No. _____

SUPREME COURT OF THE UNITED STATES

ADERITO PATRICK AMADO,
Petitioner,

v.

UNITED STATES OF AMERICA
Respondent.

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

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PETITION FOR WRIT OF CERTIORARI

Donna J. Brown, Esq.
First Circuit #1179586
Wadleigh, Starr & Peters, P.L.L.C.
95 Market Street
Manchester, NH 03101
603-669-4140

Counsel for Petitioner Aderito Patrick Amado
Appointed Under the Criminal Justice Act of 1964

QUESTIONS PRESENTED

1. Following a months-long investigation into drug trafficking and while preparing to search an apartment within a large apartment complex, police observed a Jeep occupied by three unknown individuals park outside the complex, interact briefly with an unknown woman, and then leave. The police stopped the Jeep and ultimately uncovered evidence used against Mr. Amado. Other police involved in the months-long investigation, but not in the stop of the Jeep, had twice observed the Jeep in the course of the investigation. Does the collective knowledge doctrine apply where the police who stopped the Jeep did not personally know of information relating to the broader investigation and were not directed to stop the Jeep by someone with such knowledge and, with or without application of the collective knowledge doctrine, should the evidence have been suppressed?

2. Where the district court failed to make the findings required by *United States v. Dunnigan* and where the record does not support that Mr. Amado willfully gave false testimony on material matters, was it error to apply the obstruction of justice enhancement?

3. Mr. Amado had two prior felony convictions for controlled substances offenses, but he was sentenced for those two convictions on the same date. Where the record at sentencing contained no evidence of an intervening arrest, was it error to designate Mr. Amado as a career offender?

4. Mr. Amado was sentenced to 32 years in prison while his co-equal co-defendant was sentenced to fewer than 16 years in prison. Is such a drastic disparity among similarly situated co-defendants unreasonable?

LIST OF PARTIES

The parties are the same as those listed in the caption. As this is a criminal proceeding, the United States of America was the prosecuting party, and Aderito Patrick Amado, currently incarcerated at FCI Otisville in Otisville, New York.

RELATED PROCEEDINGS

There are no proceedings related to this matter.

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PETITION FOR WRIT OF CERTIORARI

OPINIONS BELOW

In this matter, Mr. Amado challenges the district court's denial of a pre-trial motion to suppress and the subsequent guilty verdicts rendered by a jury. He also challenges the district court's sentence.

The First Circuit's decision affirming the district court's judgment and sentence is reported at *United States v. Amado*, 157 F.4th 87 (1st Cir. 2025). A copy of the First Circuit's decision is reproduced in Appendix A.

The district court's decision denying Mr. Amado's pre-trial motion to suppress, issued orally and subsequently transcribed, is unreported and produced in Appendix B. The district court's judgment and sentence, including a transcript of the relevant portion of the sentencing hearing, are unreported and produced in Appendix C.

JURISDICTION

The judgment of the First Circuit Court of Appeals was entered on October 17, 2025. This Petition timely follows. This Court's jurisdiction rests on 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

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

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

United States Sentencing Guideline § 3C1.1 states:

> If (1) the defendant willfully obstructed or impeded, or attempted to obstruct or impede, the administration of justice with respect to the investigation, prosecution, or sentencing of the instant offense of conviction, and (2) the obstructive conduct related to (A) the defendant's offense of conviction and any relevant conduct; or (B) a closely related offense, increase the offense level by 2 levels.

18 U.S.C. § 1621 states:

> Whoever—
>
> (1)having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or
>
> (2)in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;
>
> is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

United States Sentencing Guideline § 4A1.2 states, in relevant part:

> (a) Prior Sentence
>
> …
>
> (2) If the defendant has multiple prior sentences, determine whether those sentences are counted separately or treated as a single sentence. Prior sentences always are counted separately if the sentences were imposed for offenses that were separated by an intervening arrest (i.e., the defendant is arrested for the first offense prior to committing the second offense). For purposes of this provision, a traffic stop is not an intervening arrest. If there is no intervening arrest, prior sentences are counted separately unless (A) the sentences resulted from offenses contained in the same charging instrument; or (B) the sentences were imposed on the same day. Treat any prior sentence covered by subparagraph (A) or (B) as a single sentence. See also §4A1.1(d).

