No. _____

In the
Supreme Court of the United States

DAVID CURRAN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR A WRIT OF CERTIORARI

Michael Ovens, Esq.
PA ID No. 317994
The Law Office of Michael Ovens
220 Grant Street, Suite 302
Pittsburgh, PA 15219
P: 412-368-3445 // F: 412-219-5268
mike@ovenslaw.com

Counsel for Petitioner.

QUESTION PRESENTED

Review of sufficiency of the evidence is a critical function of appellate courts. It ensures that any conviction was supported at trial by proof beyond a reasonable doubt. The standard is a fundamental principle of American law and the bedrock of due process, and appellate review ensures it is met in every criminal case where a conviction is returned. In its 2013 decision *United States v. Caraballo-Rodriguez*, 726 F.3d 418 (3d Cir. 2013), the Third Circuit announced a new standard as to one element of sufficiency review, shared unity of purpose, for drug conspiracy cases. This change has brought it into conflict with other circuit courts. The question presented is as follows:

Whether the Third Circuit's standard of review of sufficiency of evidence in drug conspiracy cases is in conflict with other circuits and falls below that required for due process.

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Introduction

All components for a grant of certiorari are presented in this case. The Third Circuit's en banc decision in *United States v. Caraballo-Rodriguez*, 726 F.3d 418 (3d Cir. 2013) reduced the evidence needed to withstand a challenge to the sufficiency of the evidence in a drug conspiracy case. In moving from what was termed a strict approach to a deferential approach, the Third Circuit essentially removed the need to present evidence that the agreement involved drugs. These cases, which can involve very long sentences and extend to a large number of defendants, are more closely reviewed in other circuits. A defendant convicted in the Third Circuit receives a limited review, as opposed to defendants in other circuits. This review deals with *mens rea*, a crucial element of any criminal prosecution as this Court has reiterated in recent cases. The Court should grant this petition and put the Third Circuit in line with what is to be reviewed in a sufficiency appeal. This Court should grant the petition and reverse Mr. Curran's conviction.

Opinions Below

The Third Circuit's opinion (App., *infra*, 1a) was not reported but appears at Third Circuit case number 23-2643 and 2025 WL 1577564.

Proceedings Below

The case arises from the following proceedings:

United States v. David Curran, No. 23-2643 (3d Cir. 2024) (Judgment affirmed June 4, 2025).

United States v. David Curran, D.C. No. 2:19-cr-8 (W.D.Pa.) (Judgment entered Sept. 8, 2022).

Jurisdiction

The Third Circuit entered judgment on June 4, 2025. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

Statutory Provisions Involved

This petition involves a conviction for conspiracy to distribute or possess with intent to distribute a controlled substance, 21 U.S.C. § 846.

Statement

Factual and Procedural Background

In early 2019, a grand jury returned an indictment against Mr. Curran and forty-seven other individuals, claiming a drug conspiracy was being run from Pittsburgh by Noah Landfried, with co-conspirators throughout the Pittsburgh area as well as federal correctional facilities throughout the country. Mr. Curran, at that time serving a federal sentence at FCI – McDowell, was charged with conspiring to distribute synthetic cannabinoids, referred to as "K2" throughout the trial.

Following the resolution of pretrial matters and the entry of guilty pleas by co-defendants, trial groups were set for the remaining individuals, including Mr. Curran. The defendants standing trial would be split into three groups. The first trial proceeded in December of 2021. The next trial proceeded in March of 2022. Mr. Curran was in the third group along with Noah Landfried, with trial

beginning on June 6, 2022 and concluding on June 14, 2022. A verdict of guilty was returned as to Mr. Curran. Objections to the sufficiency of the evidence were raised by way of written motions on June 28, 2022, and then, after leave to file a supplemental brief was granted, on July 29, 2022. The government responded on August 19, 2022. Mr. Curran filed a reply brief on August 26, 2022. The district court denied the motion on September 8, 2022.

After sentencing disputes were resolved, Mr. Curran was sentenced on August 29, 2023. Mr. Curran filed his notice of appeal on September 7, 2023, challenging the sufficiency of the evidence, along with two other issues. Only the sufficiency of the evidence is at issue in this petition for writ of certiorari.

As for the evidence presented at trial, the case against Mr. Curran proceeded similarly to many drug conspiracy prosecutions. There was no direct evidence of Mr. Curran's participation. A former cellmate of Mr. Curran testified against him. There was an intercepted piece of mail, whose origin was never definitively established. And there were phone calls between Mr. Curran and his family, which the government argued were evidence of his knowledge of and participation in the conspiracy. There were other pieces of circumstantial evidence but no direct evidence of contact with Mr. Curran and Noah Landfried was presented.

Because of the nature of the controlled substances at issue in Mr. Curran's trial, the question of knowledge and agreement were very much in dispute. There remained a question about to what extent knowledge of the substances needed to be proven. And because of the Third Circuit's relaxed standard of review in drug

conspiracy cases, the law in the circuit since its 2013 decision in *United States v. Caraballo-Rodriguez*, Mr. Curran's verdict was reviewed under a deferential standard.

Reasons for Granting the Petition

The general elements of the crime of drug conspiracy have remained the same for some time. "To establish a charge of conspiracy, the Government must show (1) a shared unity of purpose, (2) an intent to achieve a common illegal goal, and (3) an agreement to work toward that goal", which the defendant joined. *United States v. Boria,* 592 F.3d 476, 481 (3d Cir. 2010). However, whether drug related evidence specifically is required has changed.

