No. _____

In the

Supreme Court of the United States

VLADISLAV KONSTANTIN AKSENOV, Petitioner

v.

UNITED STATES OF AMERICA, Respondent

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

Petition for a Writ of Certiorari

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QUESTION PRESENTED FOR REVIEW

Do the Fifth and Fourteenth Amendments prohibit the government at trial from implicitly evoking stereotypes about a defendant's racial or ethnic background by making repeated references to those matters when they are not relevant to any contested issue?

Statement of Related Proceedings

- *United States v. Vladislav Aksenov*,
  - Case No. 2:21-452-JFW-1 (C.D. Cal., Nov. 27, 2023)

- *United States v. Vladislav Aksenov*,
  - 2025 WL 1650020 (9th Cir. June 11, 2025)

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PETITION FOR A WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

Vladislav Aksenov petitions for a Writ of Certiorari to review the judgment and opinion of the United States Court of Appeals for the Ninth Circuit in his case.

I. OPINIONS BELOW

The opinion of the court of appeals is unpublished, but available at 2025 WL 1650020 (9th Cir. June 11, 2025). (App. 1a.) The district court did not render a ruling on the question set forth in this petition.[1]

II. JURISDICTION

The judgment of the court of appeals was entered on June 11, 2025. (App. 1a.) Rehearing was not sought. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

[1] Citations to "App." are to the appendix to this petition. Citations to "ER" are to the Excerpts of Record filed in the Court of Appeals.

III. CONSTITUTIONAL, STATUTORY, AND OTHER PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution provides, in relevant part:

> No person shall . . . be deprived of life, liberty, or property, without due process of law.

The Fourteenth Amendment to the United States Constitution provides, in relevant part:

> [N]or shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

IV. INTRODUCTION

This case provides the Court an opportunity to clarify a critical principle of federal jurisprudence: that a prosecutor's use of implied racial stereotypes at a defendant's criminal trial violates the Constitution's guarantees of due process and equal protection. Federal courts have uniformly recognized that the Constitution prohibits express racial stereotypes at trial. But the law on implied stereotypes is less clear, with only the Second and Seventh Circuits, and a few state courts of last resort, having expressly recognized their constitutional

impermissibility. In this case, for instance, the government suffused its trial arguments with near-constant references to the defendant as a "big white Russian" when those traits—being large, white, and Russian—had no relevance to any disputed issue in the case, and at a time when the American media was saturated with descriptions of Russia invading and attacking Ukraine. The government also sporadically accompanied the phrase "big white Russian" with the word "threatening," so as to imply (without expressly saying) that large white Russian people are a danger and a menace.

Because such implied stereotypes are just as harmful to the judicial process as express ones (perhaps even more so), the Fifth and Fourteenth Amendments should condemn them just as strongly. But the Ninth Circuit did not so hold here; instead, it denied relief by citing the absence of "ethnic generalizations or [government] attempt[s] to connect Aksenov's criminal conduct to his ethnicity or nationality." (App. 5a.) But, as the Second and Seventh Circuits, as well as multiple state courts of last resort, have recognized, jury verdicts tainted by

either "explicit *or implicit* racial bias"[2] violate the Constitution's guarantees.

The lack of clarity surrounding whether the Constitution bars only express "[a]ppeals to racial [or] ethnic. . . prejudice," *United States v. Nobari*, 574 F.3d 1065, 1073 (9th Cir. 2009), or implied ones as well implicates fundamental Constitutional rights at the core of a fair trial. This uncertainty calls for correction, warranting this Court granting certiorari and vacating the Ninth Circuit's judgment to clarify that the Constitution condemns racial or ethnic stereotypes no matter their form. *See* Sup. Ct. R. 10(c) (certiorari may be warranted when "a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court."); Sup. Ct. R. 10(a) (certiorari may be warranted when "a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter [or] has

[2] *State v. Bagby*, 522 P.3d 982, 989 (Wash. 2023) (en banc) (emphasis added) (internal quotation omitted); *see also United States v. Weiss*, 930 F.2d 185, 196 (2d Cir. 1991) ("[E]ven a reference that is not derogatory may carry impermissible connotations, or may trigger prejudiced responses in the listeners that the speaker might neither have predicted nor intended.") (internal quotation omitted).

decided an important federal question in a way that conflicts with a decision by a state court of last resort.")