United States Sentencing Guideline § 4B1.1 states, in relevant part:

> (a) A defendant is a career offender if (1) the defendant was at least eighteen years old at the time the defendant committed the instant offense of conviction; (2) the instant offense of conviction is a felony that is either a crime of violence or a controlled substance offense; and (3) the defendant has at least two prior felony convictions of either a crime of violence or a controlled substance offense.

United States Sentencing Guideline § 4B1.2 states, in relevant part:

> (b) Two Prior Felony Convictions.—The term "two prior felony convictions" means (1) the defendant committed the instant offense of conviction subsequent to sustaining at least two felony convictions of either a crime of violence or a controlled substance offense (i.e., two felony convictions of a crime of violence, two felony convictions of a controlled substance offense, or one felony conviction of a crime of violence and one felony conviction of a controlled substance offense), and (2) the sentences for at least two of the aforementioned felony convictions are counted separately under the provisions of §4A1.1(a), (b), or (c). The date that a defendant sustained a conviction shall be the date that the guilt of the defendant has been established, whether by guilty plea, trial, or plea of *nolo contendere*.

18 U.S.C. § 3353 states, in relevant part:

> (a) Factors To Be Considered in Imposing a Sentence.—The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider—
>
> (1)the nature and circumstances of the offense and the history and characteristics of the defendant;
>
> (2)the need for the sentence imposed—
>
> (A)to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
>
> (B)to afford adequate deterrence to criminal conduct;
>
> (C)to protect the public from further crimes of the defendant; and
>
> (D)to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;
>
> …
>
> (6)the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct….

STATEMENT OF THE CASE

A. Factual Background Relevant to Suppression Issue

Following a nine-day jury trial, Mr. Amado was convicted of one count of conspiracy to possess with intent to distribute fentanyl, fentanyl analogue, and cocaine; three counts of possession with intent to distribute those substances; and several firearms-related charges. Appx. A, at 3.

The charges against Mr. Amado followed a months-long investigation into a suspected drug trafficking organization ("DTO") in Massachusetts, during which Mr. Amado was neither a target nor identified at all. Appx. A, at 3, 6-7, 12. Investigators identified two apartments, in two different towns and rented by the same person, as potentially connected to the DTO. Appx. A, at 6-7. They also identified several vehicles and five individuals who they believed were associated with the DTO. *Id*.

One apartment—Unit 401 of a large multi-unit apartment complex—was suspected to be a stash house. Appx. A, at 6, 15. Another—Unit 1321 in a different town—was believed to be connected to the DTO, and investigators observed known DTO members and vehicles there from time to time. Appx. A, at 6-7. Through surveillance and controlled buys, investors identified a Toyota Camry, a Dodge Ram, a Dodge Durango, and a Ford Explorer as connected to the DTO. Appx. A, at 6-10. Those vehicles, occupied or connected to known members of the DTO, were seen at both apartments and conducting controlled buys, daily resupply trips (or "re-ups"), and other drug-related activities. *Id*. With respect to Unit 401,

investigators observed several of these vehicles arrive at the apartment complex and, according to the investigators' suspicions, "re-up" drug supplies. *Id.* The suspected "re-ups" took two forms: (1) a suspected DTO member would park outside the apartment complex, walk inside, exit minutes later, then drive way; and (2) a suspected DTO member would park outside the apartment complex, walk under the exterior window near Unit 401 and either catch or retrieve a sock or small nylon bag from below that window. Appx. A, at 8-10.

