code provides in pertinent part that “It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any controlled substance in schedule I or II of subchapter I, or any narcotic drug in schedule III, IV, or V of subchapter I, or ephedrine, pseudoephedrine, or phenylpropanolamine[.]”

Title 21, Section 960 of the United States Code provides “Any person who—
(1) contrary to section . . .[952] this title, knowingly or intentionally imports or exports a controlled substance . . .

shall be punished as provided in subsection (b).

(b) Penalties

(1) In the case of a violation of subsection (a) of this section involving—

...

(H) 50 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

...

the person committing such violation shall be sentenced to a term of imprisonment of not less than 10 years and not more than life[.]”

STATEMENT

Fidel Saldana Rodriguez was a commercial truck driver. He was a passenger/relief driver in a tractor trailer that entered the United States from Mexico. The truck was driven by Noe Martinez Montelongo. An hours-long search of the truck by customs agents eventually found liquid methamphetamine hidden in a secret compartment in a fuel tank. Martinez and Saldana were both arrested and were both charged with conspiring to import methamphetamine and importing methamphetamine. 21 U.S.C. §§ 952, 960. They both pleaded not guilty and were tried by a jury.

The truck driven by a nervous Martinez—no evidence of nervousness by Saldana was put forth at trial—entered the primary inspection lane at the Columbia Solidarity Bridge in Laredo, Texas on November 28, 2023, at about 5:30 p.m. U.S. Customs and Border Protection officer Gustavo Cruz was working the primary lane that day. Officer Cruz observed that Martinez’s white tractor had an empty refrigerator trailer attached. Martinez presented a manifest, his visa, and a visa for his passenger, Saldana. Because only the driver of an empty trailer is generally allowed entry and because the port’s TECS system had a notation about the truck, Cruz referred Martinez’s truck for further inspection.

The agent directed Martinez to the port’s x-ray area. That area was closed because of IT issues and Martinez was redirected to the secondary inspection area manned by CBP officer Justin Alvarado. Alvarado called officer Mario Robledo and his narcotics-detecting dog to secondary. After the dog alerted on the driver’s side,

Alvarado looked into the tractor's fuel tanks using a fiberscope camera. Through the scope, he could see that one of the tanks had been partitioned. He directed Martinez back to the x-ray area.

Officer Alvarado called workers from Apple Towing to come to the bridge to help the officers inspect the truck. The Apple Towing workers removed the covering and straps from the fuel tanks, revealing two bolts that, to Alvarado, did not look quite right. Alvarado testified that there was nothing observably odd or unusual about the tanks before the workers removed the covers. Nor did he observe any tools that could have been used to work on or remove the tanks.

The officers and the workers transferred the liquid in the tank to buckets. At about 2:30 a.m., Officer Mauricio Garza field-tested the liquid from the buckets. It tested positive for methamphetamine.¹ Martinez and Saldana, who had been standing watching the truck and the officers, were handcuffed and arrested.

HSI Special Agent John Condon estimated that the amount of methamphetamine found in the tank had a value of \$209,000 in Monterrey, Mexico, and of \$533,000 in Laredo, Texas. Condon explained that methamphetamine is easier to transport in liquid form and that it is later "cooked" to a solid, crystal form. Condon acknowledged that he had been involved in situations involving drug loads in which the driver of the vehicle transporting the load seemed to have no knowledge of the load.

¹ Lab tests done later determined that the from the tanks had a total weight of 414.36 kilograms and was methamphetamine with a 56% purity.

HSI special agent Edgar Flores testified that there had been a TECS alert on the tractor because of prior suspicious activity by it and by Express International Group, the company that owned it. Flores had previously investigated Express International Group and knew that its address was a shipping center in Irving, Texas, for which no phone records could be found.

When Flores inspected Martinez's truck at the port of entry, he discovered that its fuel gauge read 3/4 even after the truck's fuel tanks had been removed. He also noticed a stick in the truck that smelled of diesel. Martinez and Saldana both acknowledged to him that the stick had been used to check the fuel level.