V. STATEMENT OF THE CASE

Vladislav Aksenov is a white Russian man who worked as a car repossessor. (3-ER-236-39, 375.) In July 2021 Mr. Aksenov and an Asian translator tried to repossess a car by knocking on the door of the person they thought had it: a man named Peter Nguyen. (3-ER-236-39, 275, 305-06.) Nguyen opened the door and later testified that, of the two people standing there, the "white" man with a "thick Russian accent" (3-ER-301)—who could only be Mr. Aksenov—flashed a badge, told Mr. Nguyen to open his garage, and said he was "FBI." (3-ER-301-03.) For this act Mr. Aksenov was tried for, and convicted of, impersonating a federal agent in violation of 18 U.S.C. § 912. (2-ER-121-22; 4-ER-603.)

Mr. Aksenov never claimed that the Asian interpreter flashed a badge or claimed to be "FBI," so identity was not in dispute. His defense was instead that he never committed the charged offense at all—that is, he never claimed to be "FBI"—and Nguyen misheard him. (2-ER-81.) Yet at trial the government and its witnesses repeatedly and relentlessly referred to Mr. Aksenov as a "big white Russian,"

constantly invoking his Russian background, white ethnicity and physical size so as to imply that he must be guilty. It used the "big white Russian" phrase over and over during witness questioning and argument when it was unnecessary, sometimes pairing it with the word "threatening," and arguing to the jury in closing that "'it is the job of the big man" to "pound" on doors and "make[] the demands." (2-ER-95.) All told, the government's closing argument used the word "Russian" 29 separate times, and the phrase "white Russian," "big white Russian," "white man," or a similar phrase, 25 times, in an inescapable refrain.[3]

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[3] (*See* 2-ER-58 ("[T]here was only one ***big white Russian male***" at Nguyen's door); 2-ER-58 ("***white man with an accent***"); 2-ER-62 ("The man is ***white. He has an accent***. He has a badge. ***He is threatening***."); 2-ER-62 ("You heard a ***thick Russian accent***"); 2-ER-62 (Aksenov is "***white with an accent*** with a badge"); 2-ER-63 (Nguyen saw "a ***big white Russian*** at his door"); 2-ER-63 (the translator was "not a ***big white Russian man***" like Aksenov); 2-ER-64 (Nguyen referred to "a ***big white Russian man threatening him***"); 2-ER-64 (the tow truck driver was "shorter than the ***big white Russian man threatening [Nguyen]***."); 2-ER-64 (Nguyen saw a "***big white Russian man***" through the window); 2-ER-66 (Dominguez is not a "***big tall Russian man***" with a "***Russian accent***"); 2-ER-67 ("Nguyen reported seeing a ***big white Russian man*** in front of his door"); 2-ER-67 ("Nguyen reported seeing a ***big white Russian man*** in front of his window"); 2-ER-68 ("Nguyen described the man at his door as a ***big white Russian*** with a badge . . ., and that is what officers found . . . a ***big white Russian*** with a badge"); 2-ER-69 ("Nguyen told the 911 operator that ***the big Russian man*** said, 'I'm the FBI, open your garage, I want to see your car.' He knew what ***the big white Russian***

The prejudicial impact of these tactics was exacerbated still further by contemporary world events: Russia invaded Ukraine on February 24, 2022, fifteen months before Aksenov's trial, and in the months leading up to trial Russia was widely portrayed in the media as the aggressor in the conflict[4]—paralleling the prosecution's portrayal of Aksenov, a "big white Russian," as a threatening presence who intimidated the victim.

On appeal, the government argued that it had permissibly invoked Aksenov's "white"ness and Russian-ness to identify Aksenov—rather than his Asian companion—as the person who spoke to Nguyen

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wanted."); 2-ER-70 ("the ***white man with an accent***"); 2-ER-71 ("So what we have is Nguyen reporting a ***big white Russian man*** with a badge. . . [then] officers find a ***big white Russian man*** with a badge."); 2-ER-73 (the gun's fit in the holster "corroborates Peter Nguyen's testimony about seeing a ***big white Russian man with a badge***. What the officers found was a ***big white Russian man with a badge***."); 2-ER-74 ("He saw ***a big white Russian man with an accent***, and that's what officers found."); 2-ER-78 ("[Nguyen] was not confused that a ***big white Russian man*** said those words to him") (emphasis added in all instances).

