No. 25-6212

IN THE SUPREME COURT OF THE UNITED STATES

NICOLAS MONDRAGON-GONZALEZ, 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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QUESTIONS PRESENTED

1. Whether the district court correctly applied the enhancement in Sentencing Guidelines § 2L1.1(b)(7)(D).

2. Whether the court of appeals erred in rejecting petitioner's claim that his within-Guidelines sentence was substantively unreasonable.

ADDITIONAL RELATED PROCEEDINGS

United States District Court (W.D. Tex.):

United States v. Mondragon-Gonzalez, No. 21-cr-546 (Sept. 6, 2024)

United States Court of Appeals (5th Cir.):

United States v. Mondragon-Gonzalez, No. 24-50758 (Aug. 27, 2025)

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OPINION BELOW

The opinion of the court of appeals (Pet. App. 1-2) is available at 2025 WL 2465752.

JURISDICTION

The judgment of the court of appeals was entered on August 27, 2025. The petition for a writ of certiorari was filed on November 16, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a guilty plea in the United States District Court for the Western District of Texas, petitioner was convicted on one

count of conspiring to transport illegal aliens, in violation of 8 U.S.C. 1324(a)(1)(A)(v)(I) and (B)(i); two counts of transporting illegal aliens, in violation of 8 U.S.C. 1324(a)(1)(A)(ii); and one count of illegal-alien transportation resulting in death, in violation of 8 U.S.C. 1324(a)(1)(A)(ii) and (B)(iv). Judgment 1; Superseding Indictment 1-6. He was sentenced to 480 months of imprisonment, to be followed by five years of supervised release. Judgment 2-3. The court of appeals affirmed. Pet. App. 1-2.

1. From at least 2020 to 2021, petitioner oversaw an alien-smuggling operation based in Austin, Texas, on behalf of a criminal organization located in Mexico. Presentence Investigation Report (PSR) ¶¶ 28, 56; see Pet. App. 2. As the leader of the smuggling operation, petitioner operated a stash house in Austin that harbored illegal aliens, to whom petitioner charged a daily fee, and "exercised a decision-making authority over [the smuggling ring's] operations." PSR ¶ 56.

In that role, petitioner was responsible for the transportation of 249 illegal aliens into the United States. PSR ¶ 57. Among other things, petitioner directed an attempted smuggling operation that took place on March 15, 2021. PSR ¶ 29. Petitioner "hired a co-conspirator [Sebastian Tovar] to transport illegal aliens on [that day]; specifically directed [Tovar] as to where to pick up aliens for smuggling; and provided" Tovar with a pick-up truck to transport the aliens. Pet. App. 1.

After seeing Tovar speeding, Texas Department of Public Safety troopers attempted to initiate a traffic stop. PSR ¶ 29. Tovar then led the troopers on a 50-mile-long chase, reaching speeds in excess of 100 miles per hour, before "crashing head-on with oncoming traffic." Ibid. "Tovar was transporting * * * nine illegal aliens"--six of whom were in the truck's bed--and, as a result of the crash, eight died at the scene, including a minor. Ibid. The ninth suffered serious injuries. Ibid. The vehicle struck by Tovar was carrying a father and his 11-year-old daughter and both were critically injured. Ibid. Tovar survived the crash and was apprehended. Ibid.

2. In September 2021, a federal grand jury returned a superseding indictment charging petitioner with one count of conspiring to transport illegal aliens; two counts of transporting illegal aliens; and one count of illegal alien transportation resulting in death. Superseding Indictment 1-6. Without a plea agreement, petitioner pleaded guilty to all the counts charged. 1/10/22 Tr. 5; see Pet. App. 1; Judgment 1.

In preparation for sentencing, the Probation Office calculated petitioner's total offense level under the Sentencing Guidelines as 42. PSR ¶ 78. That calculation included a 10-level enhancement pursuant to Sentencing Guidelines § 2L1.1(b)(7)(D). PSR ¶ 71. Section 2L1.1(b)(7) provides a sentencing enhancement for unlawfully smuggling an alien "[i]f any person died or sustained bodily injury," with the amount of the enhancement

varying based on the severity of the harm. Sentencing Guidelines § 2L1.1(b)(7). The enhancement for "[d]eath" is 10 levels. Id. § 2L1.1(b)(7)(D). The Probation Office applied the death enhancement to petitioner because "a total of eight (8) illegal aliens were pronounced deceased at the scene of the fatal smuggling load on March 15, 2021." PSR ¶ 71.

