No. 25-5146

IN THE SUPREME COURT OF THE UNITED STATES

AHMAD ABOUAMMO, PETITIONER

v.

UNITED STATES OF AMERICA

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

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTIONS PRESENTED

1. Whether a prosecution for knowingly falsifying a record with the intent to obstruct an investigation, in violation of 18 U.S.C. 1519, may be brought in the district of the investigation at which the obstruction was directed.

2. Whether the timely filed information alleging that petitioner committed various felonies, filed when grand-jury proceedings were suspended due to COVID-19 restrictions, was an "information charging a felony" under 18 U.S.C. 3288.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-47a) is reported at 122 F.4th 1072. An accompanying memorandum of the court of appeals is available at 2024 WL 4972564. The relevant order of the district court (Pet. App. 48a-97a) is available at 2022 WL 17584238.

JURISDICTION

The judgment of the court of appeals (Pet. App. 1a-47a) was entered on December 4, 2024. A petition for rehearing was denied on March 18, 2025 (Pet. App. 98a). On June 9, 2025, Justice Kagan extended the time within which to file a petition for a writ of

certiorari to and including July 16, 2025, and the petition was filed on that date. On July 2, 2025, on remand from the court of appeals, the district court issued an amended judgment. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a jury trial in the United States District Court for the Northern District of California, petitioner was convicted on one count of acting as an agent of a foreign government without notification to the Attorney General, in violation of 18 U.S.C. 951; one count of conspiring to commit wire fraud, in violation of 18 U.S.C. 1349; one count of wire fraud, in violation of 18 U.S.C. 1343, 1346; two counts of money laundering, in violation of 18 U.S.C. 1956(a)(2)(B)(i); and one count of falsifying a record with the intent to obstruct an investigation, in violation of 18 U.S.C. 1519. Pet. App. 5a, 12a. He was sentenced to 42 months of imprisonment, to be followed by three years of supervised release. Id. at 13a. The court of appeals affirmed petitioner's convictions but vacated his sentence. Id. at 1a-47a. On remand, petitioner was sentenced to time served, to be followed by two years of supervised release. D. Ct. Doc. 482, at 2-3 (July 2, 2025).

1. While working at the social-media company then known as Twitter, petitioner agreed to act as an agent of the Kingdom of Saudi Arabia. Pet. App. 5a-7a. Petitioner exploited his internal corporate access to acquire confidential information on Twitter users who used pseudonymous accounts to post content critical of

the Saudi government, including allegations of "corruption and incompetence in the Saudi Kingdom and royal family." Id. at 7a. Petitioner then passed the identifying information to his Saudi contacts. Id. at 8a. Testimony at petitioner's sentencing indicated that one dissident Twitter user identified through the scheme -- a humanitarian worker who had satirized the Saudi government in his posts -- was subsequently "detained in Saudi Arabia," "held in solitary confinement," "tortured through electric shocks and beatings," "hospitalized with life[-]threatening injuries," and has now "disappeared." Id. at 9a. In return for this confidential information, petitioner received a $42,000 watch and hundreds of thousands of dollars wired to a Lebanese bank account he maintained in his father's name. Id. at 7a-9a.

In May 2015, petitioner resigned from Twitter and moved from northern California to Seattle. Pet. App. 9a. On October 20, 2018, the New York Times published an article revealing that the government was investigating Saudi efforts to obtain confidential information from Twitter in order to identify dissidents. Id. at 9a-10a. That same day, two agents of the Federal Bureau of Investigation traveled to petitioner's home to interview him. Id. at 10a. The agents introduced themselves as "FBI agents from the San Francisco office," and they interviewed petitioner for several hours about his work at Twitter and his contacts with a Saudi official. Ibid. During the interview, petitioner claimed that he

had been paid by the Saudi official for consulting services. Id. at 11a. When asked if there was documentation to support that claim, petitioner told the agents that he had an invoice and went upstairs unaccompanied. Ibid. Approximately 30 minutes later, petitioner emailed a purported invoice to one of the agents. Ibid. Analysis of the document's metadata, however, showed that petitioner had created it during that 30-minute period. Ibid.

