No. 24-276

In The

Supreme Court of the United States

RYAN CROWNHOLM; AND CROWN CAPITAL ADVENTURES, INC., D/B/A MYSITEPLAN.COM,

Petitioners,

v.

RICHARD B. MOORE, ET AL.,

Respondents.

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

PETITION FOR REHEARING

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CORPORATE DISCLOSURE STATEMENT

Petitioner Crown Capital Adventures, Inc., d/b/a MySitePlan.com, is a Delaware corporation with no parent corporation. No publicly held entity owns 10% or more of its stock.

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PETITION FOR REHEARING

Ryan Crownholm and Crown Capital Adventures, Inc., d/b/a MySitePlan.com respectfully petition under Rule 44.2 for rehearing of the Court's April 20, 2026 order denying their petition for a writ of certiorari.

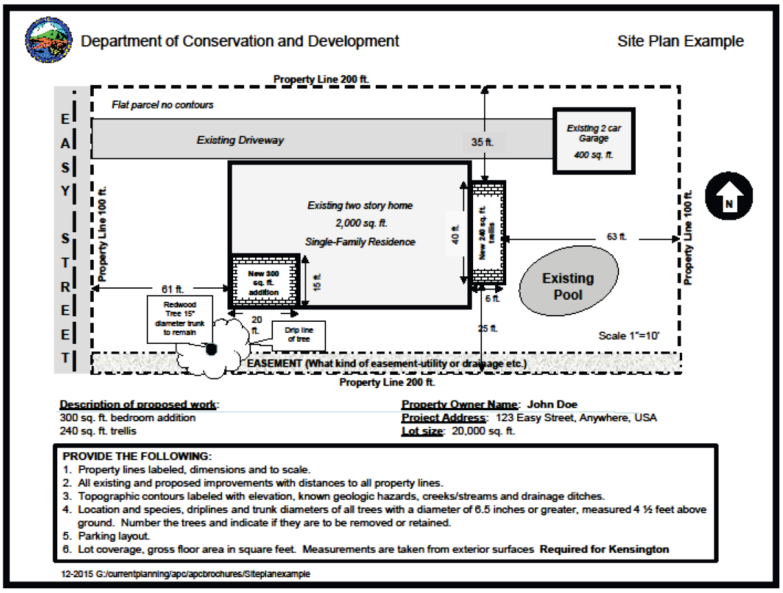
This Court should reconsider its denial because its decision in *Chiles* v. *Salazar*, 607 U.S. __, 146 S. Ct. 1010 (2026), expressly disapproves of the Ninth Circuit precedent the panel below relied on to wrongly label Petitioners' speech as conduct and its regulation as incidental to conduct. Where an intervening decision from this Court "reveal[s] a reasonable probability that the decision below rests upon a premise that the lower court would reject if given the opportunity for further consideration," this Court often enters a GVR order for the lower court to reconsider its decision in light of the intervening precedent. *Lawrence ex rel. Lawrence* v. *Chater*, 516 U.S. 163, 167 (1996). This case presents precisely that situation. Indeed, additional decisions by the federal courts of appeal since this petition was filed demonstrate that the decision below is an outlier. This Court should, therefore, reconsider the denial of the petition for certiorari and enter a GVR order.

BACKGROUND

1. Petitioners use publicly available GIS information to create drawings of property, called "site plans," which they sell to their clients. App.101a-113a. Site plans are put to a variety of uses. Some are simple event-layout planning for wedding venues and

farmers' markets. App.111a-113a. Others are for small-project permits from local-government building departments. App.99a-104a.

Building departments do not require these site plans to be prepared or submitted by someone with a license. They have long accepted site plans from lay homeowners and contractors. App.99a-100a, 104a-107a. Indeed, they teach the public how to use GIS information to draw and submit site plans depicting property boundaries, dimensions, and the relative location of structures and other physical features. App.105a. They even provide example drawings and instructions for lay people to use:



App.102; see also Pet. 4-9; App.102a-104a (further examples).

Until the events leading to this case, nobody thought Petitioners (or homeowners or contractors)

needed a surveyor license to make site plans using publicly available information. App.108a. This is because site plans are merely informational: basic visual images to assist in permitting review of the project. App.100a-104a. Unlike a survey, they do not authoritatively determine locations or property boundaries. App.110a, 125a, 129a.