Based on its calculations, the Probation Office determined that petitioner's advisory Guidelines range for the count of transportation of an illegal alien resulting in death was 360 months to life. PSR ¶ 113. The advisory range for the remaining three counts was 120 months. Ibid.

3. Petitioner objected to the 10-level enhancement applied pursuant to Section 2L1.1(b)(7)(D), asserting that "the high-speed chase, the ensuing head-on collision with another vehicle, and the deaths of eight illegal aliens were not foreseeable consequences of the alien smuggling operation for which the defendant is being charged." D. Ct. Doc. 484-1, at 1 (Mar. 6, 2023). Petitioner maintained that objection at the sentencing hearing, but acknowledged that circuit precedent foreclosed his argument. 8/19/2024 Sent. Tr. 4 (Sent. Tr.); see id. at 6, 12. The district court overruled the objection, id. at 12, and accepted the calculated Guidelines ranges, see id. at 16-17.

The government requested a life sentence; petitioner argued for "a guideline range" sentence, as opposed to the life sentence sought by the government. Sent. Tr. 22. In analyzing the factors

set out in 18 U.S.C. 3553(a), the district court emphasized that petitioner had entered the country illegally for the purpose of running the illegal smuggling ring, and that the smuggling activities petitioner led caused numerous "high-speed chase[s]." Id. at 24. The court also observed that "a lot of these [smuggling] offenses occurred with people in the bed of trucks," which meant that if there was "a mishap driving, these people were going to be thrown out of the bed of the truck." Ibid. And while the court "underst[oo]d" that petitioner did not order "any person[] [to] [d]rive carelessly," the court found that petitioner's "drivers * * * understood that they needed to get away [from police], no matter what they did, because [there was] more than one high-speed chase in all of these matters." Id. at 25.

The district court sentenced petitioner to 480 months of imprisonment, to be followed by five years of supervised release, for his conviction for illegal transportation of an alien that resulted in death. Sent. Tr. 26-27. The court also imposed a sentence of imprisonment of 120 months, to be followed by three years of supervised release, for the other three counts, with all the sentences to run concurrently. Ibid.

4. The court of appeals affirmed in an unpublished, per curiam opinion. Pet. App. 1-2.

On appeal, petitioner argued for the first time that his sentence was substantively unreasonable because petitioner had "'no direct or immediate participation in' events leading to the

fatal crash." Pet. App. 1. The court of appeals rejected that claim. The court stated that petitioner "failed to preserve this claim in district court," thus subjecting it to plain error review. Ibid. The court then held that petitioner could not satisfy the plain-error standard. Ibid. The court rejected petitioner's claim that he had no direct involvement with the fatalities, explaining that he "hired a co-conspirator to transport illegal aliens on 15 March; specifically directed that co-conspirator as to where to pick up aliens for smuggling; and provided [the] vehicles used to transport aliens during the incident." Ibid.

The court of appeals also found that, even if plain error did not apply, petitioner had failed "to rebut the presumption of reasonableness accorded to his properly-calculated, within-Guidelines sentence, especially in the light of the uncontradicted evidence showing his significant involvement in the events underlying the fatal incident." Pet. App. 2. "At most," the court explained, petitioner's "contentions amount to a disagreement with how the relevant considerations were balanced," and the court refused to "reweigh the 18 U.S.C. § 3553(a) sentencing factors or substitute [its] judgment for that of the district court." Ibid.