2. In November 2019, a federal grand jury in the Northern District of California returned an indictment charging petitioner with one count of acting as an agent of a foreign government without notification to the Attorney General, in violation of 18 U.S.C. 951, and one count of falsifying a record to obstruct a federal investigation, in violation of 18 U.S.C. 1519. Pet. App. 11a-12a. In February 2020, the government and petitioner agreed to toll the statute of limitations for additional charges until April 7, 2020, so that the parties could discuss a possible plea deal. Id. at 12a.

In March 2020, COVID-19 restrictions caused the district court to suspend grand-jury operations. Pet. App. 12a. On April 7, 2020, with the grand jury still suspended and petitioner unwilling to extend the tolling agreement, the government filed a superseding information alleging 15 counts of wire fraud, one count of conspiring to commit wire fraud, and three counts of money laundering, in addition to the two previously charged counts. Ibid. On July 28, 2020, after grand-jury proceedings resumed, the

government dismissed the superseding information, and the grand jury returned a superseding indictment containing the same charges. Ibid.

Following a two-week trial, a jury found petitioner guilty on one count of acting as a foreign agent without notification to the Attorney General, one count of conspiring to commit wire fraud, one count of wire fraud, two counts of money laundering, and one count of falsifying a record with the intent to obstruct a federal investigation. Pet. App. 12a. The district court imposed concurrent 42-month sentences for each of the six counts, to be followed by three years of supervised release. Id. at 13a.

3. The court of appeals affirmed petitioner's convictions but vacated his sentence and remanded for resentencing. Pet. App. 1a-47a; 2024 WL 4972564, at *1-*2.

a. The court of appeals rejected petitioner's argument that his money-laundering and wire-fraud charges were barred by the statute of limitations. Pet. App. 23a-30a. The court observed that 18 U.S.C. 3288 "categorically excludes from 'any statute of limitations' bar a 'new indictment . . . returned in the appropriate jurisdiction within six calendar months' of the dismissal of an 'information charging a felony.'" Pet. App. 26a (quoting 18 U.S.C. 3288). The court further observed that "the superseding indictment in this case was returned within six months of the dismissal of the April 7, 2020 information," which, in turn, was filed "within the statute of limitations." Ibid. And the

court accordingly found that the superseding indictment was thus "[c]onsistent with the plain language of [Section] 3288" and therefore timely. Ibid.

The court of appeals observed that petitioner's contrary argument -- that "the 'information charging a felony' referred to in [Section] 3288 * * * requires an 'instituted' information accompanied by a waiver of indictment" -- "finds no support in the statutory text." Pet. App. 26a. The court added that petitioner's "position is significantly undercut by the history of" Section 3288, as the "very limitation [petitioner] wishes to read back into the statute" was removed from the statute by Congress in 1988. Id. at 27a. Because "[petitioner's] argument already lacks a textual foundation in [Section] 3288," the court was "reluctant to interpret that provision to include a requirement that Congress specifically removed." Id. at 28a.

The court of appeals also rejected petitioner's venue-based challenge to his obstruction conviction. Pet. App. 30a-44a. The court explained that by incorporating as an element the defendant's "intent to impede, obstruct, or influence" an investigation, 18 U.S.C. 1519 "'expressly contemplates the effect of influencing the action' of another." Id. at 37a (citation and emphasis omitted). The court accordingly determined "that the contemplated effects are part of the 'essential conduct' of the offense for venue purposes because the statute[] expressly define[s] the conduct in those terms." Ibid. (citation omitted). And it therefore found

that "venue for a charge under 18 U.S.C. § 1519" is appropriate in either "the district in which the false document was prepared" or "the district in which the obstructed federal investigation was taking place." Id. at 31a. The court thus recognized that petitioner's obstruction offense, though begun in Seattle, "was continued or completed in the Northern District [of California], making venue proper there." Id. at 40a.