2. But the California Board for Professional Engineers, Land Surveyors, and Geologists cited Petitioners for unlicensed practice of surveying. According to the Board, Petitioners' drawings are illegal because they "depict the location of property lines, fixed works, and the geographical relationship thereto." App.114a-115a. Petitioners' drawings are illegal even for "ostensibly benign purposes (like planning a farmers' market)"; the Board maintains that only licensed surveyors may legally create such drawings. App.8a.

3. Petitioners' "drawings" are "speech" within "the First Amendment's protections." See *303 Creative LLC* v. *Elenis*, 600 U.S. 570, 587 (2023). Their drawings merely convey information through language and graphics, and the "creation and dissemination of information" is "speech within the meaning of the First Amendment." *Sorrell* v. *IMS Health Inc.*, 564 U.S. 552, 570 (2011). The regulation of these drawings turns on their content—on what they "depict." App.114a-115a. Petitioners therefore filed an as-applied First Amendment challenge, seeking an injunction allowing them to continue drawing the site plans they have long created for willing clients.

But the Ninth Circuit re-labeled Petitioners' speech as conduct. It held that "the fact that

Plaintiffs' site plans convey information through language and graphics does not *ipso facto* subject the [California Professional Land Surveyors'] Act to First Amendment scrutiny." App.4a. Instead, the court drew on circuit precedents holding that "performing conversion therapy [is] conduct, not speech, even though" it requires only "the use of spoken words." *Ibid.* (citing *Pickup* v. *Brown*, 740 F.3d 1208 (9th Cir. 2014); *Tingley* v. *Ferguson*, 47 F.4th 1055 (9th Cir. 2022)); see also *Nat'l Ass'n for the Advancement of Psychoanalysis* v. *Cal. Bd. of Psych.*, 228 F.3d 1043 (9th Cir. 2000) (same for "psychoanalysis"). Thus, the court concluded, "just as the state may constitutionally ban a particular medical treatment that requires the use of speech, *see Tingley*, 47 F.4th at 1073, so too may the state bar unlicensed persons from creating maps" showing the "spatial relationship between fixed works or natural objects and the property line." App.5a-6a.

4. This petition for certiorari was filed September 9, 2024. It was distributed for conference and then rescheduled and redistributed until this Court granted review in *Chiles* v. *Salazar* in March 2025. This Court then held this petition pending the decision in *Chiles*.

This Court's decision in *Chiles* explained that the Tenth Circuit in that case had joined the Ninth Circuit in *Tingley* in a broader circuit conflict "over how the First Amendment interacts with laws like Colorado's." 146 S. Ct. at 1020. It then rejected the Tenth Circuit's view (and accordingly also the Ninth Circuit's) as "mistaken." 146 S. Ct. at 1023.

ARGUMENT

A reconsideration of the denial of the petition for certiorari to enter a GVR order is warranted here. A GVR is appropriate when (A) "intervening developments * * * reveal a reasonable probability that the decision below rests upon a premise that the lower court would reject if given the opportunity for further consideration"; (B) "it appears that such a redetermination may determine the ultimate outcome of the litigation"; and (C) "the equities of the case" favor it (*e.g.*, "the intervening development" was not "an unfair or manipulative litigation strategy"). *Lawrence ex rel. Lawrence* v. *Chater*, 516 U.S. 163, 167-168 (1996). All three factors favor a GVR order here.

This Court regularly issues GVR orders to account for intervening decisions from this Court that postdate and cast doubt on the decision below. *Id.* at 166-167; *id.* at 180-181 (Scalia, J., dissenting) (collecting examples of this "largest category of 'GVRs'"). Indeed, this Court "regularly hold[s] cases that involve the same issue as a case on which certiorari has been granted and plenary review is being conducted *in order that* (if appropriate) they may be 'GVR'd' when the case is decided." *Id.* at 181 (Scalia, J., dissenting). Such GVRs "are appropriate to preserve the operational premise of a multitiered judicial system." *Ibid.* And they "alleviate[] the potential for unequal treatment that is inherent in [this Court's] inability to

grant plenary review of all pending cases raising similar issues." *Id.* at 167 (majority) (cleaned up).[1]

A. There is a "reasonable probability" that the decision below rests upon a premise that would be rejected in light of *Chiles*.