In the course of the investigation, investigators observed that a blue Jeep was registered to the Unit 1321 apartment and observed it, on a single occasion, parked there. Appx. A, at 7, 11. On January 4, 2021, investigators observed the blue Jeep approach the apartment complex in which Unit 401 was located. Appx. A, at 9. Investigators observed an individual believed to be associated with the DTO exit the Jeep, retrieve a nylon bag from a pine tree below the window for Unit 401, and leave. *Id.*

On January 11, 2021, investigators were surveilling both apartments in preparation for executing search warrants. Appx. A, at 12. Officers outside the Unit 401 apartment complex observed the blue Jeep approach and stop outside. *Id.* Three men occupied the Jeep, all unknown to the investigators despite months of surveillance and controlled buys. *Id.* One of the men exited the front passenger seat and smoked a cigarette. *Id.* A minute later, a woman unknown to the investigators despite months of investigation exited a side door of the apartment complex and interacted with the unknown driver (later identified as Mr. Amado)

before returning inside. *Id*. While officers believed they saw the woman deliver a green bag to the Jeep's occupants, the woman herself—a cooperating witness for the government—denied having one. Appx. A, at 13. When the Jeep drove away, officers initiated a motor vehicle stop. *Id*. A subsequent search of the Jeep revealed a significant quantity of drugs (for which Mr. Amado would later be, in part, charged), six cell phones (which would later be used as evidence against Mr. Amado), and paperwork (which would later help connect Mr. Amado to the DTO). *Id*.

Mr. Amado moved to suppress the evidence uncovered after the stop, and subsequent search, of the Jeep. The district court denied the motion in an oral order, finding that the officers lacked probable cause but had reasonable suspicion to stop the Jeep. Appx. A, at 14; JA I, 336.[1] The district court relied "on the undisputed facts," which it summarized as follows:

> Well there appears to be no dispute that any woman comes from the building at large, goes out to the Jeep that has been observed before, has an interaction with whoever's in the Jeep -- and I take into account our alleged lookout there, and then goes back into the large apartment building. Nothing ties her to 401 and, um, there we are. That appears to be undisputed.

JA I, 344.

B. Factual Background Relevant to Sentencing Issues

[1] References to "JA I" and "JA II" herein pertain to the two Joint Appendix volumes submitted to the First Circuit.

At trial, Mr. Amado testified in his own defense. Appx. A, at 19. He admitted that drugs found in the Jeep and at the Unit 1321 apartment were his, and he admitted to posing with firearms recovered from the Unit 401 apartment as depicted in photographs introduced at trial. *Id.* He denied that the drugs at the Unit 401 apartment were his and denied that he owned the firearms seized there. *Id.* He testified that he only occasionally visited Unit 401 to buy drugs, did not control it, did not know who it belonged to, and someone else would let him in if he visited. *Id.* He testified that internet searches discovered on his cell phone, related to drug trafficking equipment, reflected curiosity after he had seen the equipment at Unit 401. *Id.*

Evidence at trial revealed that Mr. Amado's fingerprints were found on an ammunition tray and cutting-agent bag found in Unit 401. Appx. A, at 17. Evidence showed that Mr. Amado resided at Unit 1321. *Id.* The cell phones recovered from the Jeep revealed "extensive evidence of [Mr. Amado's] involvement in the DTO," including that Mr. Amado's girlfriend leased Unit 401 at his direction. Appx. A, at 18, 23. The internet searches regarding drug trafficking equipment occurred before Unit 401 had been officially rented. Appx. A, at 23. Other evidence revealed that Mr. Amado frequently visited Unit 401. *Id.* Witnesses testified that Mr. Amado was a "top" player in the DTO, along with his co-defendant Kevin Cardoso. Appx. A, at 18-19.

Ultimately, Mr. Amado was sentenced to 384 months' imprisonment, followed by ten years of supervised release. Appx. A, at 21. The district court reasoned that

Mr. Amado's intelligence and family support had not deterred an aggregation of dangerous offenses and that a lengthy term was necessary to protect the public and ensure respect for the law. Appx. A, at 21-22. The sentence was influenced, in relevant part, by an obstruction of justice enhancement and a career offender designation despite a lack of evidence of an "intervening arrest" between two prior convictions, which were sentenced on the same day but used as the two requisite prior convictions to achieve the career offender designation. Appx. A, at 21; Case No. 24-2002, JA II, 42-43. Mr. Amado had objected to the obstruction of justice enhancement as unsupported, argued that his prior convictions did not trigger career offender designation, and argued for a downward variance in part based on the lighter sentences received by his co-defendants. Appx. A, at 20-21.