In a concurring opinion, Judge Lee emphasized that the court of appeals' decision "does not give free rein to the government to manufacture venue." Pet. App. 45a. He observed that no such concerns were presented by petitioner's case, because "there is no whiff that the government intentionally used San Francisco-based FBI agents to manufacture venue in the Northern District of California." Id. at 46a.

b. Although it affirmed petitioner's convictions, the court of appeals issued a separate, unpublished memorandum concluding that the district court had erred in its Sentencing Guidelines calculation. 2024 WL 4972564. The court of appeals accordingly vacated petitioner's sentence and remanded for resentencing. Id. at *2. By the time of resentencing, petitioner had completed his original term of imprisonment, and he was sentenced to time served, to be followed by two years of supervised release. D. Ct. Doc. 482, at 2-3. He did not appeal the amended judgment.

ARGUMENT

Petitioner renews his contentions that venue for the Section 1519 charge was improper in the Northern District of California (Pet. 9-19) and that three of his six convictions were barred by the statute of limitations because the government initially charged them by information without having first obtained a waiver of his right to indictment (Pet. 19-25). The court of appeals correctly rejected both contentions, and the decision below does not conflict with any decision of this Court or of another court of appeals. No further review is warranted.

1. a. Under the Constitution and the Federal Rules of Criminal Procedure, a crime must be prosecuted in a "district wherein the crime shall have been committed." U.S. Const. Amend. VI; see Fed. R. Crim. P. 18 ("Unless a statute or these rules permit otherwise, the government must prosecute an offense in a district where the offense was committed."). As this Court explained in United States v. Rodriguez-Moreno, 526 U.S. 275, 281 (1999), however, a single criminal offense may be "committed" in more than one district. Accord 18 U.S.C. 3237(a) ("Except as otherwise expressly provided by enactment of Congress, any offense against the United States begun in one district and completed in another, or committed in more than one district, may be inquired of and prosecuted in any district in which such offense was begun, continued, or completed.").

In Rodriguez-Moreno, the Court considered a venue challenge to a conviction for using or carrying a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. 924(c)(1). 526 U.S. at 276-278. The underlying crime of violence in that case was a kidnapping that continued through several States (and thus through several federal judicial districts). Ibid. The defendant was prosecuted in the District of New Jersey, one of the locations in which the victim had been held captive. Id. at 277. The Section 924(c)(1) charge was based on evidence that the defendant had used a firearm in Maryland in furtherance of the kidnapping offense. Ibid.

Emphasizing that the "locus delicti [of the charged offense] must be determined from the nature of the crime alleged and the location of the act or acts constituting it," Rodriguez-Moreno, 526 U.S. at 279 (quoting United States v. Cabrales, 524 U.S. 1, 6-7 (1998)), this Court rejected the defendant's argument that "venue was proper only in Maryland, the only place where the Government had proved he had actually used a gun," id. at 277. The Court interpreted Section 924(c)(1) as containing "two distinct conduct elements" -- "[1] the 'using and carrying' of a gun[,] and [2] the commission of a kidnaping [or other crime of violence]," id. at 280 -- and reaffirmed the settled principle that such "a crime consist[ing] of distinct parts * * * may be tried where any part can be proved to have been done," id. at 281 (quoting United States v. Lombardo, 241 U.S. 73, 77 (1916)).

The Court further explained that "[t]he kidnaping, to which the [Section] 924(c)(1) offense [was] attached, was committed in all of the places that any part of it took place," so that "venue for the kidnaping charge * * * was appropriate in any of them." Rodriguez-Moreno, 526 U.S. at 282. Because venue in New Jersey was "appropriate for the underlying crime of violence," the Court concluded that venue was appropriate "for the [Section] 924(c)(1) offense" as well. Ibid.

b. The court of appeals correctly articulated and applied this Court's venue jurisprudence when analyzing petitioner's conduct in violation of Section 1519. Pet. App. 30a-44a. Consistent with Rodriguez-Moreno, 526 U.S. at 279, the court of appeals first "identif[ied] the conduct constituting the offense (the nature of the crime)" set out in Section 1519, and it then "discern[ed] the location of the commission of the criminal acts." See Pet. App. 36a-40a (citation omitted). The court also noted that petitioner "d[id] not dispute that for some criminal offenses, the place where the effects of the crime are directed or sustained can be an appropriate venue for prosecution." Id. at 33a.

