No. 25-5348

IN THE SUPREME COURT OF THE UNITED STATES

HECTOR CRISTOBAL MEJIA-ESTRADA, PETITIONER

v.

UNITED STATES OF AMERICA

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

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTION PRESENTED

Whether petitioner is entitled to plain-error relief on his claim that the supervised-release condition recommended in Sentencing Guidelines § 5D1.3(c)(12) (2023) impermissibly delegates judicial authority to a probation officer.

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OPINION BELOW

The opinion of the court of appeals (Pet. App. at 1a-2a) is available at 2025 WL 1367823.

JURISDICTION

The judgment of the court of appeals was entered on May 12, 2025. The petition for a writ of certiorari was filed on August 11, 2025 (Monday). The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a bench trial in the United States District Court for the Western District of Texas, petitioner was convicted of

unlawfully reentering the United States, in violation of 8 U.S.C. 1326(a) and (b)(1). Judgment 1. He was sentenced to 30 months of imprisonment, to be followed by three years of supervised release. Judgment 2-3. The court of appeals affirmed. Pet. App. 1a-2a.

1. Petitioner, a national of Honduras, was removed from the United States in 2014, but found there again in October 2023. Presentence Investigation Report (PSR) ¶ 4; Indictment 1; Trial Tr. 88. A federal grand jury charged petitioner with unlawfully reentering the United States, in violation of 8 U.S.C. 1326(a) and (b)(1). Indictment 1. At a bench trial, the district court found petitioner guilty. Judgment 1; Trial Tr. 88. The district court sentenced petitioner to 30 months of imprisonment, to be followed by three years of supervised release. Judgment 2-3.

Under 18 U.S.C. 3583(d), a sentencing court may impose any condition of supervised release that "it considers to be appropriate," as long as three requirements are satisfied. First, the condition must be "reasonably related" to the nature and circumstances of the offense and the history and characteristics of the defendant, as well as to the objectives of deterring criminal conduct; protecting the public from further crimes; and providing needed training, medical care, or effective correctional treatment. 18 U.S.C. 3583(d)(1) (incorporating factors set forth in 18 U.S.C. 3553(a)). Second, the condition must involve "no greater deprivation of liberty than is reasonably necessary" to

deter criminal conduct and to protect the public. 18 U.S.C. 3583(d)(2). Finally, the condition must be "consistent with any pertinent policy statements" of the Sentencing Commission. 18 U.S.C. 3583(d)(3); see 28 U.S.C. 994(a)(2)(B) (directing the Sentencing Commission to issue policy statements regarding conditions of supervised release).

Shortly after its creation, the Sentencing Commission issued a list of standard conditions of supervised release. Sentencing Guidelines § 5B1.4 (1987). Those standard conditions included (and still include), for example, requirements that a defendant report to a probation officer in keeping with the probation officer's instructions, answer all questions posed by the probation officer, and notify the probation officer of changes in residence or employment. See ibid.; Sentencing Guidelines § 5D1.3(b)(2)(current version).

Standard Condition 13 of the initial list of standard conditions provided that, "as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement." Sentencing Guidelines § 5B1.4(a)(13) (1987). The current version of the recommended condition, adopted in response to judicial "criticism * * *

regarding potential ambiguity in how the condition is * * * phrased," Sentencing Guidelines App. C Supp., Amend. 803 (Nov. 1, 2016), and known as Standard Condition 12, provides:

> If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk.

Sentencing Guidelines § 5D1.3(b)(2)(L); see Sentencing Guidelines § 5D1.3(c)(12) (2023) (prior version).*

At petitioner's sentencing, the district court reviewed petitioner's criminal history, including his prior conviction for manslaughter, and found that petitioner's view of his situation "minimiz[ed]" his prior conduct and "appear[ed] not to be consistent with someone fully accepting responsibility." Sent. Tr. 21, 28; see PSR ¶¶ 22-23. The court imposed all of the recommended standard conditions of supervised release, including Standard Condition 12. Judgment 4-6; Sent. Tr. 29; see also Sentencing Guidelines § 5D1.3(c)(12) (2023). Petitioner did not object. Pet. 2.

2. For the first time on appeal, petitioner challenged Standard Condition 12, contending that it improperly delegates

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* At the time of petitioner's sentencing, Standard Condition 12 appeared in Sentencing Guidelines § 5D1.3(c)(12) (2023). As a result of an amendment in 2025, Standard Condition 12 now appears in § 5D1.3(b)(2)(L).

judicial authority to the probation officer. Pet. App. 2a. Relying on its prior decision in United States v. Mejia-Banegas, 32 F.4th 450, 452 (5th Cir. 2022) (per curiam), the court of appeals granted the government's request for summary affirmance. Pet. App. 1a-2a.