While Mr. Amado was sentenced to 32 years in prison, his similarly situated co-defendant, Kevin Cardoso, "received a much shorter" prison term of fewer than 16 years. Appx. A, at 24.

C. The First Circuit's Analysis and Ruling

On appeal, Mr. Amado argued that the district court erred in denying his motion to suppress the evidence discovered following the stop and search of the blue Jeep because the officers lacked reasonable suspicion to stop the Jeep. Appx. A, at 4. As to his sentence, Mr. Amado argued that (1) the district court procedurally erred in applying an enhancement for obstruction of justice; (2) the district court erred in designating Mr. Amado a career offender; and (3) the district court's

sentence was substantively unreasonable in light of Cardoso's much shorter prison term. *Id.*

The First Circuit affirmed the district court's denial of Mr. Amado's motion to suppress, reasoning that it was not clear error for the court to rely on the brief contact between an unknown woman and the unknown occupants of the Jeep or to conclude that the unknown occupant of the Jeep who was seen smoking a cigarette was acting as a lookout. Appx. A, at 15. The First Circuit also concluded that the fact that the officers did not know the occupants of the Jeep does not "undermine the finding of reasonable suspicion." *Id.* The First Circuit rejected the argument that reasonable suspicion could not arise from the mere fact that the Jeep was seen near a large multi-unit apartment complex in which one apartment was suspected to be connected to drug activity. Appx. A, at 15-16. Finally, it rejected the argument, after first finding it waived, that the officers who stopped the Jeep had no personal knowledge of the investigative facts connecting the Jeep to the drug activity—namely, that it was spotted once outside the large multi-unit apartment complex and once outside the Unit 1321 apartment—and, therefore, lacked reasonable suspicion to stop the Jeep. Appx. A, at 16-17.

As to the sentencing issues, the First Circuit first addressed the obstruction of justice enhancement. It found that one of Mr. Amado's arguments—that the district court failed to make the findings required by *United States v. Dunnigan*, 507 U.S. 87 (1993)—was forfeited. Appx. A, at 22-23. It then rejected Mr. Amado's other argument that the record did not support a finding of perjury—the finding

underlying the enhancement—reasoning that the district court could have reasonably concluded that certain of Mr. Amado's statements were false, despite his "partial candor." Appx. A, at 23.

The First Circuit then dismissed Mr. Amado's argument that the career offender designation was improperly applied because there was no evidence of an "intervening arrest" between the two prior convictions underlying the designation, for which Mr. Amado was sentenced on the same day. Appx. A, at 23-24. The First Circuit concluded that the argument was not raised below, was subject to plain error review, was waived, and that any error would have been harmless. *Id.*

Finally, the First Circuit found Mr. Amado's sentence substantively reasonable despite the significant sentencing disparity because material differences between Mr. Amado and his co-defendant defeated the claim. Appx. A, at 24-25.

REASONS FOR GRANTING THE PETITION

I. The First Circuit's Decision Sets Too Low a Bar for the Stop and Seizure of Individuals Officers Do Not Know, and its Reliance on the Collective Knowledge Doctrine Highlights a Circuit Split that this Court Should Resolve.

A. The facts the First Circuit found to support reasonable suspicion support nothing more than an inspired hunch and would subject far too many innocent people to random stops.

"Based upon [the totality of the circumstances] the detaining officers must have a particularized and objective basis for suspecting the particular person stopped of criminal activity." *United States v. Cortez*, 449 U.S. 411, 417-18 (1981). This Court has emphasized the importance of information sufficiently suggesting that the "particular individual being stopped is engaged in wrongdoing," noting that

the "demand for specificity in the information upon which police action is predicated is *the central teaching of this Court's Fourth Amendment jurisprudence*." *Id.* at 418 (quotations omitted) (emphasis in original). Police cannot stop vehicles "based on nothing more substantial than inarticulate hunches." *Terry v. Ohio*, 392 U.S. 1, 22 (1968).