In analyzing "the nature of the crime" here, the court of appeals explained that, where a criminal statute "expressly contemplate[s] the effect of influencing [a specified] action," venue is proper where that effect would occur. Pet. App. 32a, 38a (quoting United States v. Fortenberry, 89 F.4th 702, 710 (9th Cir. 2023)). And based on the statutory text, the court of appeals

determined that Section 1519 is such a provision. Id. at 36a-38a. As the court observed, Section 1519 requires proof that a defendant acted "with the intent to impede, obstruct, or influence" an investigation. Id. at 37a (citation omitted). The statute therefore captures an "express connection between the actus reus and its contemplated effect." Ibid. And in the circumstances of this case -- where petitioner endeavored to obstruct an investigation he knew to be taking place in the Northern District of California -- venue was proper in that district. Id. at 44a.

c. No court has reached a contrary determination as to permissible venue(s) under Section 1519. The court below was the first (and, so far, only) court of appeals to address the issue. See Pet. App. 31a (observing that "no circuit has yet * * * address[ed] this question in the context of [Section] 1519"). In addition to the district court that presided over petitioner's case, one other district court has analyzed venue for a Section 1519 prosecution -- and it reached the same conclusion as the courts below. See United States v. Baugh, 597 F. Supp. 3d 502, 510 (D. Mass. 2022).

Petitioner nevertheless posits a circuit conflict by citing cases from the First, Third, Fourth, Fifth, Eleventh, and D.C. Circuits examining venue under other criminal statutes. See Pet. 9-14 (collecting cases). Under the element-by-element statute-specific analysis set out in Rodriguez-Moreno, supra, such statute-to-statute comparisons have limited utility. And none of

those decisions adopts a categorical rule that would preclude a future panel from agreeing with the decision below if a case that actually involves Section 1519 were to arise.

The Third and Fourth Circuit decisions on which petitioner relies address statutes that do not contain any element similar to Section 1519's requirement that a defendant act "with the intent to impede, obstruct, or influence" an investigation. In United States v. Auernheimer, 748 F.3d 525 (3d Cir. 2014), the Third Circuit considered 18 U.S.C. 1030(a)(2), which prohibits, inter alia, the unauthorized "access[ing]" and "obtain[ing]" of "information from any protected computer"; it then concluded that, because "[n]o protected computer was accessed and no data was obtained in [the district of conviction]," venue could not lie there, 748 F.3d at 534. And in United States v. Bowens, 224 F.3d 302 (4th Cir. 2000), cert. denied, 532 U.S. 944 (2001), the Fourth Circuit reasoned, in the context of the federal fugitive-harboring statute, that venue lies "where acts of harboring or concealing take place"; in contrast, the statute's antecedent requirement of "'a warrant or process ha[ving] been issued'" prior to the harboring was "merely a circumstance element." Id. at 309-311 (quoting 18 U.S.C. 1071). As the decision below emphasized (Pet. App. 38a-39a), the Ninth Circuit follows a similar rule for crimes that lack an intent element. See id. at 34a-36a (discussing Fortenberry, 89 F.4th at 704-705).

Petitioner also invokes (Pet. 9-10, 12-13) decisions of the First, Fifth, and Eleventh Circuits, but each of those courts rejected venue based on a required statutory intent to obtain or remove a discrete person or thing -- not, as here, to influence or obstruct an ongoing matter. See United States v. Smith, 22 F.4th 1236, 1243–1244 (11th Cir. 2022) (theft of trade secrets), aff'd on other grounds, 599 U.S. 236 (2023); United States v. Clenney, 434 F.3d 780, 781 (5th Cir. 2005) (per curiam) (kidnapping); United States v. Salinas, 373 F.3d 161, 165–166 (1st Cir. 2004) (passport fraud). In the latter context -- for example, in prosecutions for "mak[ing] * * * false statement[s] * * * for the purpose of influencing" federal agencies and federally insured entities, 18 U.S.C. 1014 -- those courts have found venue proper where the target of the "influencing" is situated. See, e.g., United States v. Dupre, 117 F.3d 810, 822 (5th Cir. 1997) (Section 1014), cert. denied, 522 U.S. 1078 (1998); United States v. Greene, 862 F.2d 1512, 1515 (11th Cir. 1989) (Section 1014), cert. denied, 493 U.S. 809 (1989); United States v. Tedesco, 635 F.2d 902, 902, 904-906 (1st Cir. 1980) (witness tampering under 18 U.S.C. 1503), cert. denied, 452 U.S. 962 (1981); cf. United States v. Uribe, 890 F.2d 554, 559 (1st Cir. 1989) (citing, with approval, an out-of-circuit Section 1014 decision so holding).

