No. 25-49

In the Supreme Court of the United States

ALEXANDER SITTENFELD AKA P.G. SITTENFELD,
PETITIONER

v.

UNITED STATES OF AMERICA

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

BRIEF FOR LOCAL 212, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AS AMICUS CURIAE SUPPORTING PETITIONER

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INTEREST OF AMICUS CURIAE

Amicus curiae is Local 212 of the International Brotherhood of Electrical Workers (IBEW), a national union that represents approximately 860,000 active members and retirees.[*] IBEW trains, supports, and employs elec-

[*] Pursuant to Rule 37.6, amicus affirms that no counsel for a party authored this brief in whole or in part; no such counsel or a party made a monetary contribution to fund its preparation or submission; and no person other than amicus, its members, or its counsel made such a monetary contribution. Amicus further affirms that counsel of record for the parties in this case received timely notice of amicus's intent to file this brief under Rule 37.2.

tricians and telecommunications technicians; works to ensure safer working conditions for its members; and advocates for fair wages, robust benefits, and the overall wellbeing of its workforce. Amicus, a local IBEW chapter, is the leading provider of skilled electrical professionals in the greater Cincinnati area.

Both IBEW and amicus support candidates for public office who advocate for the interests of IBEW members. During the 2024 election cycle, IBEW advocated for a number of policy goals, from protecting workers' rights to organize, to expanding rural infrastructure for broadband internet access and electrical transmission. IBEW's affiliates, including amicus, provided a total of approximately $20 million in campaign contributions during that time period.

This case presents a question that significantly affects amicus's interests: namely, whether a public official accused of bribery and extortion based solely on the solicitation of campaign contributions may be convicted based on evidence that is ambiguous as to whether the public official conditioned any official act on receipt of the contributions. In *McCormick* v. *United States*, 500 U.S. 257 (1991), the Court held that, absent the use of force, violence, or fear, the solicitation of campaign contributions constitutes extortion only if the contribution is given in exchange for a public official's "explicit promise or undertaking" to perform or not to perform an official act. *Id.* at 273. In the decision below, however, a divided panel of the court of appeals relied on prior circuit precedent to hold that the government need not prove an "express" agreement, such that the jury could infer the terms of the alleged quid pro quo from the parties' words and conduct. See Pet. App. 20a-26a. The majority then sustained petitioner's conviction based on an ambiguous comment by petitioner about his ability to help a putative donor with unspecified future projects, and evidence that petitioner discussed his ability to secure votes for a project shortly after the putative donor expressed his desire to contribute to petitioner's campaign. See *id*. at 27a-29a.

Judge Murphy wrote a separate concurring opinion, expressing concern that the applicable circuit precedent did not comport with the First Amendment and suggesting that this Court's intervention may be warranted. See Pet. App. 68a-69a. Judge Bush dissented, also raising First Amendment concerns. See *id*. at 98a-103a. As those judges correctly recognized, an overly broad interpretation of the federal bribery and extortion statutes risks chilling the constitutionally protected activity of groups and individuals who donate to political campaigns for legitimate ends. As an organization that regularly makes campaign contributions to candidates for public office, amicus has a significant interest in the resolution of this case.

SUMMARY OF ARGUMENT

In *McCormick* v. *United States*, 500 U.S. 257 (1991), this Court delimited the narrow circumstances under which a public official can be liable for extortion by soliciting a campaign contribution. Recognizing both that political campaigns require financing and that a public official's very job is to serve constituents and support government actions, the Court held that (absent the use of force, violence, or fear) the receipt of a campaign contribution constitutes extortion only where the donor makes the contribution in return for the candidate's "explicit promise or undertaking" to perform or not to perform an official act. *Id*. at 273. That requirement of a clear quid pro quo reflects the realities of our electoral system and creates space for constitutionally protected communications between donors and candidates.

Since *McCormick* was decided, however, the lower courts have retreated from the stringent standard the Court adopted, allowing juries to convict public officials and candidates where the quid pro quo is not "express" but can arguably be inferred from the parties' conduct. That trend results primarily from the lower courts' interpretation of this Court's subsequent decision in *Evans* v. *United States*, 504 U.S. 255 (1992), where the Court briefly discussed the quid pro quo requirement, and Justice Kennedy wrote separately to explain his distinct view of that requirement. The lower courts have since struggled to reconcile *McCormick* and *Evans* in the context of prosecutions alleging that a political candidate traded or attempted to trade official action for campaign contributions. The decision below epitomizes the difficulty: the court of appeals held that the government can prove an "explicit" quid pro quo by implication from "less-than-conclusive" circumstantial evidence, Pet. App. 25a n.7, and without specifying the terms of the agreement that the politician allegedly agreed to perform in return for the contribution.