Petitioner additionally claimed that the district court applied the wrong causation standard when applying Guidelines § 2L1.1(b)(7)(D). Pet. App. 2. According to petitioner, the death enhancement should apply only if his conduct was the proximate cause of the death of the aliens. See ibid. But as the court of

appeals explained, and as petitioner acknowledged, "that contention is foreclosed by" circuit precedent, which looked only to whether the "defendant is [the] but-for cause of death." Ibid. (citing United States v. Ramos-Delgado, 763 F.3d 398, 401-402 (5th Cir.), cert. denied, 574 U.S. 1054 (2014)). Petitioner did not dispute that the but-for cause standard was satisfied on the facts here. See Pet. C.A. Br. 26-28 (arguing that proximate cause is the correct standard without disputing the but-for causality finding).

ARGUMENT

Petitioner contends (Pet. 7-14) that the court of appeals erred in declining to employ a proximate-cause standard in applying Sentencing Guidelines § 2L1.1(b)(7)(D). That contention does not warrant this Court's review because it involves a question of Guidelines interpretation that the Sentencing Commission can resolve; the court of appeals' factbound application of Section 2L1.1(b)(7)(D) was correct; and the decision below does not conflict with any decision of this Court or of another court of appeals. Petitioner also contends (Pet. 14-18) that the court of appeals erred in declining to find his sentence to be substantively unreasonable. That factbound determination also does not warrant further review.

1. Petitioner's contention (Pet. 8-14) that the lower courts erred in applying the 10-level enhancement set forth in

Sentencing Guidelines § 2L1.1(b)(7)(D) does not warrant this Court's review.

a. As an initial matter, this Court ordinarily does not review decisions interpreting the Sentencing Guidelines because the Sentencing Commission can amend the Guidelines to eliminate any conflict or to correct any error. See Braxton v. United States, 500 U.S. 344, 347-349 (1991). Congress has charged the Commission with "periodically review[ing] the work of the courts" and making "whatever clarifying revisions to the Guidelines conflicting judicial decisions might suggest." Id. at 348. By conferring that authority on the Commission, Congress indicated that it expects the Commission, not this Court, "to play [the] primary role in resolving conflicts" over the interpretation of the Guidelines. Buford v. United States, 532 U.S. 59, 66 (2001). Review by this Court of Guidelines decisions is particularly unwarranted in light of United States v. Booker, 543 U.S. 220, 245 (2005), which rendered the Guidelines advisory only.

Petitioner provides no sound reason to deviate from the Court's ordinary practice here. The cases petitioner claims (Pet. 12) show that the Court "has repeatedly" reviewed "disputed Guidelines question[s]" did not involve interpretations of the Guidelines. They involved the standard of review of district court sentencing decisions and the reasonableness of the sentences imposed, see Molina-Martinez v. United States, 578 U.S. 189, 198, 202 (2016) (discussing plain error review); Gall v. United States,

552 U.S. 38, 41 (2007) (standard of review for outside-Guidelines sentences); Rita v. United States, 551 U.S. 338, 346 (2007) (presumption of reasonableness of a within-Guidelines sentence); Koon v. United States, 518 U.S. 81, 91, 100-112 (1996) (standard of review for departures from the Guidelines); "whether the crack/powder [cocaine] disparity adopted in the United States Sentencing Guidelines" is advisory or not, Kimbrough v. United States, 552 U.S. 85, 93 (2007); and the circumstances in which a defendant sentenced pursuant to a plea agreement is eligible for a reduction in his sentence under 18 U.S.C. 3582(c)(2) because of a subsequent retroactive amendment to the Guidelines, see Hughes v. United States, 584 U.S. 675, 680 (2018).

b. In any event, the lower courts correctly determined that Sentencing Guidelines § 2L1.1(b)(7)(D) applies. Sentencing Guidelines § 2L1.1 establishes the offense level calculations for offenses involving the smuggling, transporting, or harboring of unlawful aliens. Section 2L1.1(a)(3) establishes a base offense level of 12. Section 2L1.1(b) sets forth various enhancements based on specific offense characteristics, with Section 2L1.1(b)(7) providing for an increase in offense level "[i]f any person died or sustained bodily injury." Section 2L1.1(b)(7)(D) then lists four categories of injury, the most serious of which is "[d]eath," which carries with it a 10-level enhancement.

