No. 25-6520

IN THE SUPREME COURT OF THE UNITED STATES

STEVEN GEORGE MORGAN, PETITIONER

v.

UNITED STATES OF AMERICA

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

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTION PRESENTED

Whether an officer's questioning of petitioner regarding the ownership of a cellphone after petitioner had invoked his rights to silence and counsel was so coercive so as to render a response by petitioner disclaiming ownership of the phone involuntary under the Fifth Amendment.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. A1-A25) is reported at 143 F.4th 1264. The order of the court of appeals denying rehearing (Pet. App. B1-B2) is unreported.

JURISDICTION

The judgment of the court of appeals was entered on July 11, 2025. A petition for rehearing was denied on October 6, 2025 (Pet. App. B1-B2). The petition for a writ of certiorari was filed on January 5, 2026. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a jury trial in the United States District Court for the Southern District of Florida, petitioner was convicted of conspiring to import a controlled substance, in violation of 21 U.S.C. 963, attempting to possess a controlled substance with intent to distribute, in violation of 21 U.S.C. 841(a)(1), and possessing a firearm in furtherance of a drug-trafficking crime, in violation of 18 U.S.C. 924(c)(1)(A). Judgment 1; see Pet. App. A7. Petitioner was sentenced to 132 months of imprisonment, to be followed by five years of supervised release. Judgment 2-3; see Pet. App. A7. The court of appeals affirmed. Pet. App. A17.

1. Petitioner and his brother smuggled cocaine from the Caribbean into South Florida. See Pet. App. A6-A7. Their scheme unraveled when law-enforcement officers intercepted packages containing cocaine at an airport in Puerto Rico. Id. at A7. The officers removed the cocaine, installed break-wire beacons in the packaging, and then allowed the packages to continue to their destination. Ibid.

Petitioner and another man retrieved the packages outside a South Florida apartment and took the packages inside. Pet. App. A7. The beacons sounded soon after, and law-enforcement agents entered the apartment. Ibid. The agents found petitioner inside, detained him, and retrieved a gun from his person. Ibid. They also found two cellphones near petitioner: an iPhone and an LG

phone. Ibid. After placing petitioner in handcuffs, Agent Christiana Feo asked him -- without first providing warnings pursuant to Miranda v. Arizona, 384 U.S. 436 (1966) -- whether both phones were his. Pet. App. A7. Petitioner said, "yes." Ibid. (quoting Suppression H'rg Tr. (Tr.) 32).

The agents then placed petitioner in a law-enforcement vehicle, where Agent Mariana Gaviria read petitioner Miranda warnings. Pet. App. A7. Petitioner invoked his rights to silence and counsel. Ibid. Shortly thereafter, Agent Gaviria asked petitioner if the two phones were his. Ibid. Petitioner responded that he was "not sure." Ibid. (quoting Tr. 14). Agent Gaviria then said that she "wasn't trying to interrogate him or ask him any questions about the case" and that she "just need[ed] to know if they belonged to him so that [she] could make a note of who the property belonged to in case [she] needed to return it." Ibid. (quoting Tr. 14) (brackets in original). Petitioner stated that "only the iPhone" was his. Ibid. (quoting Tr. 14). Petitioner also stated that he had earlier said both phones were his due to his "shock because of the way that [the agents] came into the apartment with the guns drawn." Ibid. (quoting Tr. 14). "'[B]ut,' he reiterated, 'only the iPhone was his.'" Ibid. (quoting Tr. 14).

The agents released petitioner but seized both phones and the gun. Pet. App. A7. A few days later, petitioner asked for his

gun back, but did not ask about the phones. Ibid. Several weeks after the phones had been seized, the agents conducted a warrantless search of the LG phone and found evidence implicating petitioner in the drug-smuggling scheme. Ibid.