Here, the police[2] neither knew the individuals they were stopping—much less had any information to suggest that the "***particular individual*** being stopped is engaged in wrongdoing"—nor did they operate on anything more than a hunch based on the Jeep's one-time association with another person suspected of criminal activity and one-time proximity to a large building in which a singular unit was suspected to be associated with criminal activity. Lest police be permitted to subject to limitless seizure anyone who happens to know or live with someone suspected of criminal activity, lends someone a vehicle on one occasion which is then used in the course of criminal activity, or happens to be in the general vicinity of a building in which one unit is the location of suspected criminal activity, the information known to law enforcement in this case cannot give rise to reasonable

[2] Section I(A) of this Petition assumes, *arguendo*, that the information underlying the reasonable suspicion analysis includes information known to any police officer or investigator involved in the months-long investigation, not just information known to the officers who were involved in the stop of the Jeep. Section I(B) argues that even under the collective knowledge doctrine as this Court has applied it, only the information known to the officers who were involved in the stop the Jeep is relevant because they were not directed to do so by an officer with knowledge of the full investigative facts.

suspicion. Other factors observed by the court, like a man smoking a cigarette and a brief encounter with a woman, are nothing more than the ordinary, everyday actions of millions of innocent people. Further, even if the broader, months-long investigation is relevant, the fact that Mr. Amado, the other occupants of the Jeep, and the woman were all unknown to police neutralizes whatever minimal, legally insufficient suspicion triggered the officers' hunch. Even if that broader investigation is considered, what the Jeep did that day did not resemble any of the suspicious activity police had previously observed (like the retrieval of a sock below the window of Unit 401).

The factors upon which police, and the First Circuit, relied cannot be sufficient to establish reasonable suspicion. Aside from the unknown woman and the unknown man smoking a cigarette, those factors are simply (1) the Jeep was near an area of suspected criminal activity; and (2) it had been previously observed twice before in the course of a months-long investigation. *See* Appx. A, at 15-16.

But "An individual's presence in an area of expected criminal activity, standing alone, is not enough to support a reasonable, particularized suspicion that the person is committing a crime." *Illinois v. Wardlow*, 528 U.S. 119, 124 (2000). Coming from, or going to, an area of suspected criminal activity is not an objectively suspicious fact. *See*, *e.g.*, *United States v. Camacho*, 611 F.3d 718, 726 (1st Cir. 2011) (finding that the facts fall short of reasonable suspicion where two men were observed in a high crime area walking away from the vicinity of a street fight); *United States v. Wilbourn*, 799 F.3d 900, 909 (7th Cir. 2015) ("A mere suspicion of

illegal activity at a particular place is not enough to transfer that suspicion to anyone who leaves that property."); *United States v. Williams*, 843 Fed. Appx. 111, 115-17 (10th Cir. 2021) ("By that standard, the officers did not have reasonable suspicion to believe that [a murder and drug trafficking suspect] was in the vehicle driven by Defendant. What they had was merely a hint that they might wish to pursue. The officers could not tell which of the 75-odd townhomes the vehicle had visited. And the only link of the vehicle to [the suspect] was a visit to two 'business' locations of [the suspect's] on one occasion a month earlier, when there was no reason to believe that [the suspect] was at either location.").

And "a person's mere propinquity to others independently suspected of criminal activity does not, without more, give rise to probable cause to search that person"; "a search or seizure of a person must be supported by probable cause particularized with respect to that person." *Ybarra v. Illinois*, 444 U.S. 85, 91 (1979). The Fourth Amendment protects "the legitimate expectations of privacy of ***persons***, not places." *Id.* (emphasis added).

Two prior, and fleeting, observances of this Jeep in conjunction with suspected criminal actors or activity simply does not give police *carte blanche* to seize it at any time in the future. *See United States v. Akram*, 165 F.3d 452, 457 (6th Cir. 1999) ("Our holding does not mean that police officers, having once observed a person in the possession of contraband, are free to search that person's effects at any time in the future."); *see also United States v. Lopez-Zuniga*, 909 F.3d 906, 909-10 (8th Cir. 2018), *cert. denied*, 139 S. Ct. 2648 (2019) (noting that the

search warrant "affidavit does not connect Lopez-Zuniga to any of Garcia-Jimenez's suspected illicit activities. As the magistrate judge in this case said, if this amounts to probable cause, 'then anyone who drops a drug trafficker off at the trafficker's residence and travels with the trafficker for innocent activity, such as the trafficker's grandmother or mere acquaintance, would be subject to search.' We agree[.]").