[4] The Ninth Circuit granted judicial notice of pretrial news articles related to the Russia-Ukraine war. App. 4a n.1; Fed. R. Evid. 201(b); *see Von Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 2010) ("Courts may take judicial notice of publications introduced to indicate what was in the public realm at the time, not whether the contents of those articles were in fact true." (citation omitted)).

at the door, and to show that he fit Nguyen's description of the speaker as a "white man." But, Akesnov argued, the jury could clearly see that Aksenov was a white man, and Aksenov never tried to shift blame to the translator. The overwhelming number and frequency of the prosecutor's and prosecution witnesses' references to his Russian-ness, whiteness, large size, and foreign accent, he urged, was out of all proportion to the issues.

The Ninth Circuit denied relief, holding that no violation of Mr. Aksenov's Fifth Amendment due process or equal protection rights had occurred. The Court acknowledged that "[a]ppeals to racial, ethnic, or religious prejudice during the course of a trial violate a defendant's Fifth Amendment right to a fair trial" as well as his "due process and equal protection rights." (App. 5a.) Yet it held no such violations had taken place because "the Government referenced Aksenov's race, ethnicity, nationality, and physical characteristics only to identify him as the individual who committed the crime," and, it believed, "[t]he record is devoid of evidence that the Government made ethnic generalizations or attempted to connect Aksenov's criminal conduct to his ethnicity or nationality." (App. 5a.)

VI. REASONS FOR GRANTING THE WRIT

Federal and state courts have uniformly recognized that explicit appeals to racial, ethnic, or religious stereotypes violate criminal defendants' rights to due process and equal protection. Yet courts have *not* clearly recognized what should be obvious from that premise: that implied appeals to racial or ethnic stereotypes are unconstitutional as well. The Second and Seventh Circuits, as well as several state supreme courts, including those of Washington, Idaho, and Hawaii, have acknowledged this, expressly holding that implicit racial and ethnic stereotypes at trial violate the Constitution. But the Ninth Circuit refused to recognize that core principle here, dismissing the prosecution's ceaseless and irrelevant references to Mr. Aksenov's race and nationality as constitutionally permissible because not expressly linked to stereotypes. Certiorari is needed to bring the Ninth Circuit into line with what the Second and Seventh Circuits, and state courts of last resort, have recognized: it is the effect and implications of racially-biased arguments, not their express articulation, that implicate the protections of the Fifth and Fourteenth Amendments.

A. Courts Have not Uniformly Recognized the Constitutional Intolerability of Implied, Rather than Explicit, Stereotypes at Criminal Trials.

1. Courts uniformly recognize the unconstitutionality of explicit racial stereotypes.

Federal courts have long recognized the Constitutionally-impermissible nature of expressly-drawn racial and ethnic stereotypes at trial. The Supreme Court said in *McKleskey v. Kemp* that "the Constitution prohibits racially biased prosecutorial arguments." *McKleskey v Kemp*, 481 U.S. 279, 309 n. 30 (1987). The Ninth Circuit has applied this rule numerous times, reversing the defendants' drug convictions in *United States v. Cabrera* because the lead detective testified that "Cubans" (the defendants' national origin) commonly sold drugs in Las Vegas and that the substance in the case matched "[the] typical way that a lot of Cubans do their drugs." *United States v. Cabrera*, 222 F.3d 590, 592-94 (9th Cir. 2000). Similarly, in *Bains v. Cambra* the Ninth Circuit vacated a murder conviction because the prosecutor "relied upon clearly and concededly objectionable arguments for the stated purpose of showing that *all* Sikh persons (and thus Bains by extension) are irresistibly predisposed to violence when a family member has been dishonored." *Bains v. Cambra*, 204 F.3d 964, 975

(9th Cir. 2000). The Second Circuit, similarly, reversed the defendant's conviction in *McFarland v. Smith* when prosecutor argued that a black police officer would not fabricate testimony against a black defendant. *McFarland v. Smith*, 611 F.2d 414, 416–19 (2d Cir.1979). The Fourth Circuit found a due process violation in *Miller v. North Carolina*, when the prosecutor argued to the jury that a white woman (such as the victim) would never consent to sex with a black man (such as the defendant). *Miller v. North Carolina*, 583 F.2d 701, 706-08 (4th Cir. 1978). And numerous other federal circuits have held similarly.[5]