1. *Chiles* abrogates the circuit precedent that the Ninth Circuit relied on below. The decision below relied on *Tingley* and this Court in *Chiles* said that *Tingly* was wrong. In *Tingley*, the Ninth Circuit held that Washington's ban on speech-only "conversion therapy" regulated "conduct," not speech, and was thus subject only to rational-basis review. 47 F.4th at 1077; App.4a. Here, the Ninth Circuit concluded that "just as the state may constitutionally ban a particular medical treatment that requires the use of speech, *see Tingley*, 47 F.4th at 1073, so too may the state bar unlicensed persons from creating maps" showing the "spatial relationship between fixed works or natural objects and the property line" without implicating the First Amendment. App.5a-6a. The Tenth Circuit's decision in *Chiles v. Salazar* then expressly "join[ed] the Ninth Circuit" to conclude that Colorado's speech-only conversion therapy ban also regulated only conduct. 116 F.4th, 1178, 1214 (10th Cir. 2024) (quoting

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[1] This Court has issued GVR orders following a petition for rehearing with some frequency. *E.g.*, *Oklahoma* v. *United States*, 145 S. Ct. 2836 (2025) (mem.); *Kent Recycling Servs., LLC* v. *Army Corps of Eng'rs*, 578 U.S. 1019 (2016) (mem.); *Liberty Univ.* v. *Geithner*, 568 U.S. 1022 (2012) (mem.); *Melson* v. *Allen*, 561 U.S. 1001 (2010) (mem.); *Soto* v. *United States*, 543 U.S. 1117 (2005) (mem.); *Friend* v. *United States*, 517 U.S. 1152 (1996) (mem.); *Adams* v. *Evatt*, 511 U.S. 1001 (1994) (mem.); *Hitchcock* v. *Florida*, 505 U.S. 1215 (1992) (mem.).

Tingley). This Court's decision in *Chiles* thus noted that *Tingley* and the Tenth Circuit's decision in *Chiles* were aligned in the broader circuit conflict "over how the First Amendment interacts with laws" like those at issue in *Chiles* and *Tingley*. 146 S. Ct. at 1020. The Court then held that the *Chiles/Tingley* side of the conflict was wrong: bans on spoken-word "conversion therapy" regulate speech, not conduct. *Id*. at 1023. They are thus subject to "rigorous First Amendment scrutiny." *Ibid*.

If ever an "intervening" decision creates "a reasonable probability that the decision below rests upon a premise that the lower court would reject if given the opportunity for further consideration," *Chiles* creates that probability here. See *Lawrence*, 516 U.S. at 167. Relying on *Tingley*, the decision below held that California's regulation of Petitioners' drawings regulated conduct "just as" Washington's conversion-therapy ban regulated conduct. App.5a-6a; see also App.4a-7a (citing *Tingley* four times, more than any other case). Because this Court abrogated *Tingley* in its "intervening" decision in *Chiles*, the Ninth Circuit would *have to* "reject" the "premise" of its decision below "if given the opportunity for further consideration." *Lawrence*, 516 U.S. at 167.

2. Because the Tenth Circuit in *Chiles* expressly followed the Ninth Circuit's precedents, the decision below echoes many of the "premise[s]" that this Court in *Chiles* held were "simply mistaken." 146 S. Ct. at 1023.

This Court rejected Colorado's claim that it could re-label its restriction of Ms. Chiles' speech as one on

the "conduct" of "treatment," because "[h]er speech does not become conduct just because the State may call it that." *Id.* at 1023-1024. But the decision below transformed the "convey[ance of] information through language and graphics" from speech into the mere "conduct" of a state-regulated profession. App.4a-5a.

This Court rejected Colorado's claim that it was regulating Ms. Chiles' speech only "incidentally," because her speech was not integrally related to separately regulated conduct, nor was it being restricted for reasons unrelated to its content. 146 S. Ct. at 1026. But here the Ninth Circuit also "shoehorn[ed]," *id.* at 1025, California's regulation of Petitioners' speech into the "incidental" category—even though California's regulation of Petitioners' speech is not triggered by any separately regulated conduct Petitioners engage in, and even though Petitioners' speech is regulated precisely because of its content (what the drawings "depict"). App.5a-6a, 118a.