If the standard for reasonable suspicion is as low as the First Circuit opines, too many innocent people will be subjected to police seizures. *See*, *e.g.*, *United States v. Segoviano*, 30 F.4th 613, 620 (7th Cir. 2022) ("[E]ven inspired hunches do not invest the police with the authority to stop people at will." (quotations omitted)); *United States v. Gray*, 213 F.3d 998, 1001 (8th Cir. 2000) ("Too many people fit this description for it to justify a reasonable suspicion of criminal activity." (quotations omitted)). This Court should curtail such an expansive standard.

B. This Court should resolve a circuit split in the application of the collective knowledge doctrine.

The First Circuit rejected, as a misapprehension of the law, Mr. Amado's argument that "the officers who carried out the stop were not the same ones who had observed the Jeep at the [Unit 401] apartment previously and so lacked personal knowledge of all the investigative facts." Appx. A, at 16.[3] That the officers

[3] The Court first found that the argument was not raised below and was, therefore, waived. Appx. A, at 16. But this issue was, in fact, before the district court. JA I, 50-69. For example, Mr. Amado argued that "[t]he only facts know[n] to police prior to the stop of the vehicle and the seizure of its occupants was the Jeep was seen seconds before at a location that was soon to be the subject of a

who stopped the Jeep did not rely on observations gathered by others involved in the broader, months-long investigation and did not stop the Jeep on orders from officers who possessed that information is clear from the police report authored by the officers who stopped the Jeep. *See* JA I, 64 (outlining the limited scope of observations made, largely in the minutes leading up to the stop of the Jeep, before stating, "[b]ased on the aforementioned observations the decision was made to stop the Jeep and further investigate"). The same report also fails to indicate that any of the officers who stopped the Jeep were apprised of any of the information uncovered during the broader investigation. *See* JA I, 63-68. Nothing in the report suggests that any officer with knowledge of any other information or of the broader investigation had instructed the officers to stop the Jeep or otherwise enlisted their help in stopping the Jeep. *See id*.

In a similar case, the Seventh Circuit found no reasonable suspicion where there was no evidence that the officers who stopped a vehicle knew that other

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search warrant and that a green bag had been given to an occupant of the Jeep." JA I, 56. Mr. Amado also attached only the police report of the officers who conducted the stop of the Jeep, which represented only those facts known to those officers and not the facts uncovered as a result of the broader investigation. *See* JA I, 63-68. Finally, the district court itself appeared to restrict the universe of facts relevant to the reasonable suspicion analysis to only those known to the officers who stopped the Jeep. *See* JA I, 344. The district court did not appear to credit or rely upon any other evidence uncovered in the broader investigation. *See id*. Accordingly, Mr. Amado had no need to revisit the issue or respond to the government's arguments regarding the collective knowledge doctrine.

officers had just observed it engaging in a suspected drug deal after having assembled substantial evidence of drug trafficking over a long period of time. *See United States v. Wilbourn*, 799 F.3d 900, 905-09 (7th Cir. 2015). The court reasoned:

> Ultimately, the district court accepted the government's argument that the police officers had a reasonable suspicion to stop the Buick based on facts known to them as a result of the investigation of the Freeman drug organization. But there is a problem with this: none of the evidence in the record demonstrates that the individual officers (Schoenecker and Corlett) knew anything about the persons inside the Buick at the time of the stop. In its twenty-seven-page response brief, the government recounted an impressive list of surveillance operations and phone intercepts depicting various encounters between Freeman, Sanders and other persons. But none of this addressed the central question—whether Officers Schoenecker and Corlett (and not other agents) had a reasonable suspicion that the persons in the Buick were engaged in criminal activity.

Id. at 909.