The *Boria* Court continued – "[t]o sustain a conviction for conspiracy to distribute a controlled substance, we have consistently required the Government to introduce drug-related evidence, considered with surrounding circumstances, from which a rational trier of fact could logically infer that the defendant knew a controlled substance was involved in the transaction at issue." *Id.* (and citing to *United States v. Cooper*, 567 F.2d 252 (3d Cir. 1977), *United States v. Wexler*, 838 F.2d 88 (3d Cir. 1988), *United States v. Salmon*, 944 F.2d 1106 (3d Cir. 1991), *United States v. Thomas*, 114 F.3d 403 (3d Cir. 1997), *United States v. Idowu*, 157 F.3d 265 (3d Cir. 1998), and *United States v. Cartwright*, 359 F.3d 281 (3d Cir. 2004)). The evidentiary requirement of controlled substance evidence makes sense when a charge under 21 U.S.C. § 846 is brought, as opposed to a general conspiracy charge under 18 U.S.C. § 371. The charge is specifically related to controlled substances and operates differently than a general

conspiracy charge. *See United States v. Shabani*, 115 S.Ct. 382, 385 (1994) (as example, no overt act required in drug conspiracy charge).

While the general conspiracy charge "contains an explicit requirement that a conspirator 'do any act to effect the object of the conspiracy,'" *Id.*, section 846 prohibits a conspiracy "to commit any offense defined in this subchapter". 21 U.S.C. § 846. The offense referenced for Mr. Curran is at 21 U.S.C. § 841(a), a prohibition against conspiring to "manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance".

But this review stated in *Boria* changed a few years later in *United States v. Caraballo-Rodriguez*, 726 F.3d 418 (3d Cir. 2013). Noting criticism by other judges and commentators, specifically a dissent from an out of circuit case and a law review note, s*ee Caraballo-Rodriguez*, 726 F.3d at 420, n.1, the court went on to re-define the standard of review applicable in these cases, in regards to the "intent to achieve a common goal" factor. In doing so, the court moved from what it called a strict approach to a deferential approach, specifically to the jury's determination. *Id.* at 432-33. The result was the bare rationality standard reading out a critical requirement of proof in drug conspiracy cases – that the common goal involved the distribution of drugs.

The decision held that "the reasoning . . . previously embraced – that the jury's verdict could not stand when the evidence was *as consistent* with contraband other than controlled substances, even though a jury could rationally conclude that the defendant knew the subject of the conspiracy was drugs" was disavowed. *Id.* at 431-32 (emphasis added). However, this reasoning allows a conviction to stand when the evidence for an

element of the charge is in equipoise, something that cannot be countenanced in our criminal law. When "the evidence is essentially in equipoise[] the plausibility of each [of two competing] inference[s] is about the same, so the jury necessarily would have to entertain a reasonable doubt on the conspiracy charge." *United States v. Johnson*, 592 F.3d 749, 755 (7th Cir. 2010) (overruled on other grounds by *United States v. Page*, 123 F.4th 851 (7th Cir. 2024)). The *Johnson* Court cited to decisions from the Tenth Circuit, *United States v. Lovern,* 590 F.3d 1095 (10th Cir. 2009), the First Circuit, *O'Laughlin v. O'Brien*, 568 F.3d 287 (1st Cir. 2009), the Fifth Circuit, *United States v. Elashyi*, 554 F.3d 480 (5th Cir. 2008), the Second Circuit, *United States v. Hawkins*, 547 F.3d 66 (2d Cir. 2008), and the Sixth Circuit, *United States v. Caseer*, 399 F.3d 828 (6th Cir. 2005), all of which supported the proposition that evidence in equipoise would not meet the fundamental principle of criminal law – proof beyond a reasonable doubt. *Johnson*, 592 F.3d at 755.

But beyond the level of evidence that must be presented, other circuits have issued opinions where drug related evidence is required. "Specifically, proof of a drug conspiracy under 21 U.S.C. § 846 requires 'substantial evidence that the defendant knew of the illegal objective of the conspiracy and agreed to participate.'" *United States v. Longstreet*, 567 F.3d 911, 919 (7th Cir. 2009). "For a drug conspiracy, all that is necessary is enough circumstantial evidence to support, beyond reasonable doubt, an *inference* that the defendants agreed among themselves to distribute drugs." *Id.* (emphasis in original, quotations and citations omitted). This standard requires evidence to show there is distribution of drugs and

not some other contraband. Other courts have held similarly – "[t]o prove a conspiracy to distribute drugs under 21 U.S.C. § 846, the government must show: (1) that there was a conspiracy, i.e., an agreement to distribute drugs" amongst othe elements. *United States v. Trejo*, 831 F.3d 1090, 1094 (8th Cir. 2016) (citations omitted). The First Circuit has recently reiterated that it "is insufficient to show that the defendant had knowledge of generalized illegality, though the government need only establish knowledge that the conspiracy involved a controlled substance and not necessarily knowledge of the specific controlled substance being distributed." *United States v. Raymundí-Hernández*, 984 F.3d 127, 139 (1st Cir. 2020).

These standards are all more stringent than that adopted by the Third Circuit in *Caraballo-Rodriguez*. The standard need not be a high bar, but it must include certain considerations and prohibit a specifically constrained amount of behavior.

Conclusion

The petition for writ of certiorari should be granted.

Respectfully submitted:

Michael Ovens, Esq.
PA ID No. 317994
The Law Office of Michael Ovens
220 Grant Street, Suite 302
Pittsburgh, PA 15219
P: 412-368-3445 // F: 412-219-5268
mike@ovenslaw.com