In United States v. Ramos-Delgado, 763 F.3d 398 (5th Cir.), cert. denied, 574 U.S. 1054 (2014), the court of appeals looked to

the "plain language of 2L1.1(b)(7)" and explained that "because '[t]he guideline contains no causation requirement * * * we have no license to impose one.'" Id. at 401 (quoting United States v. Cardena-Garcia, 362 F.3d 663, 666 (10th Cir.), cert. denied, 543 U.S. 879 (2004)). The court observed that "the only causation requirement is that contained in [Guidelines Section] 1B1.3, which describes the general relevant conduct that may be considered in determining the guideline range." Ibid. And "under 1B1.3(a)(3)," the court continued, "relevant conduct includes all harm that resulted from the acts and omissions specified in subsections (a)(1) and (a)(2) above, and 'all harm that was the object of such acts and omissions.'" Ibid. Accordingly, "[b]ecause the ordinary meaning of 'resulted from' imposes a requirement of actual or but-for causation and textual and contextual reasons do not justify the use of an alternative causation," the court held that the enhancement in Section 2L1.1(b)(7) applies if the defendant's "relevant conduct [is] a but-for cause of a harm." Ibid. (footnotes omitted).

Petitioner does not provide any argument that the court of appeals' analysis is incorrect. Petitioner's implicit assertion (Pet. 7-14) that Sentencing Guidelines § 2L1.1(b)(7) only applies upon a showing that a defendant's conduct was the proximate cause of harm is inconsistent with the text of Section 2L1.1(b)(7), which contains no causation requirement but looks only to the seriousness of the injury suffered by "any person," and with Sentencing

Guidelines § 1B1.3(a)(3), which treats "all harm that resulted from the acts and omissions" involved in the criminal activity as a "specific offense characteristic[]." Neither provision has a textual proximate cause requirement. See, e.g., Brown v. Gardner, 513 U.S. 115, 119-120 (1994) (rejecting the argument that the "'as a result of' language of [38 U.S.C.] 1151 signifies a proximate cause requirement that incorporates a fault test"); Webster's Third New International Dictionary 1937 (1986) (to "result" is "to proceed, spring or arise as a consequence, effect, or conclusion.").

c. Petitioner does not dispute that he would likewise have been subject to the sentencing enhancement in the Tenth and Eleventh Circuits. See United States v. Zaldivar, 615 F.3d 1346, 1350-1352 (11th Cir. 2010), cert. denied, 562 U.S. 1158 (2011); Cardena-Garcia, 362 F.3d at 666; see also Pet. 9-10. And while petitioner asserts (Pet. 8-9, 11-12) that the result would have been different in the Eighth and Ninth Circuits, he fails to identify a decision in either circuit that demonstrates as much.

In United States v. Flores-Flores, 356 F.3d 861 (8th Cir. 2004), the defendant "was hired to transport eleven illegal aliens from Arizona to Michigan in a Chevrolet Astro cargo van." Id. at 862. Because there were not enough seats for each passenger, eight of the aliens sat on the floor in an open area in the rear of the van. Ibid. During the trip, the defendant asked one of the passengers to drive for him. Ibid. That passenger fell asleep at

the wheel, resulting in a crash. Ibid. As a result, two of the aliens sitting in the open area died. Ibid. The district court applied the death enhancement (which was then found in Sentencing Guidelines § 2L1.1(b)(6) and was an eight-level enhancement). Ibid.; see Sentencing Guidelines § 2L1.1(b)(6)(4) (2003). On appeal, the defendant argued the enhancement did not apply "because the driver's negligent operation of the vehicle, rather than his conduct, proximately caused the deaths." Flores-Flores, 356 F.3d at 862.

The Eighth Circuit rejected that assertion. The court stated that "the death or injury specified in [the Guidelines] must be causally connected to dangerous conditions created by the unlawful conduct." Flores-Flores, 356 F.3d at 862. The court then found that the requisite causal connection existed, explaining that the defendant "elected to smuggle" aliens "in an overloaded van * * * without the benefit of seats or seatbelts for eight of the passengers." Ibid. As a result, "[t]he deaths of the two passengers seated in an open area in the van's rear were causally connected to the dangerous conditions created by Flores's unlawful conduct." Id. at 863. "The negligence of [the subsequent driver] was not an intervening cause relieving Flores of responsibility for the aliens' deaths." Ibid.