While "[o]ne might presume that [the officers who stopped the Jeep] received a call on the police radio that the persons inside the [Jeep] were engaged in criminal activity" based upon observations of other officers during the broader investigation, "nothing in the record on this motion demonstrates that." *Id*.

Although the First Circuit has expansively employed the collective knowledge doctrine, *see United States v. Cruz-Rivera*, 14 F.4th 32, 44 (1st Cir. 2021), this differs from how other circuits have employed the doctrine to justify a stop otherwise lacking in reasonable suspicion held by the stopping officer. The Fourth Circuit has summarized the problems with how courts like the First Circuit use the

collective knowledge doctrine, identifying the circuit split in the process. *See generally United States v. Massenburg*, 654 F.3d 450 (4th Cir. 2011).

The Fourth Circuit first noted that, as enunciated by this Court, the collective knowledge doctrine "holds that when an officer acts on an instruction from another officer, the act is justified if the instructing officer had sufficient information to justify taking such action herself; in this very limited sense, the instructing officer's knowledge is imputed to the acting officer." *Id.* at 492 (citing *Whiteley v. Warden*, 401 U.S. 560, 568 (1971)). The reasoning, as this Court noted in *Whiteley*, is that "officers called upon to aid other officers in executing arrest warrants are entitled to assume that the officers requesting aid" had knowledge sufficient to meet the applicable standard. *See Whiteley*, 401 U.S. at 568.

As the Fourth Circuit summarized, "the collective-knowledge doctrine simply directs us to substitute the knowledge of the *instructing officer or officers* for the knowledge of the *acting officer*; it does not permit us to aggregate bits and pieces of information from among myriad officers, nor does it apply outside the context of communicated alerts or instructions." *Massenburg*, 654 F.3d at 493 (emphasis in original). Before pointedly rejecting the reasoning of certain other circuits which have adopted a more expansive use of the doctrine, the Fourth Circuit outlined how such an application can operate to, ultimately, subvert Fourth Amendment precedent:

> The Government would have us recognize a far more expansive rule, which would look to the aggregated knowledge of all officers involved to determine if reasonable suspicion or probable cause existed. Under this proposed rule, it would be irrelevant

> that no officer had sufficient information to justify a search or seizure. It would be irrelevant that no officer believed any other officer had pertinent information, and thus that the acting officer undertook a search or seizure she should have believed to be illegal. Indeed, as this aggregation rule is only required when the information at issue has not been communicated to other officers (as the "aggregation" it concerns is judicial, after-the-fact aggregation, not an acting officer's reliance on instructions or information conveyed by another officer), this would be the paradigmatic case. Were we to adopt this rule, the legality of the search would depend solely on whether, after the fact, it turns out that the disparate pieces of information held by different officers added up to reasonable suspicion or probable cause . . .
>
> Perhaps an officer who knows she lacks cause for a search will be more likely to roll the dice and conduct the search anyway, in the hopes that uncommunicated information existed. But as this would only create an incentive for officers to conduct searches and seizures they believe are likely illegal, it would be directly contrary to the purposes of longstanding Fourth Amendment jurisprudence.

Id. at 493-94.

And that is precisely the problem here. The officers who stopped the Jeep had insufficient knowledge and suspicion of any criminal wrongdoing associated with the Jeep, much less the unknown persons in the Jeep. Whether or not other evidence uncovered during the months-long investigation amounts to reasonable suspicion, as the First Circuit found, the officers who stopped the Jeep certainly did not have information sufficient to meet that standard. Instead, they rolled the dice on a hunch and, as a matter of fortuity, other officers had seen the Jeep previously associated with suspected criminal activity. Permitting the application of the collective knowledge doctrine under these circumstances incentivizes random stops

of far too many innocent people. This Court should resolve the circuit split on this issue and return the collective knowledge doctrine to its narrow roots.

II. This Case Presents the Court with an Opportunity to Discourage the Casual Imposition of Factors that Severely Increase a Sentence and to Correct Significant and Insufficiently Supported Sentencing Disparities.

A. The obstruction of justice enhancement was applied without any of the findings this Court requires and without sufficient evidence supporting at least some of the required elements of perjury.

