No. _____

IN THE

Supreme Court of the United States

AMIR GOLESTAN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

In *Padilla v. Kentucky*, 559 U.S. 356 (2010), this Cout held defense counsel must advise a defendant of adverse immigration consequences prior to the defendant's entry of a guilty plea. Following *Padilla*, Fed. R. Crim. P. 11 was amended to require district courts advise defendants that "if convicted, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future. Fed. R. Crim. P. 11(b)(1)(O).

The Petitioner, Amir Golestan, is an Iranian national and a naturalized citizen of the United States of America. As a result of his wire fraud convictions, he is subject to denaturalization and eventual removal from the United States. The district court did not advise Mr. Golestan there could be adverse immigration consequences as a result of his guilty plea in violation of Rule 11(b)(1)(O).

The Fourth Circuit concluded the district court's error was harmless because "a warning meant for those who are not United States citizens would not have put Golestan on notice of the potential immigration consequences." App. 13A. That conclusion was wrong and conflicts with the Sixth Circuit's conclusion that the Rule 11(b)(1)(O) instruction places a defendant "on notice that he might face adverse immigration consequences as a naturalized United States citizen." *United States v. Ataya*, 884 F.3d 318, 325 (6th Cir. 2018). The question presented is:

Whether the failure to give the Rule 11(b)(1)(O) warning affects the substantial rights of a naturalized United States citizen who could be denaturalized as a result of the guilty plea?

PARTIES TO THE PROCEEDING

All parties appear in the caption of the case on the cover page.

RELATED CASES

(1) *United States v. Golestan*, No. 2:19-CR-441-RMG, U.S. District Court for the District of South Carolina. Judgment entered Sep. 14, 2023.

(2) *United States v. Golestan*, No. 23-4583, U.S. Court of Appeals for the Fourth Circuit. Judgment entered Aug. 22, 2025.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Rules

Other

PETITION FOR A WRIT OF CERTIORARI

Petitioner, Amir Golestan, respectfully prays that a writ of certiorari issues to review the opinion and judgment of the United States Court of Appeals for the Fourth Circuit in Case No. 23-4583, entered on August 25, 2025, and August 22, 2025, respectively.

OPINION BELOW

The Fourth Circuit's opinion (App. 1A-21A) is reported at 151 F.4th 634. Mr. Golestan did not file a petition for rehearing or rehearing en banc. The district court's judgment (App. 24A-37A) is unreported.

JURISDICTION

The Fourth Circuit issued its opinion and entered its judgment on August 22, 2025. App. 22A-23A. This Court has jurisdiction under 28 U.S.C. § 1254(1). This petition is filed within 90 days of August 22, 2025.

STATUTORY PROVISION INVOLVED

Fed. R. Crim. P. 11(b)(1)(O) provides:

> (b) Considering and Accepting a Guilty or Nolo Contendere Plea.
>
> > (1) Advising and Questioning the Defendant. Before the court accepts a plea of guilty or nolo contendere, the defendant may be placed under oath, and the court must address the defendant personally in open court. During this address, the court must inform the defendant of, and determine that the defendant understands, the following:
> >
> > …
> >
> > > (O) that, if convicted, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

INTRODUCTION

The loss of citizenship is "more serious than a taking of one's property, or the imposition of a fine or other penalty." *Schneiderman v. United States*, 320 U.S. 118, 122 (1943). "Preserving the client's right to remain in the United States may be more important to the client than any potential jail sentence." *Immigr. and Naturalization Serv. v. St. Cyr*, 533 U.S. 289, 322 (2001) (internal quotation marks and citation omitted).

The Fourth Circuit brushed away these concerns when it categorically held Rule 11(b)(1)(O)'s warning "that, if convicted, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future" would not have raised a single red flag to a naturalized citizen. According to the Fourth Circuit, "a warning meant for those who are not United States citizens would not have put" a naturalized citizen "on notice of the potential immigration consequences." App. 13A.

