No. ___

In The
Supreme Court of the United States

JOHN CHARLES VOLUNGUS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether 18 U.S.C. § 4248(e) and other federal mental health statutes, which authorize the conditional release of a civilly committed persons under a prescribed "regimen of medical, psychiatric, or psychological care or treatment," permit district courts to impose additional, non-treatment-related conditions of release or whether, as the Eleventh Circuit has held, they only permit the district court to condition release upon treatment compliance.

2. Whether a district court has statutory or inherent authority under the Adam Walsh Act or Title 18 to require a civilly committed person, upon conditional discharge, to pay part or all of the costs of mandated treatment, monitoring, or other release conditions, in the absence of specific statutory authorization.

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John Charles Volungus respectfully requests this Court issue a writ of certiorari to review the opinion of the United States Court of Appeals for the First Circuit.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the First Circuit (App. A) is reported at 134 F.4th 637 (2025). The order of the United States District Court for the District of Massachusetts denying petitioner's objections to the conditions of release (App.B) is unreported.

JURISDICTION

The judgment of the court of appeals was entered on April 15, 2025. This petition is timely filed within 90 days of that decision. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment provides that no person shall be "deprived of life, liberty or property without due process of law."

Section § 4248(e) provides:

> If, after the hearing, the court finds by a preponderance of the evidence that the person's condition is such that … (2) he will not be sexually dangerous to others if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment, the court shall— (A) order that he be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him, that has been certified to the court as appropriate by the Director of the facility in which he is committed, and that has been found by the court to be appropriate; and (B) *order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment*.
>
> Section § 4247(h) provides:
>
> Regardless of whether the director of the facility in which a person is committed has filed a certificate pursuant to the provisions of subsection (e) of section 4241, 4244, 4245, 4246, or 4248, or subsection (f) of section 4243, counsel for the person or his legal guardian may, at any time during such person's commitment, file with the court that ordered the commitment a motion for a hearing to determine whether the person should be discharged from such facility…
>
> Section § 3583 (titled "Inclusion of a term of supervised release after imprisonment) provides:
>
> (d) Conditions of Supervised Release.—The court shall order, *as an explicit condition of supervised release*, that the defendant not commit another Federal, State, or local crime during the term of supervision …
>
> *The court may order, as a further condition of supervised release*, to the extent that such condition—
>
> (1) is reasonably related to the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), and (a)(2)(D);
>
> (2) involves no greater deprivation of liberty than is reasonably necessary for the purposes set forth in section 3553(a)(2)(B), (a)(2)(C), and (a)(2)(D); and
>
> (3) is consistent with any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a);
>
> any condition set forth as a discretionary condition of probation in section 3563(b) and *any other condition it considers to be appropriate* …

STATEMENT OF THE CASE

Petitioner John Charles Volungus is a person previously civilly committed under the federal mental health commitment statutes, specifically 18 U.S.C. § 4248 of the Adam Walsh Child Protection and Safety Act of 2006 ("Adam Walsh Act"), which authorizes the continued confinement of individuals in federal custody found to be "sexually dangerous." In 2022, after nearly a decade of confinement, the Bureau of Prisons certified that Mr. Volungus was no longer sexually dangerous if released under a prescribed regimen of medical, psychiatric, or psychological care or treatment. The district court entered an order conditionally releasing him pursuant to § 4248(e), accompanied by a set of 46 conditions drafted by the government and adopted wholesale by the court.

Mr. Volungus timely filed objections, arguing that many of the imposed conditions — including electronic monitoring, restrictions on otherwise lawful conduct, and requirements to pay for supervision and treatment — exceeded the scope of the statutory authority under § 4248(e), which mandates only that the individual "comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment."

The district court denied the objections, adopting the interpretation of several other circuits that similar statutory provisions — particularly 18 U.S.C. §§ 4243 and 4246 — permit courts to impose non-treatment-related conditions as part of a conditional release order. The court also rejected Mr. Volungus's argument that the statute provided no authority to impose financial burdens on the releasee.

The First Circuit affirmed. Acknowledging that the Eleventh Circuit had adopted a narrower construction in *United States v. Crape*, 603 F.3d 1237 (11th Cir. 2010), and

that a circuit split exists, the court joined the majority view, holding that § 4248(e) allows the imposition of conditions unrelated to treatment if necessary to protect the public. It further concluded that Congress, in enacting § 4248 against the backdrop of earlier circuit decisions interpreting similar language broadly, had implicitly endorsed the more expansive view.