Permitting convictions for bribery and extortion based on such thin evidence threatens to chill core protected speech under the First Amendment. The First Amendment's protections apply with greatest force to election-related speech like discussions between candidates and donors about issues of public concern. And this Court has recognized that it is commonplace for candidates to solicit donations by touting their voting record and prospective policy agenda to their constituents. The approach applied by the court of appeals would perversely allow prosecutors to charge, and juries to convict, political candidates and donors of bribery and extortion based on inferences drawn from ordinary, protected political speech. Worse still, given the ubiquity of conversations between candidates and donors like the ones that occurred here, the broad standard applied by the court of appeals opens the door to selective and discriminatory prosecution. The corresponding risk of incarceration will likely steer candidates and donors away from having forthright conversations about salient political issues and the steps a donor desires to address them.

Since deciding *McCormick* and *Evans*, the Court has repeatedly acted to protect the rights of political candidates and ordinary citizens to speak on political issues. This Court's intervention is necessary once again in order to preserve the breathing room for constitutionally protected communications between donors and candidates on issues of public concern.

ARGUMENT

THE COURT SHOULD GRANT REVIEW TO ENSURE THAT CONVICTIONS FOR BRIBERY AND EXTORTION RELATED TO CAMPAIGN CONTRIBUTIONS OCCUR ONLY IN THE PRESENCE OF A CLEAR QUID PRO QUO

A. The Lower Courts Have Misapplied The Court's Stringent Standard For Bribery And Extortion Convictions Related To Campaign Contributions

In *McCormick* v. *United States*, 500 U.S. 257 (1991), the Court held that an "explicit" quid pro quo was required to support an extortion conviction based on a public official's solicitation of a campaign contribution. *Id.* at 273. Although the Court did not retreat from that holding in *Evans* v. *United States*, 504 U.S. 255 (1992), some lower courts have interpreted the decision as having done so. The result of the lower courts' attempt to navigate between the two decisions has been the gradual deterioration of *McCormick*'s strict quid pro quo requirement and increased uncertainty about when solicitation of a campaign contribution rises to the level of federal bribery or extortion.

1. This Court drew a clear line in *McCormick* that, absent the presence of "force, violence, or fear," a political candidate's solicitation of campaign contributions can constitute extortion under the Hobbs Act "only if the payments are made in return for an explicit promise or undertaking by the official to perform or not to perform an official act." 500 U.S. at 273; see 18 U.S.C. 1951. As the Court recognized, "[s]erving constituents and supporting legislation that will benefit" them is "the everyday business of a legislator," and politicians regularly solicit contributions "on the basis of their views and what they intend to do or have done." *Id.* at 272. The Court thus viewed as "unrealistic" the notion that Congress intended to criminalize an official's "act for the benefit of constituents or support [for] legislation furthering the interests of some of their constituents, shortly before or after campaign contributions are solicited and received from those beneficiaries." *Ibid.* Such conduct, the Court explained, is "unavoidable" in our system of campaign finance and has long been viewed as lawful. *Ibid.*

The following Term, the Court decided *Evans*. There, the Court considered whether Hobbs Act extortion required "an affirmative act of inducement by a public official." 504 U.S. at 256. The Court answered no. *Ibid.* At common law, the Court explained, a "demand, or request, by [a] public official was not an element of the offense" of extortion. *Id.* at 260. And after reviewing the statutory text and legislative history, the Court saw no indication that Congress had intended to narrow the scope of extortion liability from common law. See *id.* at 264-265. The Court also rejected the petitioner's argument that the jury instructions did not satisfy *McCormick*'s quid pro quo requirement; the Court held that the requirement was satisfied when "a public official has obtained a payment to which he was not entitled, knowing that the payment was made in return for official acts." *Id.* at 268.