The Fourth Circuit was wrong. Naturalization is a lengthy and complicated process. No rational naturalized citizen would hear Rule 11(b)(1)(O)'s warning and be unconcerned for their immigration status. Instead, as the Sixth Circuit has correctly recognized, a naturalized citizen hearing that warning "would be on notice that he might face adverse immigration consequences as a naturalized United States citizen." *Ataya*, 884 F.3d at 325. Adverse immigration consequences are paramount to a defendant's decision to plead guilty, particularly where "that individual had strong connections to this country and not other … and if the consequences of taking a chance at trial were not markedly harsher than pleading."

Lee v. United States, 582 U.S. 357, 371 (2017). This Court should grant the certiorari petition and resolve the conflict between the Fourth and Sixth Circuits as to whether a district court's failure to give the Rule 11(b)(1)(O) warning can affect a defendant's substantial rights.

STATEMENT OF THE CASE

1. The government charged Mr. Golestan and his company Micfo, LLC, with twenty counts of wire fraud in connection with their efforts to obtain Internet Protocol ("IP") addresses from the American Registry for Internet Numbers ("ARIN"). Mr. Golestan created fictitious companies to request free IP addresses from ARIN. Mr. Golestan then either sold his interest in the IP addresses or attempted to do so. *See* App. 4A-5A.

2. Mr. Golestan is an Iranian national who became a naturalized United States citizen after all but one of the acts comprising his criminal conduct occurred. Mr. Golestan's family fled Iran in the wake of the Iranian Revolution. His parents reside here, as do two of his four siblings;[1] his other two siblings live in Dubai, United Arab Emirates. The government may seek Mr. Golestan's denaturalization based on his pre-naturalization criminal conduct. *See*, *e.g.*, *United States v. Jean-Baptiste*, 395 F.3d 1190 (11th Cir. 2005); *United States v. Suarez*, 664 F.3d 655 (7th Cir. 2011); *United States v. Zhou*, 815 F.3d 639 (9th Cir. 2016).

3. Mr. Golestan initially proceeded to trial on the wire fraud offenses. On the second day of trial, however, Mr. Golestan pleaded guilty as charged to all

[1] One of these two siblings lives in Puerto Rico.

twenty offenses. During the guilty plea colloquy, the district court asked Mr. Golestan about his citizenship status. When Mr. Golestan responded he was a naturalized United States citizen, the district court did not ask any follow-up questions. The district court did not provide Mr. Golestan with the Rule 11(b)(1)(O) warning. *See* App. 6A.

4. After the plea but prior to sentencing, Mr. Golestan moved to withdraw his guilty plea. Mr. Golestan argued the district court's failure to advise him of the Rule 11(b)(1)(O) warning warranted withdrawal of his plea. The district court denied the motion, concluding no warning was required because Mr. Golestan was a naturalized United States citizen. Mr. Golestan filed a motion to reconsider; the district court denied that motion as well. *See* App. 8A-9A.

5. The district court sentenced Mr. Golestan to sixty months' imprisonment. *See* App. 9A.

6. The Fourth Circuit concluded the district court erred in failing to provide Mr. Golestan with the Rule 11(b)(1)(O) warning. The Fourth Circuit, however, concluded the failure to provide the warning did not affect Mr. Golestan's substantial rights because "a warning meant for those who are not United States citizens would not have put Golestan on notice of the potential immigration consequences." App. 13A.

REASONS FOR GRANTING THE PETITION

I. Fed. R. Crim. P. 11(b)(1)(O)'s warning places a naturalized citizen on notice that there may be significant immigration consequences of a guilty plea.

A. Rule 11(b)(1)(O)'s warning was designed to advise all defendants there may be potential immigration consequences of the plea.

In *Padilla v. Kentucky*, 559 U.S. 356, 375 (2010), this Court held defense attorneys must advise their clients whether a guilty plea "carries a risk of deportation." "[D]eportation is an integral part—indeed, sometimes, the most important part—of the penalty that may be imposed on noncitizen defendants who plead guilty to specified crimes." *Id.* at 364 (footnote omitted).