2. A grand jury indicted petitioner on charges of conspiring to import 500 grams or more of cocaine, in violation of 21 U.S.C. 952(a) and 963; (2) attempting to possess 500 grams or more of cocaine with intent to distribute, in violation of 21 U.S.C. 841(a)(1); and (3) possessing a firearm in furtherance of a drug-trafficking crime, in violation of 18 U.S.C. 924(c)(1)(A). Pet App. A7. Following the indictment, petitioner moved to suppress the evidence from the government's warrantless search of the LG phone, as well as the statements he made on the day of the controlled delivery -- namely, his first statement claiming ownership of both phones and his later statement disclaiming ownership of the LG phone. Id. at A8. The district court ultimately suppressed both statements. Id. at A8 & n.4. But the court allowed the admission of the contents of the LG phone, finding that "the agents were reasonable in deciding that [petitioner] had abandoned th[at] phone." Id. at A8 (citation omitted) (second set of brackets in original).

Petitioner proceeded to trial before a jury and was convicted on all counts. Pet. App. A7.

3. a. The court of appeals affirmed. Pet. App. A1-A24. Among other things, the court found that "[t]he district court didn't clearly err in finding that [petitioner] had abandoned the LG phone and thereby given up his Fourth Amendment interest in its contents." Id. at A8. The court of appeals acknowledged that the finding of abandonment was based mainly on petitioner's statement to Agent Gaviria in the law-enforcement vehicle denying ownership of the LG phone, which it concluded "was the product of a Miranda violation." Id. at A9; see id. at A9-A10. But the court explained that Miranda did not require suppression of the contents of the phone. Id. at A10-A13.

The court of appeals observed that "the Miranda rule is a prophylactic employed to protect against violations of the Self-Incrimination Clause," which, in turn, "is a prohibition on compelling a criminal defendant to testify against himself at trial." Pet. App. A10 (quoting United States v. Patane, 542 U.S. 630, 636-637 (2004) (plurality opinion)). The court explained that, as a result, "the government can't use Miranda-violative statements in its case-in-chief." Ibid. The court recognized, however, that "other uses of those statements and their fruits," including "'the physical fruits of the suspect's unwarned'" statements, "are fair game -- so long as they are voluntary and not coerced." Ibid. (quoting Patane, 542 U.S. at 633-634 (plurality opinion), and citing Oregon v. Elstad, 470 U.S. 298,

307 (1985)); see id. at A10-A11 (discussing Harris v. New York, 401 U.S. 222, 224-226 (1971), and citing New York v. Quarles, 467 U.S. 649, 654-657 (1984)).

Turning to the specific facts of this case, the court of appeals determined that the Fifth Amendment did not prohibit the admission of the LG phone's contents. Pet. App. A11-A13. The court reasoned that "[e]ven assuming that [Agent] Gaviria's assurances," in violation of Miranda, that she was not trying to ask petitioner questions about the case but was instead trying to determine who owned the property "were misleading, they didn't render [petitioner's] answer constitutionally involuntary." Id. at A11. The court accepted that "police deception renders a suspect's statement involuntary * * * 'where the deception goes directly to the nature of the suspect's rights and the consequences of waiving them.'" Id. at A12 (quoting United States v. Farley, 607 F.3d 1294, 1328-1329 (11th Cir.), cert. denied, 562 U.S. 945 (2010)). But the court explained that "'[p]olice misrepresentations of law . . . are much more likely to render a suspect's confession involuntary' than 'misrepresentation[s] of fact' -- which generally 'are not enough.'" Ibid. (quoting United States v. Lall, 607 F.3d 1277, 1285 (11th Cir. 2010)) (brackets in original). And it found that "[a]ny lack of candor on [Agent] Gaviria's part regarding her motive was at worst a 'misrepresentation of fact' -- not one of law" that had

"misinform[ed] [petitioner] about his Miranda rights." Id. at A13.

b. Judge Rosenbaum dissented. Pet. App. A17-A24. In her view, under the "totality of the circumstances," when Agent Gaviria told petitioner that she "'wasn't trying to interrogate him or ask him any questions about the case,'" she made a "type of false promise" that "coerced [petitioner's] statement" disclaiming ownership of the LG phone. Id. at A17-A18 (Rosenbaum, J., dissenting).

ARGUMENT

Petitioner renews (Pet. 20-26) his contention that the evidence found on the LG phone should have been suppressed on the theory that his statement that the phone did not belong to him was involuntary. The court of appeals correctly rejected that contention. And petitioner does not identify any decision of this Court or another court of appeals that conflicts with the decision below. No further review is warranted.