Justice Kennedy wrote separately to elaborate on his views on the quid pro quo requirement. See 504 U.S. at 272-278 (opinion concurring in part and concurring in the judgment). Without acknowledging the requirement under *McCormick* for an "explicit" quid pro quo, Justice Kennedy opined that "[t]he official and the payor need not state the quid pro quo in express terms"; rather, "[t]he inducement from the official is criminal if it is express or if it is implied from his words and actions," such that the parties' "course of dealings * * * establish a real understanding that failure to make a payment will result in the victimization of the prospective payor or the withholding of more favorable treatment." *Id.* at 274-275 (emphasis omitted).

2. Little in *Evans* suggests that the majority intended to relax *McCormick*'s "explicit" quid pro quo requirement for extortion prosecutions based solely on campaign contributions. *Evans* involved the acceptance of both a campaign contribution *and* a personal cash gift, the latter of which does not raise any of the unique concerns implicated by prosecutions based on campaign contributions. See 504 U.S. at 257. The question presented in *Evans*—namely, "whether an affirmative act of inducement by a public official, such as a demand, is an element of the offense of extortion"—also did not encompass the scope of the quid pro quo requirement. See *id.* at 256. And the Court gave no indication that it was deviating from *McCormick*; to the contrary, the Court merely stated that "*fulfillment* of the quid pro quo is not an element of the offense." *Id.* at 268 (emphasis added; italics omitted). Alt-

hough the Court in *Evans* described the quid pro quo requirement as satisfied where "a public official has obtained a payment to which he was not entitled, knowing that the payment was made in return for official acts," *ibid.*, that statement "was nothing more than an answer by the Court to th[e] question [presented]," not a silent attempt to abrogate *McCormick*. *United States* v. *Dean*, 629 F.3d 257, 260 (D.C. Cir. 2011).

To be sure, Justice Kennedy outlined a more capacious understanding of the quid pro quo requirement than the one the Court had articulated in *McCormick*. But no other Justice joined his opinion, nor did it supply the narrowest ground supporting affirmance. Cf. *Marks* v. *United States*, 430 U.S. 188, 193 (1977).

Nevertheless, some lower courts, including the court of appeals in the decision below, have read the majority opinion in *Evans* and Justice Kennedy's separate opinion as creating an "elaboration" or "gloss" on *McCormick*. See, *e.g.*, Pet. App. 21a (citation omitted). Those courts have held that, although the government must prove an "explicit" quid pro quo—in the sense that the parties understood that the relevant donation was given in return for official action or forbearance—the quid pro quo need not be "express" and can be proven by implication from circumstantial evidence.

For example, the Second Circuit recently held that the "quid pro quo requirement may be met by implication from the official's and the payor's words and actions and need not entail an express statement." *United States* v. *Benjamin*, 95 F.4th 60, 69 (2024). Accordingly, in the Second Circuit's view, the quid pro quo must be "plainly evident," or "clear and unambiguous," yet juries may consider "both direct and circumstantial evidence, including the context in which a conversation took place, to determine if there was a meeting of the minds." *Id.* at 68-69.

In reaching that decision, the Second Circuit expressly rejected its earlier decisions that distinguished between *McCormick*'s requirement of an explicit quid pro quo in campaign-contribution cases and the differing standard applicable in other contexts. See *id.* at 72 (discussing *United States* v. *Ganim*, 510 F.3d 134 (2d Cir. 2007) (Sotomayor, J.), which stated that, "when campaign contributions are involved, the requirement to show an 'explicit' quid pro quo means that the agreement must be expressly stated"). Other courts of appeals have reached similar conclusions in cases involving campaign contributions. See, *e.g.*, *United States* v. *Allinson*, 27 F.4th 913, 925 (3d Cir. 2022); *Siegelman*, 640 F.3d 1159, 1171-1172 (11th Cir. 2011); *United States* v. *Carpenter*, 961 F.2d 824, 827 (9th Cir. 1992).

The decision below continued down that mistaken path. The court of appeals expressly followed the approach outlined in Justice Kennedy's concurrence as a "gloss on the *McCormick* Court's use of the word 'explicit' to qualify the quid pro quo requirement." Pet. App. 21a (brackets and citation omitted). The court thus held that the government "need not prove that the parties ever spoke about or wrote down" the terms of the quid pro quo or present any other "explicit evidence." *Ibid.* Accordingly, although the government "must prove a meeting of the minds between the parties" that is "unambiguous *from their perspective*," "unambiguous evidence is not required [and] circumstantial evidence can prove an agreement." Pet. App. 25a-26a (emphasis added).