In the wake of *Padilla*, Rule 11 was amended to require district courts to advise defendants "that, if convicted, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future." Fed. R. Crim. P. 11(b)(1)(O). The Advisory Committee "concluded that the most effective and efficient method of conveying this information is to provide it to every defendant, without attempting to determine the defendant's citizenship." Fed. R. Crim. P. 11(b)(1)(O) advisory committee's note to 2013 amendment. As such, "[t]he amendment mandates a generic warning," about "immigration consequences," "not specific advice concerning the defendant's individual situation." *Id.*

Moreover, Rule 11(b)(1)(O) goes beyond the bounds of *Padilla*. *Padilla* held defense counsel "must inform her client whether his plea carries a risk of deportation." 559 U.S. at 374. Removal from the country is only the first third of

Rule 11(b)(1)(O); denial of citizenship and readmission to the United States are additional potential immigration consequences stemming from a guilty plea. Therefore, Rule 11(b)(1)(O) functions to warn defendants their pleas carry potentially adverse immigration consequences.

B. Denaturalization is a severe immigration consequence of a guilty plea when the defendant's conduct occurred prior to the date of naturalization.

"This Court has long recognized the plain fact that to deprive a person of his American citizenship is an extraordinarily severe penalty." *Klapprott v. United States*, 335 U.S. 601, 612 (1949). The consequences of denaturalization are "more serious than a taking of one's property, or the imposition of a fine or other penalty," and "[i]t would be difficult to exaggerate [citizenship's] value and importance." *Schneiderman*, 320 U.S. at 122.

The "[f]ailure to comply with any" "congressionally imposed prerequisites to the acquisition of citizenship" "renders the certificate of citizenship 'illegally procured' and naturalization that is unlawfully procured can be set aside" by prosecution pursuant to 18 U.S.C. § 1425. *Fedorenko v. United States*, 449 U.S. 490, 506 (1981) (quoting 8 U.S.C. § 1451(a)). Mr. Golestan's acts of wire fraud subject him to denaturalization because he could not have "committed" any "crime involving moral turpitude," 8 U.S.C. § 1182(a)(2)(A)(i)(I), prior to securing citizenship, and wire fraud is a crime of moral turpitude. *See Jordan v. De George*, 341 U.S. 223, 232 (1951) ("[T]he decided cases make it plain that crimes in which fraud was an ingredient have always been regarded as involving moral turpitude.").

If the government brings denaturalization proceedings against Mr. Golestan, the district court will "lack equitable discretion" to deny the request and cannot "excuse the conduct." *Fedorenko*, 449 U.S. at 517. Denaturalization proceedings against Mr. Golestan are highly likely given the government's recent prioritization of denaturalization cases "against individuals who engaged in fraud against private individuals, funds, or corporations." U.S. Dep't of Just., *Civil Division Enforcement Priorities* at 4 (June 11, 2025).

Consequently, denaturalization is severe immigration consequence. Moreover, the possibility of denaturalization carries with it a concomitant likelihood of eventual removal from the United States. "A risk of denaturalization simply *is* a risk of deportation." *Farhane v. United States*, 121 F.4th 353, 364 (2d Cir. 2024) (en banc) (emphasis in original). Removing a naturalized citizen subject to denaturalization from the United States "is [only] one step further removed from entry of a guilty plea than it is for a noncitizen: the government must obtain his denaturalization before it can initiate removal proceedings." *Id.* at 366.

C. Rule 11(b)(1)(O)'s warning alerts a naturalized citizen of potential adverse immigration consequences.

Rule 11(b)(1)(O)'s warning is critical for a defendant who is subject to denaturalization as a result of a conviction. If given verbatim, Rule 11(b)(1)(O) contains three separate warnings which would raise red flags for any naturalized citizen. First, Rule 11(b)(1)(O) warns a defendant "who is not a United States citizen may be removed from the United States." A rational naturalized citizen would question whether her status as a citizen could be affected by the conviction.

Second, Rule 11(b)(1)(O) warns a defendant may be "denied citizenship" as a result of the conviction. This portion of the warning explicitly instructs a defendant her ability to obtain citizenship may be directly impacted by the conviction. Accordingly, a naturalized citizen would wonder whether being "denied citizenship" would also affect her existing citizenship. Third, Rule 11(b)(1)(O) warns a defendant "admission to the United States in the future" may be impacted by the plea. By their very nature, naturalized citizens had to gain admission to the United States prior to obtaining their citizenship. Consequently, a naturalized citizen would ask whether her present admission into the country would be impacted by a guilty plea.