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[5] *See United States v. Runyon*, 707 F.3d 475, 494 (4th Cir. 2013), (defendant's due process rights were violated by trial court's introduction into evidence of a police interrogation video containing "stereotyping and insulting notions about how 'an honorable Asian man' is supposed to act.") (internal quotations omitted); *Moore v. Morton*, 255 F.3d 95, 119-20 (3d Cir. 2001) (reversing defendant's rape and robbery conviction on habeas corpus review because the prosecutor suggested to the jury that the defendant, who was African-American, selected his victim because he preferred white women as sexual partners); *United States v. Richardson*, 161 F.3d 728, 735-37 (D.C. Cir. 1998) (reversing criminal conviction on plain error review where prosecutor, during closing, used the phrase "we don't all look alike" and invoked racial stereotypes to suggest defense counsel, who was white, could not understand the world of the defendant, who was black); *United States v. Vue*, 13 F.3d 1206, 1213 (8th Cir. 1994) (reversing drug and firearms convictions where the prosecution presented testimony that individuals of Hmong ancestry (as the defendant was) often received shipments of drugs.); *United States v. Sanchez*, 482 F.2d 5, 9 (5th Cir. 1973) (reversing defendant's criminal conviction because the prosecutor's

All of these cases, however, involved express stereotypes: the prosecutor making explicit generalizations about a particular ethnic or racial group. None found due process violations from implied stereotypes, such as arise from inordinate prosecutorial emphasis on race or nationality with no proper purpose.

2. The Second and Seventh Circuits, and several state supreme courts, have recognized the unconstitutionality of implied racial stereotypes.

The Second and Seventh Circuits, however, have recognized the unconstitutionality of implied stereotypes at trial. In *United States v. Weiss*, the Second Circuit described its precedent as holding that "[e]ven a reference that is not derogatory may carry impermissible connotations, or may trigger prejudiced responses in the listeners that the speaker might neither have predicted nor intended." *United States v. Weiss*, 930 F.2d 185, 196 (2d Cir. 1991) (quoting *McFarland v. Smith*, 611 F.2d 414, 417 (2d Cir. 1979)).

The Seventh Circuit, similarly, has held that the Constitution prohibits "race-conscious arguments" that "draw[] the jury's attention to

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argument was "replete with racial and political undertones" and blamed the defendant, who was Hispanic, for lacking "chicannismo" and "machismo").

a characteristic that the Constitution generally demands that the jury ignore," and that "a racial remark is improper if it is 'intentionally injected into volatile proceedings where the prosecutor had targeted the defendant's ethnic origin for emphasis in an attempt to appeal to the jury's prejudices.'" *Aliwoli v. Carter*, 225 F.3d 826 (7th Cir. 2000) (quoting *United States v. Hernandez*, 865 F.2d 925, 928 (7th Cir.1989).)

Several state courts of last resort have similarly recognized the constitutional problems with repeated, unjustified references to a defendant's race or nationality. In *State v. Bagby*, 522 P.3d 982 (2023), the Washington Supreme Court vacated a black defendant's conviction for residential burglary, assault, and harassment where the prosecution suffused the trial with references to his and other (white) witnesses' race and "citizenship" (even though Mr. Bagby was an American citizen), and referred to white witnesses as "Good Samaritans" while not bestowing that description on the only other black witness. *Id.* at 994-998. As in this case, the prosecution characterized its references to race as necessary to establish the defendant's identity as the perpetrator. *Id*. at 994. But the court rejected that rationale, observing that the defendant "did not deny that he was the person involved in the

relevant incidents," and "[t]he only issue at trial was whether his actions constituted a crime." *Id.* The court expressly recognized that racial generalizations need not be explicit:

> Not all appeals to racial prejudice are blatant . . . Like wolves in sheep's clothing, a careful word here and there can trigger racial bias [and] [b]iases are often activated through the use of coded language or racial code words such as phrases or symbols that play upon race . . . without explicitly raising the race card.

Id. at 993 (cleaned up).