Petitioner's reliance on D.C. Circuit decisions for the proposition that there, "venue for attempting to influence a witness [i]s proper only where the attempt took place, not where

the witness would testify," Pet. 13, is unsound. The first of those decisions, United States v. Swann, 441 F.2d 1053 (D.C. Cir. 1971), was a witness-tampering prosecution under 18 U.S.C. 1503, in which the court deemed venue to lie only where the influencing occurred, not where the witness would testify. See id. at 1054-1055. The second, United States v. White, 887 F.2d 267 (D.C. Cir. 1989), was a bribery prosecution under 18 U.S.C. 201(c) that relied on Swann to reach a similar result, while noting that "other circuits" -- including three that petitioner views as aligned with him (the First, Fourth, and Eleventh) -- "disagree with our holding in Swann." Id. at 272 & n.3. And when it enacted a specific witness-tampering statute (18 U.S.C. 1512) in 1988, Congress "resolv[ed] [the] split in the circuits" on the proper interpretation of Section 1503 (at issue in Swann) by "clarify[ing]" that a prosecution under the new provision "could be brought in the district where the official proceeding that the defendant intended to influence was taking place, as well as in the district where the illegal act itself occurred." 134 Cong. Rec. 13780 (1988); see, e.g., United States v. Gonzalez, 922 F.2d 1044, 1054-1055 (2d Cir.), cert. denied, 502 U.S. 1014 (1991); see also 18 U.S.C. 1512(h).

Although that amendment predates White, it was not addressed in that decision, and petitioner identifies no decision of the D.C. Circuit addressing but disregarding the abrogation of Swann in a case presenting an issue of this sort. He therefore provides

no evidence from the last 35 years indicating that the D.C. Circuit would adhere to its previous view. In any event, at most, petitioner has demonstrated that different statutes have different essential conduct elements and thus give rise to different venue analyses. That is an unremarkable and unavoidable byproduct of "the Sixth Amendment's offense-specific approach to venue." United States v. Lanier, 879 F.3d 141, 148 (5th Cir.), cert. denied, 586 U.S. 892 (2018). It is thus unclear in what way or to what end this Court might fashion a new general venue rule applicable beyond the specific statute at issue here. And because only the decision below has thus far passed on the appropriate venue for Section 1519, no conflict exists that would require the Court's intervention at this time.

2. Petitioner separately contends (Pet. 19-25) that "a felony information that is not accompanied by a valid waiver of indictment does not 'charg[e] a felony,' as [18 U.S.C.] 3288 requires." See 18 U.S.C. 3288 ("Whenever an indictment or information charging a felony is dismissed for any reason after the period prescribed by the applicable statute of limitations has expired, a new indictment may be returned in the appropriate jurisdiction within six calendar months of the date of the dismissal of the indictment or information[.]"). This Court has recently denied petitions for writs of certiorari raising similar

issues,* which have uncertain prospective importance given the post-COVID-19 restoration of grand-jury proceedings. The same course is warranted here.

a. The court of appeals correctly rejected petitioner's construction of Section 3288, which would require reading the statutory phrase "information charging a felony" to mean something other than an "information" that "charg[es]" a "felony." See Pet. App. 25a-26a. Contrary to petitioner's contention (Pet. 21), both legal and lay definitions of "charge" require nothing more than to accuse someone of a crime -- something that a felony information, which puts a defendant on notice that he stands accused of a criminal offense, plainly accomplishes. See Charge (verb), Black's Law Dictionary (12th ed. 2024) ("To accuse (a person) of an offense," as in "the police charged him with murder"); Charge (noun), Black's Law Dictionary (12th ed. 2024) ("A formal accusation of an offense as a preliminary step to prosecution") (emphasis added); Charge (verb), Merriam-Webster Online Dictionary, http://www.merriam-webster.com/dictionary/charge ("to make an assertion against especially by ascribing guilt or blame").