Agent Flores interviewed Saldana and Martinez separately. Saldana initially said that the men were going to pick up a load in Laredo and return with it to Mexico. Saldana later admitted that the men were to pick up a load in Laredo to take to Kansas. After dropping that load, the two were to take a load of U.S. currency back to Mexico. Flores's impression was that Saldana understood that taking the currency to Mexico was unlawful. Saldana also stated that Martinez had been told by Alan, the man who hired him, of the location of money compartments in the truck.

Saldana told Agent Flores that, as the men approached the bridge, Martinez was nervous. Saldana asked why that was: Martinez answered that it was because he had never been to jail.

Martinez too initially told Flores he was to pick up a load in Laredo and take it back to Mexico. Martinez had received a text from Alan giving him the address in Laredo. Martinez later said he was to drive a load to Kansas and then load up with

currency. Martinez confessed that Alan had told him to monitor his fuel level with a stick.

On Saldana's phone, Agent Flores had found a What's App conversation between Saldana and Martinez extending over the several days preceding November 28. Agent Flores believed that portions of the messages suggested involvement in a drug transaction. In one message sent on a day that Martinez had crossed into the United States, Flores believed that Martinez was telling Saldana about the fact of the crossing. Agent Flores also thought Martinez's use of the word "solo" in another message indicated that he was checking the route for law enforcement. Flores admitted, however, that solo could simply mean that there had been an absence of traffic on the route.

In another conversation, Agent Flores noted that Saldana made mention of taking something up and back. Flores also thought that the term "best weight" used by Martinez referred not to the truck or its load but to drug smuggling.

In another message, Martinez tells Saldana that the trip is set for Monday (November 28) and that they would pick up a load in Laredo and then head up. Saldana asked that they be provided paperwork for the load. Agent Flores He also admitted that, in at least a portion of the conversation, the men were talking about how the tractor rode. He admitted it is common for drivers to be concerned with the weight of the vehicles they drive. And he admitted that nowhere in the What's App conversation were drugs mentioned. ROA.929.

Agent Flores testified that Martinez said he was being paid \$6,000, and that Saldana was being paid only \$3,500 for the trip. Using the Laredo address that was in the text Martinez had received from Alan, Flores learned that there were two transportation-related companies at that address, WWL Express and Cava Carriers. The government presented the testimony of the owners of both companies. Reynaldo Gonzalez of WWL Express acknowledged that loads were sometimes picked up at his yard and that he sometimes off-loaded after regular hours. He testified that he did not know Saldana or Martinez. Carlos Canales of Cava Carriers stated that he ran a freight-forwarding company that loaded and unloaded trucks and that he sent and received loads to and from Mexico. He did not recognize Saldana or Martinez, and he testified that WWL employees handled Cava's after-hours loads.

Government cooperating witness Rolando Garza-Aguirre did not know Saldana or Martinez. Garza had pleaded guilty to a federal methamphetamine-smuggling charge and was testifying at this trial in the hopes of a reduced sentence in his own case. The methamphetamine in Garza's case had been hidden in the diesel tanks of trucks. Garza testified that, with methamphetamine in one fuel tank, he needed to fill up his working tank more often than was usual and to measure his fuel level with a stick because the gauge was not accurate.

Garza claimed that the tractor that Martinez was driving was the same one he had driven across the Mexico-U.S. border on two occasions. No methamphetamine was in the truck during those crossings. The white tractor Martinez was driving bore the same license plate as the truck Garza had driven.

Garza had been caught in Edinburgh, Texas, with methamphetamine in July 2022. He had been smuggling for about two years before he was caught that day. When he was caught, he knew he was transporting drugs; he had been told. In an effort to help himself, Garza gave the names of two other drivers, but he did not know who Saldana was. Garza testified that the Express International hauled legitimate as well as illegitimate loads; he also testified that, on trips when he was hauling drugs, he knew it because the owners, Juan and Alan, had told him he was.