If the district court chooses not to give Rule 11(b)(1)(O)'s warning verbatim and instead chooses to advise the defendant generally there may be immigration consequences as a result of the plea, then the warning would alert a naturalized citizen her citizenship status may be in jeopardy. Every naturalized citizen emigrated to this country. Any naturalized citizen would rightly question whether her citizenship was in danger as a result of the plea.

Therefore, regardless of whether a district court read Rule 11(b)(1)(O) verbatim or gave a general warning about immigration consequences, a naturalized citizen who heard the warning would have notice she faced potential immigration consequences such as denaturalization. Accordingly, just like the potential immigration consequence of deportation, "[i]f [denaturalization] were the 'determinative issue' for an individual in plea discussions, … if that individual had strong connections to this country and no other, … and if the consequences of taking

a chance at trial were not markedly harsher than pleading, … that 'almost'" chance at trial "could make all the difference." *Lee*, 582 U.S. at 371. A Rule 11(b)(1)(O) error cannot be harmless in all cases where the defendant was a naturalized citizen, thus the failure to give the warning "affect[s the] substantial rights" of a naturalized citizen. Fed. R. Crim. P. 11(h).

II. This Court should grant certiorari.

A. The Fourth Circuit's decision is wrong.

The Fourth Circuit concluded no naturalized citizen could be prejudiced by a district court's failure to give the Rule 11(b)(1)(O) warning. The Fourth Circuit's reasoned "[t]he text of the Rule references only immigration consequences for those individuals who are *not* United States citizens." App. 13A (emphasis in original). Since Mr. Golestan was a naturalized citizen, "a warning meant for those who are not United States citizens would not have put [him] on notice of the potential immigration consequences." App. 13A. The Fourth Circuit was wrong.

As explained above, Rule 11(b)(1)(O)'s verbatim warning would raise several red flags to any naturalized citizen. No one would had undergone the process to become a naturalized citizen would hear a warning about removal, denial of citizenship, and barred future entry to the country, and believe none of those risks applied to them. Accordingly, a word-for-word reading of Rule 11(b)(1)(O)'s warning would place a "non-United States citizen … on notice that he might face adverse immigration consequences as a naturalized United States citizen." *Ataya*, 884 F.3d at 325.

Moreover, the Fourth Circuit's rejoinder that the warning is intended only for noncitizens erroneously prioritized literalism over substance. District courts do not give Rule 11 warnings verbatim, nor are they required to do so. *See* Fed. R. Crim. P. 11(b)(1)(O) advisory committee's note to 1983 amendments (Rule 11 "is not to be read as requiring a litany or other ritual which can be carried out only by word-for-word adherence to a set 'script'"); *see also United States v. Bachynysky*, 949 F.2d 722, 726 (5th Cir. 1991) ("A verbatim reading of Rule 11[] to the defendant is not required as long as the defendant understands the rights he forfeits by pleading guilty."). Many Rule 11 warnings would not advise the defendant of anything if read word-for-word. For example, Rule 11(b)(1)(G) requires district courts advise defendants of "the nature of each charge to which the defendant is pleading." Such advice must necessarily expand beyond the plain language of the rule, as the "nature of each charge" is not spelled out in the rule. Similarly, Rule 11(b)(1)(N) requires advice regarding "the terms of any plea-agreement provision waiving the right to appeal or to collaterally attack the sentence." This provision necessitates a discussion of the specific terms of a plea agreement and to what extent the plea agreement restricts the defendant's right to challenge his conviction or sentence in the future.