1. As the court of appeals explained, this "Court has long 'distinguished police conduct that abridges a person's constitutional privilege against compulsory self-incrimination from conduct that departs only from the prophylactic standards later laid down by this Court in Miranda [v. Arizona, 384 U.S. 436 (1966)] to safeguard that privilege.'" Pet. App. A9 (quoting Vega v. Tekoh, 597 U.S. 134, 145 (2022)); see Vega, 597 U.S. at 144-

146 (discussing cases distinguishing between constitutional violations and Miranda violations). In particular, as petitioner appears to recognize (Pet. 16-17), physical evidence derived from a Miranda violation is not subject to suppression "so long as [the statement] was voluntary and not coerced." Pet. App. A10.

Accordingly, at bottom, the petition is simply challenging the court of appeals' determination that his statement to Agent Gaviria, disclaiming ownership of the LG phone, was voluntary. See Pet. App. A11-A13. That challenge lacks merit. An individual's statement is involuntary only if, because of the government's conduct, "his will has been overborne and his capacity for self-determination critically impaired." Schneckloth v. Bustamonte, 412 U.S. 218, 225 (1973) (citation omitted). A court should consider "the totality of all the surrounding circumstances -- both the characteristics of the accused and the details of the interrogation." Id. at 226; see Pet. App. A11 (similar, summarizing Eleventh Circuit caselaw). The simple fact that a suspect was misled in some way does not render his statement involuntary. See Frazier v. Cupp, 394 U.S. 731, 739 (1969) ("The fact that the police misrepresented the statements that Rawls had made is, while relevant, insufficient in our view to make this otherwise voluntary confession inadmissible."). Instead, "coercive police activity is a necessary predicate to the finding

that a confession is not 'voluntary.'" Colorado v. Connelly, 479 U.S. 157, 167 (1986).

In claiming that his statement here was involuntary, petitioner relies (Pet. i, 17, 20-23, 25) on Agent Gaviria's statement that she "wasn't trying to * * * ask him any questions about the case." Pet. App. A11 (citation omitted). In petitioner's view, "[t]his communication constituted an implied promise of immunity that rendered his subsequent statement involuntary." Pet. 21. But as the court of appeals observed, "the record here includes 'nothing to indicate that [petitioner] was unsure of his rights or needed them clarified' -- nor that he was 'deceived about "the nature of his rights [or] the consequences of abandoning them."'" Pet. App. A13 (quoting United States v. Farley, 607 F.3d 1294, 1330 (11th Cir.), cert. denied, 562 U.S. 945 (2010)) (second set of brackets in original). "Any lack of candor on [Agent] Gaviria's part regarding her motive was at worst a 'misrepresentation of fact'" (as to why she was asking) "not one of law" that might have given petitioner the impression -- contrary to the Miranda warning -- that he was being granted immunity. Ibid.

Contrary to petitioner's assertion (Pet. 10-11), the court of appeals' factbound determination of that issue is not at odds with this Court's treatment of implied promises in the Fifth Amendment context. In Bram v. United States, 168 U.S. 532 (1897), for

example, the Court stated that "a confession, in order to be admissible, * * * must not be * * * obtained by any direct or implied promises, however slight." Id. at 542-543 (citation omitted); see Pet. 10-11 (quoting this language). But this Court has recognized that "this passage from Bram * * * under current precedent does not state the standard for determining the voluntariness of a confession." Arizona v. Fulminante, 499 U.S. 279, 285 (1991); see 2 Wayne R. LaFave et al., Criminal Procedure § 6.2(c) (4th ed. 2015) ("[T]here has been a movement away from treating * * * promises of leniency as per se producing involuntariness, especially in light of Fulminante's reading of Bram."). And in any event, the court of appeals here simply determined -- correctly -- that the relevant statements from Agent Gaviria did not, in context, give petitioner the false impression that he would be free of legal consequences.