The jury found Saldana and Martinez guilty as charged of conspiring to import methamphetamine and importing methamphetamine. The district court sentenced Saldana to concurrent 235-month imprisonment terms.

Saldana appealed. He argued that the evidence was insufficient to prove that he knew of the drugs hidden in the truck. The Fifth Circuit affirmed the convictions, holding that there was sufficient circumstantial evidence from which a jury could have concluded that Saldana was aware of the hidden drugs. Appendix A, 2025 WL at *4-*7.

REASONS FOR GRANTING THE WRIT

THE COURT SHOULD GRANT CERTIORARI TO PROVIDE GUIDANCE ON WHEN A CHAIN OF INFERENCES FROM CIRCUMSTANTIAL EVIDENCE BECOMES TOO ATTENUATED TO SUFFICE AS PROOF OF AN OFFENSE ELEMENT.

It is well established that the government must prove each element of a charged offense beyond a reasonable doubt. *In Re Winship*, 397 U.S. 358, 359-63 (1970); *Jackson v. Virginia*, 443 U.S. 307, 315-19 (1979). Knowledge of the controlled substance is an element of the federal drug offenses denounced by sections 952 and 960 of Title 21. *See, e.g., Diaz v. United States*, 602 U.S. 526, 529-30 (2024) *United States v. Moreno*, 185 F.3d 465, 471 (5th Cir. 1999).

It is also well established that appellate review of the sufficiency of the evidence supporting a conviction looks to determine whether any reasonable trier of fact could have found the necessary elements had been proved beyond a reasonable doubt. *Jackson*, 443 U.S. at 315-19. In applying that standard, the courts of appeal agree that, while it is not the appellate court's task to reweigh the evidence, a conviction cannot rest on speculation. *United States v. Rojas-Alvarez*, 451 F.3d 320, 334 (5th Cir. 2006); *United States v. Klopf*, 423 F.3d 1228, 1236 (8th Cir. 2005). As the Seventh Circuit put it, the government's case may not be proved with "conjecture camouflaged as evidence." *United States v. Jones*, 713 F.3d 336, 340 (7th Cir. 2013) (quoting *Piaskowski v. Bett*, 256 F.3d 687, 693 (7th Cir. 2001)). Thus, a jury verdict cannot stand if it lacks an evidentiary foundation. *Jackson*, 443 U.S. at 315-19; *Jones*, 713 F.3d at 340.

Some of the circuits, including the Fifth Circuit, have also, at times, articulated a related proposition that a conviction cannot rest on inference piling; that is, proof of the offense element must come from the evidence proffered, not from making chains of inferences in which the later inferences rest on the earlier ones, rather than on a small piece of evidence. *See, e.g., United States v. Onick*, 889 F.2d 1425, 1429 (5th Cir. 1989); *United States v. Katakis*, 800 F.3d 1017, 1023 (9th Cir. 2015). Likely, this is because it does not take more than an inferential step or two for inferences to transform into speculation, and each inference away from the first puts due process protections at risk. Still, as this case illustrates, the courts permit chains of inferences.

This case presents the Court with an opportunity to provide guidance on how connected and anchored in the actual evidence a second or subsequent inference must be. Such guidance is necessary because, as Petitioner Saldana's case shows, convictions may be affirmed on the basis of attenuated inferences, a result that appears to conflict with the teachings of *Winship* and *Jackson*. This case is a good vehicle for considering the issue because the evidence alone does not show that Saldana knew of the hidden methamphetamine.

No direct evidence in this case showed Saldana had knowledge of the hidden methamphetamine. He made no statements about the drugs. The messages on his phone about the trucking job he had been hired for contained no mention of drugs, as the government's own law-enforcement witness acknowledged. The court of appeals found the jury could have made reasonable inferences of knowledge in the messages

by beginning with an agent's interpretations of words that were straightforward trucking terms, words that were largely Martinez's, not Saldana's. But that chain of inferences was attenuated by the time it arrived at the necessary knowledge inference.