Understandably, then, the Advisory Committee characterizes Rule 11(b)(1)(O)'s warning as "a general statement that there may be immigration consequences of conviction." Fed. R. Crim. P. 11(b)(1)(O) advisory committee's note to 2013 amendment. Just as with the remainder of Rule 11, the Advisory

Committee did not intend Rule 11(b)(1)(O) be read word-for-word. A general warning of potential "immigration consequences" would unquestionably place a naturalized citizen on notice his status as a citizen may be in jeopardy as a result of the conviction. *See Farhane*, 121 F.4th at 373 ("In reach our conclusion today, we follow the *Padilla* Court's guidance by focusing instead on how Farhane's guilty plea carried the risk of adverse immigration consequences, specifically denaturalization and deportation."). Indeed, the Fourth Circuit did not question whether Mr. Golestan faced immigration consequences, only that the specific warning in Rule 11 would not have advised Mr. Golestan of *his* "potential immigration consequences." App. 13A. The Fourth Circuit's reasoning collapses when applied to a general warning rather than the specific warning.

Accordingly, no matter whether the Rule 11(b)(1)(O) warning is read verbatim or is given as a general warning there may be immigration consequences, a naturalized citizen would question whether his citizenship would be impacted by the conviction. The Fourth Circuit's decision to the contrary is wrong. A naturalized citizen's substantial rights are affected when a district court fails to give the Rule 11(b)(1)(O) warning in any form.

B. The Fourth Circuit's decision conflicts with Sixth Circuit precedent.

The Fourth Circuit's reasoning conflicts with the Sixth Circuit's decision in *Ataya*—the only other court to have addressed this issue. In *Ataya*, the Sixth Circuit found, on plain error review, a district court's compliance with Rule 11(b)(1)(O) places a naturalized "on notice that he might face adverse immigration

consequences as a naturalized United States citizen." 884 F.3d at 325. The Sixth Circuit concluded this was a "reasonable inference" to draw from Rule 11(b)(1)(O)'s warning "that a non-United States citizen might face immigration consequences from a guilty plea." *Id.*

The Fourth Circuit's decision in this case and the Sixth Circuit's decision in *Ataya* are incompatible. In the Sixth Circuit, a naturalized citizen is "on notice that he might face adverse immigration consequences" because of the Rule 11(b)(1)(O) warning. *Ataya*, 884 F.3d at 325. In the Fourth Circuit, a naturalized citizen is not "on notice of the potential immigration consequences" of a conviction even after hearing the Rule 11(b)(1)(O) warning. App. 13A. The decisions are irreconcilable. Only this Court has the power to determine whether the Fourth Circuit or the Sixth Circuit is correct.

The Sixth Circuit's interpretation of Rule 11(b)(1)(O) is the better of the two. The Sixth Circuit properly concluded a naturalized citizen would question the continued validity of his citizenship after hearing the Rule 11(b)(1)(O) warning. Whether Rule 11(b)(1)(O) is construed as advice meant only for "a non-United States citizen," *Ataya*, 884 F.3d at 325, or "a general statement that there may be immigration consequences of conviction," Fed. R. Crim. P. 11(b)(1)(O) advisory committee's note to 2013 amendment, a naturalized citizen would be on notice there may be life-altering consequences as a result of the plea. Additionally, the Fourth Circuit's reading of Rule 11(b)(1)(O) is dependent on the district court giving the

warning word-for-word whereas the Sixth Circuit's interpretation of Rule 11(b)(1)(O) remains the same regardless of how the warning is given.

The Fourth Circuit's decision is demonstrably wrong and conflicts with the decision of the Sixth Circuit interpreting the same rule in a factually indistinguishable case. This Court should grant certiorari to resolve this clear conflict. *See* Sup. Ct. R. 10(a).

III. This case presents a good vehicle to address this issue.

Mr. Golestan's petition is a good vehicle to resolve the split and determine the impact of Rule 11(b)(1)(O) on naturalized citizens. The issue was preserved for appeal by Mr. Golestan. The Fourth Circuit squarely addressed the claim and reached the opposite conclusion than that of the Sixth Circuit. Mr. Golestan even notified the Fourth Circuit that its decision would cause a circuit split. *See* Reply Br. of Appellant at 1, *United States v. Golestan*, 151 F.4th 634 (4th Cir. 2025) ("Adoption of the government's reasoning would create a circuit split with *Ataya*."). Additionally, this issue is likely to recur with greater frequency in the future given the Department of Justice's heightened focus on pursuing denaturalization. This Court should grant certiorari.

CONCLUSION

For the foregoing reasons, this Court should grant the petition for a writ of certiorari.

Respectfully submitted,

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