And this Court rejected Colorado's claim that it could escape First Amendment scrutiny for its restriction of Ms. Chiles' speech by pointing to *other* speech Ms. Chiles might engage in that the State did not restrict. 146 S. Ct. at 1024. But again, here the Ninth Circuit highlighted the fact that Petitioners are not prohibited "from engaging in public discourse * * * including [advocating] for a change in the law" as a reason for sidestepping First Amendment scrutiny as to the speech California *did* prohibit. App.5a.

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In affirming dismissal of Petitioners' First Amendment claim, the decision below relied primarily on precedent that this Court abrogated and reasoning that this Court rejected in its intervening decision in *Chiles*. In light of *Chiles*, there is *at least* a "reasonable probability that the decision below rests upon a premise that the lower court would reject if given the opportunity for further consideration." *Lawrence*, 516 U.S. at 167.

B. The Ninth Circuit's reconsideration in light of *Chiles* may change the outcome of this case.

As shown above, there is a "reasonable probability" that the Ninth Circuit would, in light of *Chiles*, determine that Plaintiffs' First Amendment rights are implicated here, requiring elevated scrutiny. That difference would most likely change the outcome by allowing Petitioners' claim to continue beyond the motion-to-dismiss stage. Indeed, similar cases in other circuits have ultimately won on the merits. See pp. 11-13, *infra*.

On remand, California might make different arguments about why it should ultimately win. Following discovery, it may try to meet its burden under the First Amendment. It may argue a different exception to the First Amendment. But see Pet. 29-32 (addressing the many ways in which Petitioners' speech is protected by ordinary First Amendment principles). It may reprise Colorado's argument (unpassed on by the Ninth Circuit in this case below) that its licensing regime fits a long if heretofore unrecognized exception. See *Chiles*, 146 S. Ct. at 1026-1027; but see Pet. 3-11

(showing that no state had mandatory land-surveying licensure until well into the 20th century, California did not interpret its surveying restrictions to encompass the kind of non-authoritative depictions of location information that Petitioners engage in until the second half of that century, and California permitting agencies still today teach non-surveyors how to draw site plans like those Petitioners create and also accept those same drawings).

Regardless, for the courts below to reach the same conclusion as before, they must rely on different reasoning. Petitioners need not *prove* that *Chiles* dictates that they will win on the merits, especially at this early 12(b)(6) stage. It is enough that *Chiles*' abrogation of the premises relied upon below "may" shift the outcome if the Ninth Circuit were given a chance for a post-*Chiles* "redetermination"—and that is all that makes a GVR order "potentially appropriate." *Lawrence*, 516 U.S. at 167.

C. The equities favor a GVR in light of *Chiles*.

1. The equities also favor a GVR in light of *Chiles*. First, there is no manipulative litigation strategy here. Petitioners' case arrived at this Court before *Chiles* and was held for *Chiles* for over a year. Petitioners' First Amendment theory has never changed. *Chiles* was an intervening decision in which this Court all but adopted Petitioners' theory of the case—of how to distinguish between regulations of speech, regulations of professional conduct, and regulations of professional conduct that incidentally regulate speech. See Amicus Curiae Brief for Parties in Other First Am. Cases Pending Before the Court, *Chiles* v.

Salazar, No. 24-539 (June 11, 2025). That is the paradigmatic example of where a GVR order is appropriate. *Lawrence*, 516 U.S. at 181 (Scalia, J. dissenting) ("We regularly hold cases that involve the same issue as a case on which certiorari has been granted and plenary review is being conducted *in order that* (if appropriate) they may be 'GVR'd' when the case is decided.").