The court of appeals wrote that “[a]lthough the messages make no explicit reference to drug smuggling, Flores testified that, based on his experience as an investigator, he interpreted their conversation as referencing their preparations for a drug smuggling operation. For example, one audio message used the word ‘solo,’ which Flores interpreted to indicate that Saldana and Martinez-Montelongo were confirming that the smuggling route was clear of law enforcement.” 2025 WL 1231998 at *6. But it was Martinez who used the word ‘solo’ to describe a situation he had encountered on a separate trip that Saldana had nothing to do with. The evidence was Martinez had used solo and the inference the agent made was that Martinez meant he had not seen law enforcement. But no evidence supported the further inferences that Saldana knew that usage of the word solo meant no law enforcement, let alone that knowing the usage showed knowledge of drugs hidden in a truck on a different journey. The court of appeals, however, moved from the inference that Martinez was using drug lingo to a showing of knowledge of Saldana of the hidden drugs. 2025 WL at *6. That string of inferences strayed far from the evidence adduced.

The court of appeals allowed a similar string of inferences about Martinez's use of the phrase proper weight that moved it from a legitimate concern of all truckers

about their truck's roadworthiness to drug lingo usage by Martinez to Saldana's assumed comprehension of the lingo to Saldana's knowledge of the compartmented fuel tanks to knowledge of the hidden drugs. 2025 WL at *6. The court of appeals recognized that weight was a legitimate concern for truckers, but it held that the jury could infer the weight might refer to an illegal cargo. *Id.* The problem is not that the court of appeals allowed the jury to credit the agent's inference, the problem is that inference did not show Saldana's knowledge. It showed only that Martinez used two terms that the Saldana might have known were also, according to the agent, used in drug lingo.

A similar problem appears in the court of appeals' treatment of inferences from evidence about the broken fuel gauge in Martinez's truck. The court observed that the truck's fuel gauge was broken, and that the driver had to use a stick to measure the fuel level. 2025 WL at *7. It also observed that government witness Garza-Aguirre had testified that "it would be "rare" for a truck driver carrying a legitimate load to have to check a truck's fuel levels with a stick" and a driver with such a truck would have to refuel several times on a cross-border trip. 2025 WL 1231998 at *7. The court of appeals held that this evidence allowed the jury "to conclude that Saldana, a professional truck driver, would have been aware that the tanks had been altered to carry less fuel and therefore to infer that Saldana was aware that the tanks also carried liquid methamphetamine in concealed compartments." 2025 WL 1231998 at *7. This statement is not a single reasonable inference; it is a triple jump of inferences. An alteration to, as opposed to a mere mechanical problem with, the tank

might be at the edge of permissible reasonable inference about the tank. But even an alteration in the tank does not get one to the tank contains hidden liquid methamphetamine, let alone to Saldana knew that is what the tank contained. Those are conjectures about Saldana's mental state that are not tied tightly back to the fact of an altered tank. The chain of inferences is not anchored in the evidence. And that these later conjectures all have equally valid inferences shows why attenuated inference chains offend due process. One can be a friend or co-worker and unaware of another's plans or crimes; one can have the misfortune of having misjudged others or picked one's companions or co-workers poorly. *United States v. Cordova-Larios*, 907 F.2d 40, 42 (5th Cir. 1990) (mere presence or association not enough to show knowing possession); *United States v. Sandoval*, 847 F.2d 179, 185 (5th Cir. 1988) (mere presence with wrongdoers is insufficient).

It is not enough to uphold a criminal conviction to demonstrate that something might be so, to spin off from a specific fact to a conclusion three steps removed without evidence supporting the additional steps. The Court should take Saldana's case to provide guidance on the permissible structure and length of a chain of inferences in light of the due process clause and the Court's reasonable-doubt jurisprudence.

Conclusion

FOR THESE REASONS, Petitioner asks that the Court grant a writ of certiorari and review the judgment of the court of appeals.

/s/ PHILIP J. LYNCH
Counsel of Record for Petitioner

DATED: May 20, 2025.