At base, petitioner's argument rests on the premise that an information charging a felony is "invalid," Pet. 19, without a preexisting waiver of the right to indictment. But the fact that an information cannot ultimately lead to conviction without a

* See Webster v. United States, 145 S. Ct. 1461 (2025) (No. 24-6633); Briscoe v. United States, 145 S. Ct. 382 (2024) (No. 24-284).

superseding indictment or waiver of the right thereto does not render it a nullity as a preliminary step in the prosecutorial process. To the contrary, "filing an information establishes it as an operative legal document and begins an action." United States v. Webster, 127 F.4th 318, 323 (11th Cir.), cert. denied, 145 S. Ct. 1461 (2025); accord United States v. Cooper, 956 F.2d 960, 962-963 (10th Cir. 1992). The filing of an information begins criminal proceedings, even if those proceedings may culminate in a motion to dismiss any charges as to which the information is deemed invalid, see Pet. App. 29a, and the defendant is not exempt from the requirement to appear in court and address the criminal prosecution in some way.

Moreover, as the court of appeals explained, the requirement petitioner seeks to impose is not only absent from the statute but was affirmatively removed by Congress. For decades, Section 3288 required the filing of "an indictment or information filed after the defendant waives in open court prosecution by indictment." Pet. App. 27a (citation omitted). But in 1988, Congress removed "the very limitation [petitioner] wishes to read back into the statute," ibid., and instead required only the filing of "an indictment or information charging a felony," 18 U.S.C. 3288. Petitioner suggests (Pet. 24) that Congress was merely clarifying that "[Section] 3288 did not apply to a dismissal for speedy-trial violations," but that does not explain its removal of the "waive[r]" language. "[W]hen Congress acts to amend a statute,

[this Court] presume[s] it intends its amendment to have real and substantial effect." Pierce Cnty. v. Guillen, 537 U.S. 129, 145 (2003) (citation omitted). The court of appeals appropriately adhered to that principle.

b. Petitioner also has not shown that the second question presented satisfies any of the criteria for certiorari. Sup. Ct. R. 10. First and foremost, petitioner fails to identify a circuit conflict or other division of authority on the question. As petitioner acknowledges, "the Ninth Circuit is not the only court" to have rejected claims identical to the one he now advances. Pet. 20 (citations omitted). Indeed, every court of appeals to have considered petitioner's contention or a closely related one has rejected it. See Webster, 127 F.4th at 321-326; United States v. Briscoe, 101 F.4th 282, 291-293 (4th Cir.), cert. denied, 145 S. Ct. 382 (2024); United States v. Burdix-Dana, 149 F.3d 741, 742-743 (7th Cir. 1998), cert. denied, 525 U.S. 1180 (1999).

In addition, the prospective importance of this question is far from clear. Petitioner states that an information charging a felony has been "rarely used" to ensure timeliness outside the anomalous context of COVID-19 restrictions. Pet. 20 (citation omitted); see Pet. App. 23a (observing that petitioner's "argument is rooted in the peculiarities of timing" prompted by COVID-19). And proceeding by information generally confers no advantage to the government: the prosecutor must "still" prepare the "sufficiently specific" case, Pet. App. 29a, before expiration of

the limitations period so that a subsequent superseding indictment will "relate[] back" to the timely filed information, Briscoe, 101 F.4th at 293; and the defendant receives timely notice of the charges against him and may move to dismiss them, Pet. App. 29a; Webster, 127 F.4th at 323. And in some cases, "substantial delay" by the government in securing a superseding indictment "could present speedy trial or due process concerns" that are not "present in this case." Pet. App. 29a.

Instead, the filing of an information charging a felony is beneficial primarily, if not exclusively, when a grand jury is unavailable. That is a rare circumstance that petitioner provides no sound reason to believe will recur. And while many defendants charged in early 2020 raised time-bar arguments related to the pandemic, it appears that virtually all such prosecutions have now been resolved.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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