In Mejia-Banegas, the court of appeals had explained that Standard Condition 12 "does not impermissibly delegate the court's judicial authority to the probation officer." 32 F.4th at 452. The court observed that, under the condition, "the probation officer does not unilaterally decide whether the defendant is subject to the condition." Ibid. "Rather," the court observed, "the risk-notification condition only allows the probation officer to direct when, where, and to whom the defendant must give notice." Ibid. "That limited scope of authority," the court continued, "neither leaves to the probation officer the 'final say' on whether to impose a condition of supervised release nor implicates a significant deprivation of liberty." Ibid.

ARGUMENT

Petitioner renews (Pet. 4-10) his contention that the standard condition of supervised release recommended by the Sentencing Commission in Sentencing Guidelines § 5D1.3(c)(12) (2023) is unconstitutional. As an initial matter, petitioner is likely to be removed from this country when his term of imprisonment ends in December 2025, so the condition will not have

any effect on him unless he returns to the United States, and he would have an opportunity to challenge the condition if it remains in place and ever has the potential to cause him harm upon his release. In any event, the court of appeals correctly denied relief; petitioner's claim of a circuit conflict is overstated; and if any meaningful circuit conflict were to develop, the Sentencing Commission could amend the condition to address concerns raised by the courts -- as it has previously done. See pp. 3-4, supra; cf. Braxton v. United States, 500 U.S. 344, 348 (1991). And this case does not cleanly present the legal issue, because petitioner failed to raise it in the district court, and therefore review would solely be for plain error.

This Court has previously denied review of similar claims. See Janis v. United States, 142 S. Ct. 483 (2021) (No. 21-68); see also Robertson v. United States, 141 S. Ct. 298 (2020) (No. 19-8608). It should follow the same course here.

1. As a threshold matter, certiorari is unwarranted because the question presented will take on practical importance, if ever, only after petitioner concludes his term of imprisonment and is released. Petitioner is an alien who is serving a term of imprisonment for illegal reentry. He is likely to be removed from the country once his prison term expires, and is therefore unlikely to be subject to the supervision of the Probation Office, let alone any enforcement of the particular standard condition he challenges

in his petition. See Judgment 5 (stating that "[i]f the defendant is excluded, deported, or removed upon release on probation or supervised release, the term of supervision shall be a non-reporting term of probation or supervised release").

Even if petitioner were to become subject to supervision, the law governing supervised release might change; the Sentencing Commission might amend the recommended condition, as it did in 2016, see pp. 3-4, supra; or the probation officer might decline to require petitioner to notify anyone of a risk that he presents. If the condition ever has the potential to cause petitioner any practical harm, moreover, he can seek modification of the condition. 18 U.S.C. 3583(e); see Fed. R. Crim. P. 32.1(c). Accordingly, no need exists to review his challenge at this time. Cf. United States v. Williams, 840 F.3d 865, 865 (7th Cir. 2016) (per curiam) (affirming district court decision to deny as premature a motion to revise conditions of supervised release where the defendant had 14 years of incarceration remaining because "the governing law * * * may change between now and then," and the defendant could raise claims regarding his supervised release later).

2. In any event, petitioner's challenge lacks merit and does not warrant further review. While probation officers are Judicial Branch officials, see 18 U.S.C. 3602(c), the court below has stated that "a district court cannot delegate to a probation

officer the 'core judicial function' of imposing a sentence, 'including the terms and conditions of supervised release.'" United States v. Mejia-Banegas, 32 F.4th 450, 451–452 (5th Cir. 2022) (per curiam) (citation omitted); see, e.g., United States v. Nash, 438 F.3d 1302, 1303-1304 (11th Cir. 2006) (per curiam); United States v. Cruz, 49 F.4th 646, 654 (1st Cir. 2022). The court of appeals has nonetheless recognized that the standard risk-notification condition -- Standard Condition 12 -- under Sentencing Guidelines § 5D1.3(c)(12) (2023) is not an impermissible delegation. See Pet. App. 2a (citing Mejia-Banegas, 32 F.4th at 452).

Nothing in the record indicates the district court ever abdicated its ultimate authority to enforce the challenged condition, much less empowered the probation officer to punish petitioner or otherwise undertake any action that would curtail his liberty interest without the court's approval. See United States v. Robertson, 948 F.3d 912, 919 (8th Cir.), cert. denied, 141 S. Ct. 298 (2020) (denying constitutional challenge to Standard Condition 12 because the district court had not "disclaimed ultimate authority over [the defendant's] supervision"); United States v. Campbell, 122 F.4th 624, 634-635 (6th Cir. 2024) (same), cert. denied, No. 25-5179 (Oct. 6, 2025); see also, e.g., Cruz, 49 F.4th at 654 (rejecting nondelegation challenge to Standard Condition 12); Nash, 438 F.3d at 1306 (same); United States v.

Janis, 995 F.3d 647, 653 (8th Cir.) (same), cert. denied, 142 S. Ct. 483 (2021); United States v. Hull, 893 F.3d 1221, 1226 (10th Cir. 2018) (same).