Mr. Volungus respectfully seeks this Court's review to resolve the division among the circuits over the proper interpretation of this language, which is common to the release provisions of the several federal mental health commitment statutes. He maintains that the statutory text, structure, and purpose support the narrower view articulated in *Crape*, and that the First Circuit's reliance on presumed congressional ratification is unpersuasive.

REASONS FOR GRANTING THE WRIT

I. The Circuits Are Divided on the Authority to Impose Non-Treatment Conditions Under Identical Statutory Language

The decision below deepens an entrenched conflict among the courts of appeals over whether, and to what extent, federal district courts may impose conditions of release that go beyond a "prescribed regimen of medical, psychiatric, or psychological care or treatment" under the federal mental health commitment statutes.

The Eleventh Circuit in *United States v. Crape*, 603 F.3d 1237 (11th Cir. 2010), held that such statutes — in particular, 18 U.S.C. § 4243(f), which uses the same operative language as § 4248(e) — do **not** authorize the imposition of additional, non-treatment-related conditions. The *Crape* court construed the text narrowly and

rejected the view that a catch-all authority to impose discretionary conditions could be implied from Congress's choice of the indefinite article "an" rather than "the."

In contrast, the Seventh, Eighth, and Ninth Circuits have adopted a broader reading of identical language in § 4243 and § 4246, holding that courts may impose non-treatment conditions such as GPS monitoring or restrictions on housing or travel. See *United States v. Jain*, 174 F.3d 892 (7th Cir. 1999); *United States v. Franklin*, 435 F.3d 885 (8th Cir. 2006); *United States v. Phelps*, 283 F.3d 1176 (9th Cir. 2002).

The First Circuit, in this case, became the first court of appeals to construe § 4248(e) directly. It joined the majority view and rejected the Eleventh Circuit's textual reasoning, instead relying in part on a canon of implied congressional ratification. The result is a fully-developed, acknowledged circuit conflict over the meaning of language that is central to a statutory scheme governing civil confinement and supervised liberty.

That conflict has now reached § 4248(e) itself — the most recently enacted and narrowly tailored of these provisions — and has produced the first appellate decision interpreting it directly.

II. The First Circuit's Construction Is Inconsistent With the Statutory Text, Structure, and Purpose

Section 4248(e) provides that a court, in ordering conditional release, "shall order, as an explicit condition of release, that the person comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment." The First Circuit read that language to permit — or at least not preclude — the imposition of a wide array of ancillary, non-treatment-based conditions.

That reading is at odds with the text. The statute specifies what the condition of release shall be. It does not contain any provision authorizing the court to impose additional conditions in the manner of supervised release under 18 U.S.C. § 3583 or probation under § 3563 — both of which do include explicit grants of discretionary authority to impose conditions "that the court deems appropriate." See *Crape*, 603 F.3d at 1243–44. Congress knew how to confer such authority when it wished to; it chose not to do so here.

The First Circuit's emphasis on public safety is understandable, but it cannot justify rewriting the statute. Congress made a deliberate choice to cabin the authority of the court to a treatment-based framework, not to create a general regime of supervised release. Indeed, as this Court noted in *United States v. Comstock*, 560 U.S. 126 (2010), § 4248 was intended as a "modest" addition to a long-standing scheme of civil commitment statutes, not as a broad mandate for a behavior management or surveillance scheme functionally indistinguishable from terms of criminal supervised release.

III. The Canon of Implied Congressional Ratification Does Not Justify the Court's Departure from the Text

The First Circuit rested significantly on the notion that Congress — by enacting § 4248(e) in 2006 against the backdrop of the Seventh, Eighth, and Ninth Circuits' broader interpretations of related statutes — implicitly endorsed those readings. But that inference is legally weak and doctrinally unstable.

As this Court has emphasized, "when … Congress has not comprehensively revised a statutory scheme but has made only isolated amendments, … congressional inaction should be given almost no weight." *Alexander v. Sandoval*, 532 U.S. 275, 292

(2001). The enactment of § 4248 was just such an isolated amendment — a narrow extension of existing federal civil commitment authority under §§ 4243 and 4246. The statute includes no indication that Congress intended to adopt the expansive conditions regime that some courts had permitted under those earlier provisions.