Similarly, in *Carter v. State*. 241 P.3d 476 (Wyo. 2010), the Wyoming Supreme Court held it was error for the prosecutor—in a case involving an assault by the defendant (who was black) on a victim (who was white)—to repeatedly refer to the defendant as "the black guy" and the victim as "the white guy." *Id.* at 480-81 (holding that "the record clearly reflects the alleged error," though the error was not plain because, in context, the references were for the legitimate purpose of identifying the individuals involved). Though the Wyoming Supreme Court did not find plain error under the circumstances of the case, its finding of error at all confirmed the impermissibility of repeated racial references that imply stereotypes..

The Hawaii Supreme Court took the same view in *State v. Rogan*, 984 P.2d 1231, 1240 (Haw. 1999). There, the court reversed a sexual assault conviction because the prosecutor argued to the jury that finding "some black, military guy on top of your daughter" is "every mother's nightmare." *Id.* at 1238. The court deemed the remark "clearly inflammatory inasmuch as it raised the issue of and cast attention to [the defendant's] race," and held that "[b]ecause there was no dispute as to the identity of the perpetrator," it "was not a legitimate area of inquiry inasmuch as race was irrelevant to the determination of whether [the defendant] committed the acts charged." *Id.* at 1240. Though no express racial stereotype was spelled out for the jury, the prosecution's injecting of race into its argument, without a proper purpose, invoked a racial stereotype that violated due process and destroyed the fairness of the trial.

3. The Ninth Circuit has not clearly recognized the impermissibility of implied racial stereotypes, as this case reflects.

The Ninth Circuit, however, has not specifically recognized implied stereotypes as unconstitutional. To the contrary, in *United States v. Santiago*, it held that "use of a racial term" is unlikely to be

prejudicial "[i]f the prosecution's case, overall, was a dispassionate and intelligent presentation of the evidence." *United States v. Santiago*, 46 F.3d 885, 891 (9th Cir. 1995) (internal quotation omitted). In that case, involving a prison murder allegedly committed to gain admission to the Mexican Mafia, the Ninth Circuit held that neither due process or equal protection was violated by prosecutors' and witnesses' use of the term "Mexican Mafia," testimony that a witness met the defendant at a prison recreation center for Mexican Americans, a witness's statement that he was once in a gang known as the Latin Kings, or testimony that 25 percent of the Hispanic population would have the same blood type as the defendant. *Id.* at 891 ("Any conceivable negative innuendo did not approach the level of potential prejudice present in cases in which no reversible error was found.")

Aksenov's case presents an even clearer example of the Ninth Circuit failing to acknowledge implied racially-biased arguments as unconstitutional. The Ninth Circuit did not even address whether the prosecutor's relentless deployment of the terms "big white Russian" and "threatening" at Aksenov's trial implicated due process or equal protection. Instead, it bypassed the Constitutional inquiry altogether by

treating these references as not stereotypes at all because no explicit generalizations were made. In denying Mr. Aksenov relief, the Ninth Circuit concluded that "[t]he record is devoid of evidence that the Government made ethnic generalizations or attempted to connect Aksenov's criminal conduct to his ethnicity or nationality." (App. 5a.) It never considered whether gratuitous racial references can be impermissible even absent "ethnic generalizations" or "attempt[s] to connect" race or nationality to criminal conduct.

B. This Court Should Grant Certiorari to Clarify that the Constitution Prohibits Implied Stereotypes Based on Race and Nationality.

Certiorari is needed to bring Ninth Circuit precedent into line with the jurisdictions that recognize that implied race- and nationality-based stereotypes violate the Constitution—and to clarify that rule generally. The right not to be tried based on one's race, religion, or national origin is of unparalleled importance, and lies at the very foundation of a fair trial. Indeed, the Supreme Court has repeatedly recognized the exceptionally invidious nature of racial stereotypes, and the heightened care needed to ensure they are afforded no place in criminal proceedings. In *Buck v. Davis*, the Supreme Court vacated a

death sentence while holding that the prejudicial impact of testimony linking race to the capital sentencing decision "cannot be measured simply by how much air time it received at trial or how many pages it occupies in the record" and "[s]ome toxins can be deadly in small doses." *Buck v. Davis*, 580 U.S. 100, 122 (2017). And in *Peña-Rodriguez v. Colorado* this Court created a racial bias exception to the "no-impeachment rule" that ordinarily precludes inquiry into jury deliberations, upon clear evidence that racial bias tainted the verdict. *Peña-Rodriguez v. Colorado*, 580 U.S. 206, 211 (2017).[6] This Court instructed that "[i]t must become the heritage of our Nation to rise above racial classifications that are so inconsistent with our commitment to the equal dignity of all persons." *Id.* at 221.