2. The court of appeals' analysis here accords with decisions of other courts of appeals that have treated a promise of leniency as but one factor in the totality of the circumstances under which the voluntariness of a confession is judged. As the en banc Eighth Circuit has explained, "a promise made by law enforcement 'does not render a confession involuntary per se.'" United States v. LeBrun, 363 F.3d 715, 725 (2004) (citation omitted), cert. denied, 543 U.S. 1145 (2005); see, e.g., Green v. Scully, 850 F.2d 894, 901 (2d Cir.) (explaining that "the presence

of a direct or implied promise of help or leniency alone has not barred the admission of a confession where the totality of the circumstances indicates it was the product of a free and independent decision"), cert. denied, 488 U.S. 945 (1988); Miller v. Fenton, 796 F.2d 598, 608 (3d Cir.) (explaining that "it does not matter that the accused confessed because of [a] promise, so long as the promise did not overbear his will" and that "promises do not trigger an analysis different from the totality of the circumstances test"), cert. denied, 479 U.S. 989 (1986); see also United States v. Jacobs, 431 F.3d 99, 109 (3d Cir. 2005) (concluding that an officer's promise to a suspect "'in exchange for th[at] person's speaking about the crime does not automatically render inadmissible any statement obtained as a result of that promise,'" but that "a promise * * * is a factor (indeed, a potentially significant one) in the totality of the circumstances inquiry as to whether a statement was voluntary") (citation omitted).

Petitioner errs in asserting (Pet. 19) that the Eleventh Circuit's decision below conflicts with other courts of appeals that "have recognized that promises about limited use of statements -- whether express or implied -- render confessions involuntary." Like the court below, see Pet. App. A11, the courts of appeals whose decisions he cites (Pet. 18-20) examine the totality of the circumstances to determine the voluntariness of a confession. See

United States v. Byram, 145 F.3d 405, 408 (1st Cir. 1998) ("Judging whether improper police coercion occurred depends on the circumstances."); Miller, 796 F.2d at 604 ("To determine the voluntariness of a confession, the court must consider the effect that the totality of the circumstances had upon the will of the defendant."); United States v. Tingle, 658 F.2d 1332, 1335 (9th Cir. 1981) ("we must 'examine the entire record and make an independent determination of the ultimate issue of voluntariness'") (quoting Beckwith v. United States, 425 U.S. 341, 348 (1976)). And he identifies no decision of another court of appeals that has reached a different outcome on similar facts.

In Byram, for example, the First Circuit rejected the defendant's argument that police had coerced the defendant's confession by giving "a false assurance to [the] suspect that he was not in danger of prosecution," 145 F.3d at 408, and instead relied on pure Miranda grounds to suppress the relevant statements, id. at 410. Likewise, in Miller, the Third Circuit rejected a claim that the defendant "was tricked into confessing," finding instead "under the totality of the circumstances of th[e] case, the confession was voluntarily given." 796 F.2d at 612-613; see United States v. Walton, 10 F.3d 1024, 1028-1032 (3d Cir. 1993) (cited at Pet. 16) (suppressing statement as involuntary but confirming that "the voluntariness of a confession does not depend solely upon whether it was made in response to promises," but

instead on "judging the totality of the circumstances"). And the Ninth Circuit's decision in Tingle found a statement involuntary where the circumstances included an officer "threatening that [the defendant] would not see her child for a long time if she did not cooperate," 658 F.2d at 1335, a form of coercion that has no analogue here, see Pet. App. A12 (noting that "no one contends" that the purported police deception "'took the form of a coercive threat'") (citation omitted).

Finally, to the extent petitioner argues (Pet. 21-22) that the decision below conflicts with previous decisions from the Eleventh Circuit, this Court does not grant certiorari to resolve intra-circuit conflicts. See Wisniewski v. United States, 353 U.S. 901, 902 (1957) (per curiam) ("It is primarily the task of a Court of Appeals to reconcile its internal difficulties."). At bottom, the petition presents the highly factbound question whether, based on the facts and circumstances of this case, petitioner's statement was voluntary. But this Court "do[es] not grant * * * certiorari to review evidence and discuss specific facts." United States v. Johnston, 268 U.S. 220, 227 (1925); see Sup. Ct. R. 10; Kyles v. Whitley, 514 U.S. 419, 456-457 (1995) (Scalia, J., dissenting) ("[U]nder what we have called the 'two-court rule,' the policy [in Johnston] has been applied with particular rigor when district court and court of appeals are in agreement as to what conclusion the record requires.") (citing

Graver Tank & Mfg. Co. v. Linde Air Prods. Co., 336 U.S. 271, 275 (1949)).

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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