The lower-court decisions in this context have blurred the line drawn by *McCormick* to identify when solicitation, donation, or receipt of a campaign contribution rises to the level of federal extortion or bribery. Since *McCormick* and *Evans*, "courts have struggled to pin down the definition of an explicit quid pro quo in various contexts."

United States v. *Ring*, 706 F.3d 460, 466 (D.C. Cir. 2013). The campaign-contribution context has posed particular challenges, resulting in "considerable debate" and "struggle[s]" over when and how to apply *McCormick* and *Evans*. See *United States* v. *McGregor*, 879 F. Supp. 2d 1308, 1316-1317 (M.D. Ala. 2012). As one commentator has explained, "[t]he sequence, and lack of clarity of [*McCormick* and *Evans*], left lower courts unclear as to whether campaign contributions would be judged by a special, higher standard for purposes of a quid-pro-quo analysis." Daniel C. Richman, *Navigating Between "Politics As Usual" and Sacks of Cash*, 133 Yale L.J. Forum 564, 582 (2023). Courts have thus struggled to reconcile the cases, see, *e.g.*, *United States* v. *Benjamin*, Crim. No. 21-706, 2022 WL 17417038, at *6-*8 (S.D.N.Y. Dec. 5, 2022) (Oetken, J.), rev'd, 95 F.4th 60, with at least one "confess[ing] considerable uneasiness in applying [the *Evans*] standard to the acceptance of campaign contributions." *United States* v. *Inzunza*, 638 F.3d 1006, 1013 (9th Cir. 2011).

The result is that candidates and donors seeking to engage in protected speech but avoid federal prison have little guidance on where the dividing line lies. As Judge Murphy aptly noted below, "explicit" and "express" are "synonyms." Pet. App. 64a (Murphy, J., concurring). It thus makes little sense to say that the government must prove the former but not necessarily the latter. Nor is it any easier to understand how the government could prove a "clear and unambiguous" quid pro quo by asking jurors—in the absence of unambiguous proof of an agreement—to infer the terms of such an agreement from context and other circumstantial evidence. In attempting to reconcile *McCormick* and *Evans*, courts have thus settled on a rule that is unworkable, contradictory, and at best a "subtle distinction" that juries are unlikely to understand—doubtful grounds for "sending people to prison." See *ibid.*

B. The Decision Below Will Chill Protected Speech Between Donors And Candidates

The approach to bribery and extortion adopted in the decision below will significantly affect the ability of political candidates and donors to engage in speech protected by the First Amendment. Politicians must be able to tell their constituents about the policies they will pursue if elected, and donors have the right to engage politicians about the issues that matter to them most. The prospect that such discussions between candidates and donors could be used as evidence of an unstated but nevertheless "explicit" quid pro quo casts a shadow over every such conversation. As both Judges Murphy and Bush recognized below, that prospect raises serious First Amendment concerns. Pet. App. 68a-69a (Murphy, J., concurring); see also *id.* at 98a-103a (Bush, J., dissenting).

1. The First Amendment provides robust protections for political speech, which rests at the "core of our electoral process and of the First Amendment freedoms." *Eu* v. *San Francisco County Democratic Central Committee*, 489 U.S. 214, 222-223 (1989) (citation omitted). That is because, in our representative form of government, "the ability of the citizenry to make informed choices among candidates for office is essential." *Buckley* v. *Valeo*, 424 U.S. 1, 14-15 (1976) (per curiam). This Court has thus recognized that the First Amendment has "its fullest and most urgent application precisely to the conduct of campaigns for political office." *Federal Election Commission* v. *Ted Cruz for Senate*, 596 U.S. 289 (2022) (citation omitted).

The Court has also long recognized that the same First Amendment protections extend to campaign contributions. "[V]irtually every means of communicating ideas in today's mass society requires the expenditure of money." *Buckley*, 424 U.S. at 19. Candidates require a continual influx of funds—often in significant quantities—in order to share their message and persuade voters to elect them to office. In turn, by giving money to candidates, donors can both express their views and increase the likelihood that their preferred policies will be implemented. It is thus settled that the First Amendment protects participation in democracy through political contributions. *McCutcheon* v. *Federal Election Commission*, 572 U.S. 185, 191 (2014) (opinion of Roberts, C.J.).