Petitioner asserts that Standard Condition 12 "grants the probation officer sole authority to decide whether a defendant poses a risk to anyone." Pet. 9. But courts have recognized that the identification of the risk is inherently tied to a defendant's particular criminal conduct, and does not grant an undue amount of discretion to the probation officer. See Hull, 893 F.3d at 1226 (describing probation officer's task as "ministerial" because risk assessment focuses on offenses of conviction and criminal history); see also Campbell, 122 F.4th at 634 (rejecting a vagueness challenge against Standard Condition 12 because a defendant's criminal history cabined the assessment of risk); United States v. Gibson, 998 F.3d 415, 423 (9th Cir. 2021) (similar), cert denied, 142 S. Ct. 832 (2022). And the district court retains authority to "modify" any onerous or inappropriately applied requirements, see 18 U.S.C. 3583(e)(2), as well as sole authority to determine whether any alleged violation of the condition should be sanctioned, see 18 U.S.C. 3583(e)(3).

3. Petitioner contends (Pet. 7) that the court of appeals' rejection of his delegation claim conflicts with the Tenth Circuit's decision in United States v. Cabral, 926 F.3d 687 (2019). But the decision in Cabral was limited to invalidating the "risk-

notification condition, as imposed by the district court" in that case. Id. at 699 (emphasis added). The Tenth Circuit emphasized that the district court in Cabral had "express[ly] * * * refus[ed] to limit" the potential breadth of Standard Condition 12, and had instead "emphatically opened the door to boundless scenarios implicating various liberty interests," including family relationships and potential employment. Id. at 698. This case does not involve a similar record -- indeed, petitioner did not object to or seek clarification of Standard Condition 12 in the district court. And the Tenth Circuit upheld Standard Condition 12 in another case that did not present those facts and where the case's background provided sufficient guidance for the probation office. See Hull, 893 F.3d at 1226 (upholding condition because the circumstances did not show that the probation officer's discretion was unfettered).

Petitioner also briefly asserts (Pet. 8) that the "Second Circuit has likewise recognized that Standard Condition 12 contains an improper delegation of authority." But the decision he invokes for that asserted conflict, United States v. Boles, 914 F.3d 95 (2d Cir.), cert. denied, 587 U.S. 1034 (2019), did not mention the nondelegation doctrine. It did state that "the 'risk' condition is vague and affords too much discretion to the probation officer," because it "extend[ed] to warning employers of risk and gives the probation office unfettered discretion with respect to

the notification requirement." Id. at 112. It therefore followed its prior decision in United States v. Peterson, 248 F.3d 79 (2d Cir. 2001) (per curiam), in which it had vacated the condition and remanded "for clarification of the nature and scope of employer notification of the offense of conviction." Boles, 914 F.3d at 112. That decision does not present a square conflict on the more general nondelegation issue that petitioner raises, and it is far from clear that the Second Circuit would grant relief in the circumstances here.

Moreover, even if a conflict existed, certiorari would remain unwarranted because the Sentencing Commission could amend the condition to address the concerns raised by the courts. See Braxton, 500 U.S. at 348 ("Congress necessarily contemplated that the Commission would periodically review the work of the courts, and would make whatever clarifying revisions to the Guidelines conflicting judicial decisions might suggest."). As noted, that is precisely what the Commission did several years ago with respect to this condition. See pp. 3-4, supra. The Commission could do so again if meaningful circuit differences develop. Cf. Longoria v. United States, 141 S. Ct. 978, 979 (2021) (statement of Sotomayor, J., respecting the denial of certiorari) ("The Sentencing Commission should have the opportunity to address this issue in the first instance, once it regains a quorum of voting members.").

4. At a minimum, this case would be a poor vehicle for addressing petitioner's challenge to Standard Condition 12. As petitioner acknowledges (Pet. 2), because he did not preserve that challenge in district court, review would be for plain error. That standard of review that would impede this Court's review of the question presented. See Fed. R. Crim. P. 52(b). On plain-error review, petitioner bears the burden to establish (1) error that (2) was "clear or obvious," (3) "affected the defendant's substantial rights," and (4) "seriously affect[ed] the fairness, integrity or public reputation of judicial proceedings." Rosales-Mireles v. United States, 585 U.S. 129, 134-135 (2018) (citation omitted). "Meeting all four prongs is difficult, 'as it should be.'" Puckett v. United States, 556 U.S. 129, 135 (2009) (quoting United States v. Dominguez Benitez, 542 U.S. 74, 83 n.9 (2004)). In light of the many decisions rejecting the kind of claim that petitioner raises, see pp. 8-9, supra, petitioner cannot demonstrate that any error was "plain" -- i.e., "clear" or "obvious," United States v. Olano, 507 U.S. 725, 734 (1993) (citation omitted) -- let alone prejudicial given the likelihood that this condition may never be applied to him at all, see pp. 1-2, supra.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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