2. Second and moreover, concern for accuracy in judicial outcomes also counsels in favor of a GVR. The circuit conflicts over how to distinguish between speech and licensed professional conduct have only grown since this petition was filed, and the Ninth Circuit's precedent is increasingly an outlier. Before *Chiles*, the circuits applied a variety of conflicting standards to determine whether an occupational-licensing law's restriction of a person's speech is subject to First Amendment scrutiny. Pet. 19-29. This was true even in cases involving viewpoint-neutral regulations of unlicensed speakers. In the Ninth Circuit, such speech was categorically not protected because (that court held) occupational-licensing laws generally regulate "unlicensed * * * conduct," regardless of whether they are triggered by speech in any particular application. See App.4a (citing circuit precedents holding that regulation of speech-only conversion therapy is the regulation of conduct). In the Fourth Circuit, a "variety of factors may come into play." *360 Virtual Drone Servs. LLC* v. *Ritter*, 102 F.4th 263, 274 (4th Cir. 2024), cert. denied, __ S. Ct. __ (No. 24-279) (Apr. 20, 2026).[2] Both of these are inconsistent with

[2] Petitioners in *360 Virtual Drone Services* are also seeking reconsideration for a GVR order.

Chiles. On the other hand, the Fifth Circuit applied the traditional speech/conduct framework—as this Court applied in *Chiles*—to "professional" speech. *Vizaline, LLC* v. *Tracy*, 949 F.3d 927, 931 (5th Cir. 2020).

After this Petition but before the decision in *Chiles*, more circuits weighed in and sharpened the split. The Fifth Circuit reaffirmed that non-viewpoint-based restrictions receive First Amendment scrutiny when the restriction is triggered by the professional's speech. *Hines* v. *Pardue*, 117 F.4th 769 (5th Cir. 2024), cert. denied, __ S. Ct. __ (No. 24-920) (Apr. 20, 2026) (licensed veterinarian's emails about individualized diagnoses and treatment plans were protected speech, not conduct or speech-incidental-to-conduct). The Seventh Circuit, acknowledging the existing split, joined the Fifth Circuit in applying the traditional framework—as in *Chiles*—to hold that, as applied, Indiana's funeral-director licensing law imposed a non-viewpoint-based speech restriction of an unlicensed person's funeral-related advice, not of her conduct or speech-incidental-to-conduct. *Richwine* v. *Matuszak*, 148 F.4th 942, 953-954 (7th Cir. 2025). The Second Circuit held that New York's unauthorized-practice-of-law restrictions were—when applied to the mere legal advice of unlicensed people—a content-neutral regulation of speech, not conduct or speech-incidental-to-conduct. *Upsolve, Inc.* v. *James*, 155 F.4th 133, 141 (2d Cir. 2025), cert. denied, __ S. Ct. __ (No. 25-948) (Mar. 30, 2026). The Third Circuit held that a New Jersey law that prohibited paid advice on how to claim veterans-affairs benefits was likely a regulation of speech, rather than conduct or speech-incidental-to-conduct. *Veterans Guardian VA Claim*

Consulting LLC v. *Platkin*, 133 F.4th 213, 219-221 (3d Cir. 2025). The only court that followed the Ninth Circuit's approach was the Tenth Circuit in *Chiles*. Cf. *Catholic Charities of Jackson, Lenawee & Hillsdale Cntys.* v. *Whitmer*, 162 F.4th 686, 692-696 (6th Cir. 2025) (holding that Michigan's conversion-therapy ban was a content- and viewpoint-based restriction of speech, not a regulation of conduct or speech-incidental-to-conduct).

Even beyond *Chiles*, these decisions have marked the Ninth Circuit's decision here as an outlier. Therefore, allowing the Ninth Circuit to redetermine this case in light of *Chiles* will "improve the fairness and accuracy" of judicial outcomes on an issue that had (pre-*Chiles*) divided the federal courts, give Petitioners the "chance to benefit" from *Chiles*' clarification of the law, and "further[] fairness by treating [Petitioners] like other future [litigants]." *Lawrence*, 516 U.S. at 168, 175.

CONCLUSION

Chiles abrogated the core premises of the decision below. The petition for rehearing should be granted and the Court should enter a GVR order for the Ninth Circuit to reconsider its decision in light of *Chiles*.

Respectfully submitted.

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MAY 15, 2026

CERTIFICATION OF COUNSEL

As counsel of record for Petitioners, I certify that this petition for rehearing is restricted to the grounds specified in Rule 44.2 and is presented in good faith and not for delay.

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