Those protections apply with no less force when candidates and donors engage in two forms of constitutionally protected activity—discussing salient issues and soliciting or offering campaign contributions—in close proximity. The very "nature of an elected representative" is "to favor certain policies, and, by necessary corollary, to favor the voters and contributors who support those policies." *Citizens United* v. *Federal Election Commission*, 558 U.S. 310, 359 (2010) (citation omitted). And "it is well understood that a substantial and legitimate reason, if not the only reason, * * * to make a contribution to[] one candidate over another is that the candidate will respond by producing those political outcomes the supporter favors." *Ibid.* (citation omitted); see also *McCutcheon*, 572 U.S. at 192 (opinion of Roberts, C.J.). When a candidate fundraises by touting his or her record and future plans to donors, or when a prospective donor questions a candidate to determine whether the candidate shares his or her policy objectives, that is the First Amendment in action—not corruption.

2. The rule adopted by the decision below poses a grave risk of chilling constitutionally protected communications. The requirement in *McCormick* of an "explicit" quid pro quo provides fair notice to candidates and donors about when political dealings cross the line from legitimate to criminal and thus helps to create the space necessary for constitutionally protected speech to occur. Diluting that standard—as the court of appeals below and other lower courts have done—endangers constitutionally protected speech.

a. To begin with, the rule adopted by the court of appeals risks criminalizing the "everyday business of a legislator." *McCormick*, 500 U.S. at 272. As this Court observed in *McCormick*, it is "unavoidable" in our political system that legislators will advance constituents' interests "shortly before or after campaign contributions are solicited or received from" them. *Ibid.* For example, one presidential candidate may ask companies in a particular industry for $1 billion in contributions while promising to support industry-friendly policies, while the other pledges to support a particular nonprofit organization after the organization has promised to spend heavily in the presidential race. Cf. Pet. 23-24. Similarly, a state legislator representing a rural district with a shortage of trained healthcare professionals may solicit contributions from foreign-educated doctors and introduce legislation to relax professional licensing requirements. Cf. *McCormick*, 500 U.S. at 259-261.

Those examples involve both "the most fundamental First Amendment activities," *Buckley*, 424 U.S. at 14, and the "everyday business" of lawmaking, *McCormick*, 500 U.S. at 272. But the adoption of a "vague" standard for determining when the line from legitimate to criminal has been crossed makes it difficult "to separate protected political speech from illegal bribery." Pet. App. 59a (Murphy, J., concurring) (internal quotation marks and citation omitted). To borrow this Court's words from a related context, such a vague standard would "leave state and local officials entirely at sea to guess about what [campaign contributions] they are allowed to accept under federal law, with the threat of up to 10 years in federal prison if they happen to guess wrong." *Snyder* v. *United States*, 603 U.S. 1, 16 (2024). "That is not how federal criminal law works" (or at least is supposed to work). *Ibid.*

b. A related problem with criminalizing ordinary political activity is that it "invites arbitrary enforcement." *Beckles* v. *United States*, 580 U.S. 256, 262 (2017). When ubiquitous conduct becomes a crime, lawmaking is entrusted to "the moment-to-moment judgment" of law-enforcement officials. *City of Chicago* v. *Morales*, 527 U.S. 41, 60-61 (1999); see also *Shuttlesworth* v. *City of Birmingham*, 382 U.S. 87, 90-91 (1965); William J. Stuntz, *The Pathological Politics of Criminal Law*, 100 Mich. L. Rev. 505, 539 (2001).

Such discretion is all the more troubling when wielded against a politician for his or her election-related conduct. The "most dangerous power of the prosecutor" is that "he will pick people that he thinks he should get, rather than cases that need to be prosecuted." Robert H. Jackson, Attorney General, Department of Justice, Address to the Second Annual Conference of United States Attorneys: The Federal Prosecutor 4 (Apr. 1, 1940). A high-profile prosecution may thus be driven not solely by the facts and the law but also by the prosecutor's desire to increase his or her public profile or take down a political opponent. And any conviction ultimately obtained may result from jurors' distaste for politicians or money in politics generally, rather than a neutral assessment of the law as applied to the facts. Cf. Pet. App. 103a-105a (Bush, J., dissenting). Notably, the Court has repeatedly—and often unanimously—rejected the government's efforts to wield nebulous provisions of the federal criminal code "to enforce (its view of) integrity in broad swaths of state and local policymaking." *Kelly* v. *United States*, 590 U.S. 391, 398-404 (2020); see, *e.g.*, *Snyder*, 603 U.S. at 15; *Ciminelli* v. *United States*, 598 U.S. 306, 316 (2023); *McDonnell* v. *United States*, 579 U.S. 500, 575 (2016).