These decisions recognize the heightened danger that racial bias and stereotypes pose to the integrity of criminal trials. As this Court said in *Peña-Rodriguez*, "discrimination on the basis of race, 'odious in all aspects, is especially pernicious in the administration of justice.'"

[6] *See also Turner v. Murray,* 476 U.S. 28, 36–37 (1986) (holding that "a capital defendant accused of an interracial crime is entitled to have prospective jurors . . . questioned on the issue of racial bias").

Peña-Rodriguez, 580 U.S. at 223 (quoting *Rose v. Mitchell*, 443 U.S. 545, 555 (1979)). "The jury is to be a criminal defendant's fundamental protection of life and liberty against race or color prejudice." *Id.* (internal quotation omitted); *see also Smith v. Farley*, 59 F.3d 659 (7th Cir. 1995) ("Race occupies a special place in the modern law of constitutional criminal procedure.") "Permitting racial prejudice in the jury system damages both the fact and the perception of the jury's role as a vital check against the wrongful exercise of power by the State." *Pena-Rodriguez*, 580 U.S. at 223 (internal quotation omitted). Certiorari is needed to reaffirm these core premises, and to prevent courts from turning a blind eye to racial stereotypes that are not explicitly articulated.

C. The Ninth Circuit's Misguided Rule Prejudiced Aksenov and Warrants Relief.

The Ninth Circuit's refusal to recognize the unconstitutionality of implicit appeals to racial prejudice had a real and prejudicial effect in this case. Had the Ninth Circuit followed the approach of the Second and Seventh Circuits, or Washington, Hawaii, and Wyoming Supreme Courts, it might well have found the prosecutor's implicit stereotypes about white Russians unconstitutional so as to require vacatur of

Aksenov's conviction. As in *Rogan* (the Hawaii case), and *Bagby* (the Washington case) references to race and nationality were not needed to resolve any issue of identity in this case, because identity was not in dispute. The defense never argued that Aksenov's companion—the Asian interpreter—was the one who claimed to be "FBI." And there was never any disagreement that the person who spoke to Nguyen was a white man with a Russian accent, who could only be Aksenov. The only dispute was to whether or not Aksenov actually claimed to be with the FBI. Indeed, defense counsel argued at trial it was implausible that Aksenov would have pretended to be an FBI agent when he did not speak fluent English and had a thick Russian accent, because "[n]obody would think that story would fool anyone," and that it made far more sense to conclude that Aksenov, in his broken English, had instead told Nguyen something like "I call FBI," or "I don't care. Call FBI." (2-ER-81.)

The harmfulness from the prosecutor's stereotypes was exacerbated by the weakness of the other evidence against Aksenov. Nguyen was the sole witness who testified that he heard Aksenov say he was "FBI," and Nguyen's testimony was subject to doubt: as the

defense argued, Nguyen could easily have misheard what Aksenov said in his broken, heavily-accented English during (what Nguyen admitted was) a confused and stressful interaction. Other witnesses present during the interaction (including the interpreter) did not testify. And the defense presented evidence that Nguyen's account of the incident had evolved over time, from his initial call to the police to his testimony at trial.[7] In a case that hinged entirely on the precise words used, where Aksenov was not a native English speaker, and where Nguyen's sole testimony was fluctuating and unreliable, at least a reasonable doubt exists as to whether the jury would have unanimously convicted Aksenov had it not been barraged with descriptions of him as a threatening "big white Russian." Only one juror would have needed to find a reasonable doubt to change the outcome. *Buck,* 580 U.S. at 120

[7] For example, whereas Nguyen told a 911 dispatcher during the incident that the man at his door was "waving" a badge (5-ER-621), he testified at trial that the man pulled up his shirt to reveal the badge. (3-ER-301, 303-04.) And whereas Nguyen had told an officer at the scene that he "didn't really look" at the badge (5-ER-628), he testified at trial that the man's badge had blue ribbons and eagle heads on it. (3-ER-302-03.)

(asking whether, but for trial counsel's errors, "at least one juror would have harbored a reasonable doubt").

VII. CONCLUSION

For the foregoing reasons, Aksenov respectfully requests that this Court grant his petition for a writ of certiorari.

Respectfully submitted,

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DATED: September 2, 2025

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