The First Circuit invoked the principle that Congress is presumed to be aware of prior judicial interpretations of statutory language. Because § 4248(e) was enacted in 2006 and several circuits had by then adopted the broader reading of § 4243(f) and § 4246(e), the First Circuit reasoned that Congress must have silently endorsed the prevailing interpretation.

Moreover, *Crape* — the decision rejecting that expansive view — had not yet been decided when § 4248 was enacted. The split that now exists was still latent. The inference that Congress deliberately sided with the majority view is therefore speculative at best. Even if the legislative context could support such an inference, it cannot displace the statutory text or justify a construction that departs from the plain language of the law.

To the extent the First Circuit relied on this canon to justify a broad reading of § 4248(e), it misapplied the doctrine. Legislative silence does not license courts to infer a sweeping delegation of power — particularly where the statute's language, structure, and purpose suggest otherwise.

IV. The First Circuit's Interpretation Raises Constitutional Concerns That Warrant Avoidance

The First Circuit's construction of § 4248(e) — permitting courts to impose non-treatment-related conditions such as electronic surveillance, categorical bans on

lawful conduct, and compelled financial payments — raises serious constitutional concerns under the Due Process Clause.

As this Court explained in *United States v. Comstock*, 560 U.S. 126, 137 (2010), the Adam Walsh Act was intended as a "modest addition" to a long-standing federal civil commitment regime, justified by the government's "responsibility for the health and safety of prisoners in its custody." The statute was not designed to authorize a broad system of post-custodial behavioral regulation divorced from medical treatment.

This Court has repeatedly held that civil commitment statutes must be "narrowly drawn" and remain "linked to the original reason for confinement." *Foucha v. Louisiana*, 504 U.S. 71, 77 (1992). *See also Kansas v. Hendricks*, 521 U.S. 346, 368 (1997) (distinguishing criminal from civil confinement). Imposing sweeping non-treatment-related restrictions, unmoored from any statutory authorization, risks converting a civil commitment scheme into a quasi-criminal supervision regime — raising serious due process concerns. Those concerns are especially acute where the individual has not been convicted of a new offense and has already been adjudged suitable for conditional release based on a clinical treatment plan.

To the extent the First Circuit justified its interpretation by invoking the canon of implied congressional ratification, that inference must yield to the well-established canon of constitutional avoidance. Where a statute is plausibly susceptible to more than one interpretation, courts must adopt the construction that avoids serious constitutional doubt. See *Clark v. Martinez*, 543 U.S. 371, 381 (2005); *cf. Jennings v. Rodriguez*, 583 U.S. 281, 291 (2018) (When a statute is unambiguous, the canon of constitutional avoidance has "no application.").

The statute here is at minimum ambiguous. Its text mandates compliance with a prescribed "regimen of medical, psychiatric, or psychological care or treatment," but says nothing about GPS monitoring, bans on pornography or mobile phones, or cost-sharing mandates. The First Circuit's expansive reading of that silence intrudes on constitutionally sensitive ground and should be avoided.

V. This Case Presents a Clean Vehicle to Resolve the Split

This case presents the issue in a straightforward and isolated posture, ideal for review. The statutory interpretation question was preserved and fully litigated below, and the First Circuit addressed it at length. The facts are undisputed. The petitioner does not challenge the underlying commitment or the validity of § 4248 itself — only the scope of authority to impose conditions upon conditional release.

Because this case is the first and only appellate decision interpreting § 4248(e) directly, and because it expressly chooses sides in a split over materially identical language, it provides an ideal opportunity for the Court to resolve the question definitively.

CONCLUSION

The decision below deepens an acknowledged split among the courts of appeals concerning the scope of authority granted to district courts under the federal mental health statutes, which include § 4248(e). It is the first appellate decision to construe this provision directly, and it adopts a broad reading that departs from the statute's text, raises serious constitutional concerns, and undermines the limited purpose of the Adam Walsh

Act's civil commitment scheme. This case presents a clean vehicle to resolve that conflict.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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July 14, 2025

APPENDICES

Appendix A: Opinion of the U.S. Court of Appeals for the First Circuit (Apr. 15, 2025)

Appendix B: District Court Order Denying Objections to Conditional Release Order (June 21, 2023)

Appendix C: 18 U.S.C. §§ 4248, 4247