At oral argument below, the government "disavowed any intent to prosecute generic campaign donations tied to campaign pledges." Pet. App. 58a (Murphy, J., concurring) (citing Tr. of Oral Arg. 22:19-23:10). "But as this Court has said time and again, the Court 'cannot construe a criminal statute on the assumption that the [g]overnment will use it responsibly.'" *Snyder*, 144 S. Ct. at 1958 (quoting *McDonnell*, 579 U.S. at 576, and citing *Percoco* v. *United States*, 598 U.S. 319 (2023); *Ciminelli*, 598 U.S. 306; *Kelly*, 590 U.S. 391; and *Skilling* v. *United States*, 561 U.S. 358 (2010)).

c. At minimum, the decision below poses a serious risk of chilling protected speech. Given the uncertainty about how federal bribery and extortion laws apply to campaign contributions, savvy candidates and donors may avoid discussing specific measures that the candidate can or should take if elected, out of fear that prosecutors may later allege that the contribution was one half of a prohibited quid pro quo. For example, amicus will continue striving to contribute to candidates that share its values and policy commitments. But it will have to take care that, in asking candidates for their views on issues and legislation, neither it nor the candidates with whom it speaks say anything that a prosecutor or jurors might later misconstrue as an implied quid pro quo.

If the rule in the decision below stands, the result will likely be stilted conversations in which neither donors nor candidates can straightforwardly and succinctly convey their views about salient issues. The lack of "precision and guidance" from this Court about when campaign contributions are unlawful will thus have an "obvious chilling effect" on core political speech, see *Federal Communications Commission* v. *Fox Television Stations, Inc.*, 567 U.S. 239, 253-255 (2012) (citation omitted), in turn making politicians less responsive to their constituents' needs. That would undermine the structure of our electoral system, which requires "campaigns [to] be run and financed," *McCormick*, 500 U.S. at 272, in order for candidates to share effectively their message with potential voters.

C. This Case Warrants The Court's Review

The Court should take this opportunity to clarify the line separating ordinary campaign contributions from prohibited extortion and bribery. For the past half century, the Court has policed "the constitutional line between the permissible goal of avoiding corruption in the political process and the impermissible desire simply to limit political speech." *McCutcheon*, 572 U.S. at 192 (opinion of Roberts, C.J.). The Court has thus repeatedly intervened to protect First Amendment rights in the political process from efforts by legislators and prosecutors seeking to impose their own intuitions about how much political speech should be allowed. See, *e.g.*, *Ted Cruz for Senate*, 596 U.S. at 313; *McCutcheon*, 572 U.S. at 192-193; *Citizens United*, 558 U.S. at 319; *Davis* v. *Federal Election Commission*, 554 U.S. 724, 741-742 (2008); *Randall* v. *Sorrell*, 548 U.S. 230, 236 (2006) (opinion of Breyer, J.); *Buckley*, 424 U.S. at 47-48. Those decisions reflect the Court's judgment that the First Amendment offers robust protections for participation in the political process and that judicial intervention is sometimes required in response to judgments by the political branches about who may speak and how.

The Court's intervention is needed once more. Based partly on a dubious reading of this Court's decision in *Evans*, lower courts have watered down *McCormick*'s explicit quid pro quo requirement for bribery and extortion prosecutions in the context of campaign contributions. More than three decades after those cases were decided, there is no sign that the trend is slowing, let alone reversing. And although two judges on the panel below expressed concern that the law in this area is insufficiently protective of First Amendment rights, both members of the majority agreed that a court of appeals is not "the right court to address th[ose] concerns." Pet. App. 68a (Murphy, J., concurring); see also *id*. at 27a n.8 (majority opinion).

Only this Court can bring much-needed clarity to this area of the law. The Court should thus grant review to provide guidance on when a campaign contribution can support a federal conviction for extortion or bribery.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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