The opinion in Flores-Flores does not include either of the quotes petitioner attributes (Pet. 8) to it. And there is no sound reason to conclude that the Eighth Circuit's decision that the

death enhancement was properly applied means that court would decline to apply the enhancement to petitioner. Like the defendant in Flores-Flores, petitioner "elected to smuggle" aliens into the country, but provided Tovar a vehicle that could not safely transport the number of people he directed Tovar to transport. 356 F.3d at 862; see Pet. App. 1 (noting petitioner "provided [the] vehicle[]"). And just as the defendant in Flores-Flores "failed to ensure" that the passenger driving the van "stayed awake," 356 F.3d at 863, petitioner failed to ensure that Tovar would not drive recklessly to avoid the police; indeed, his policies encouraged it. See Sent. Tr. 25 ("[T]he drivers obviously understood that they needed to get away, no matter what they did.").

Petitioner's reliance (Pet. 8-9) on United States v. Herrera-Rojas, 243 F.3d 1139 (9th Cir. 2001), is similarly misplaced. At issue there was whether the Guidelines "require[d] intent" for the death enhancement (then in Section 2L1.1(b)(6)) to apply. Id. at 1144. In a footnote, the Ninth Circuit "assume[d]" that "the relevant death * * * must be causally connected to dangerous conditions created by the unlawful conduct." Id. at 1144 n.1. But contrary to petitioner's assertions, the court did not state that "the enhancement applies only where the defendant's conduct 'was the proximate cause of the deaths'" or that "the government must show 'a sufficient causal connection' between the defendant's acts and the fatality." Pet. 8-9.

2. Petitioner's contention (Pet. 14-18) that the court of appeals incorrectly found his 480-month sentence to be substantively reasonable, due to his asserted remoteness from the deaths and injuries, likewise does not warrant this Court's review. Petitioner does not suggest that any other court of appeals would have granted relief on such a claim. See Sup. Ct. R. 10 ("A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law."). Nor does he even identify any error in the lower courts' disposition.

This Court has instructed that after ensuring that a district court has not committed any procedural error in imposing a sentence, an appellate court should "consider the substantive reasonableness of the sentence imposed under an abuse-of-discretion standard." Gall, 552 U.S. at 51. "If the sentence is within the Guidelines range, the appellate court may, but is not required to, apply a presumption of reasonableness." Ibid. A court of appeals may not set aside a sentence simply because it "might reasonably have concluded that a different sentence was appropriate" had it been in the district court's position. Ibid.

The court of appeals correctly applied those principles here. The court accurately determined that petitioner had failed to rebut his presumptively reasonable within-Guidelines sentence. See Pet. App. 2. As the court explained, petitioner's sole basis for claiming that his sentence was substantively unreasonable--namely,

that he was not directly responsible for the eight fatalities and serious injuries to three others caused by his hired driver's head-on collision while fleeing police--disregarded "the uncontradicted evidence showing his significant involvement in the events underlying the fatal incident." Ibid.; see Sent. Tr. 24 (noting petitioner's history running an alien-smuggling operation); id. at 25 ("[Y]ou had people being transported in a manner that wasn't appropriate.").

Moreover, although an argument for a "specific sentence" is sufficient to "preserve[] [a] claim on appeal" that the sentenced ultimately imposed was "unreasonably long," Holguin-Hernandez v. United States, 589 U.S. 169, 171 (2020), petitioner here stated that "a Level 42 and a guideline range" sentence is appropriate, Sent. Tr. 22. He ultimately received a sentence (480 months) within that range on the transportation-resulting-in-death count. See id. at 16 (finding a guidelines range of 360 months to life for transportation resulting in death). On this record, the court of appeals reasoned that petitioner had not properly preserved his substantive reasonableness challenge, thereby subjecting him to plain error review, and found that his claim failed because it failed to satisfy the plain-error standard and, alternatively, because it was not an abuse of discretion. Pet. App. 1-2. Petitioner, however, does not address the court of appeals' plain-error determination.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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