In applying this enhancement, the district court's sole finding was that it was "certainly warranted." JA I, 333.

In 1993, this Court set forth the prerequisites before a sentencing judge may apply an obstruction of justice enhancement for perjury. *See United States v. Dunnigan*, 507 U.S. 87, 95-96 (1993). Specifically, "a district court must review the evidence and make independent findings necessary to establish a willful impediment to or obstruction of justice, or an attempt to do the same, under the perjury definition we have set out." *Dunnigan*, 507 U.S. at 95. That definition flows from the federal criminal perjury statute, 18 U.S.C. § 1621: "A witness testifying under oath or affirmation violates this statute if she gives false testimony concerning a material matter with the willful intent to provide false testimony, rather than as a result of confusion, mistake, or faulty memory." *Id.*

When meeting this requirement, "it is preferable for a district court to address each element of the alleged perjury in a separate and clear finding." *Id.* A determination that the enhancement is warranted is "sufficient, however, if . . . the court makes a finding of an obstruction of, or impediment to, justice that

encompasses all of the factual predicates for a finding of perjury." *Id.* The district court's findings were sufficient in *Dunnigan*, for example, where it found "that *the defendant was untruthful at trial with respect to material matters* in this case. [B]y virtue of her failure to give truthful testimony on material matters *that were designed to substantially affect the outcome of the case*, the court concludes that the false testimony at trial warrants an upward adjustment by two levels." *Id.* (quotations omitted) (emphasis supplied by *Dunnigan* court).

The Court's reasoning in imposing this requirement was based on the dangers inherent in penalizing defendants who choose to testify in their own defense. *See id.* at 95-97. Further, it helps to "dispel[]" the "concern that courts will enhance sentences as a matter of course whenever the accused takes the stand and is found guilty." *Id.* at 96-97.

Although the First Circuit determined that this argument was forfeited for failure to raise it below, the error is in such disregard of this Court's clear precedent that it must be corrected. *See*, *e.g.*, *Singleton v. Wulff*, 428 U.S. 106, 121 (1976) (noting that courts may resolve forfeited issues "where the proper resolution is beyond any doubt" or where "injustice might otherwise result" (quotations omitted)).

Even if the district court had made the required findings, though, the record does not support application of the enhancement. First, there was insufficient proof that Mr. Amado's testimony was false. Mr. Amado clearly told the truth in many respects, candidly admitting to ownership of drugs recovered from multiple locations and the possession of firearms. The "lies" he purportedly told were either

not proven to be false or were matters of subjective belief or semantics. For example, he testified that the drugs found in Unit 401 were not his, but the government presented proof that Mr. Amado purportedly ran the Unit 401 stash house with his co-defendant and that multiple other individuals were leaders in the DTO; it is reasonable to conclude that the drugs belonged to no individual, but rather to the DTO itself. *See* Appx. A, at 6, 18. Mr. Amado testified that his internet searches reflected curiosity about equipment he had seen in Unit 401; while the government presented evidence that his searches occurred before Unit 401 was formally rented, it is reasonable to conclude that Mr. Amado saw that equipment *somewhere* and was simply mistaken about where. *See* Appx. A, at 19, 23.

Obviously, the jury disbelieved portions of Mr. Amado's testimony, but the fact that he explained himself in ways the jury ultimately deemed incredible cannot alone support this enhancement. *United States v. Rowe*, 202 F.3d 37, 43-44 (1st Cir. 2000) ("Although the jury was entitled to disbelieve [the defendant] . . . the mere fact that he tried to explain himself at trial cannot alone support an obstruction of justice enhancement."); *United States v. Akitoye*, 923 F.2d 221, 228 (1st Cir.1991) ("[I]f perjury is less than apparent on the record as a whole, with due respect for the trial judge's coign of vantage and allowing reasonable latitude for credibility assessments, the defendant should be given the benefit of the resultant doubt.").

Even if Mr. Amado's testimony could be reasonably construed as false, it is nowhere near the level of falsity for uncharged perjury that this Court has

previously allowed as a basis for the obstruction of justice enhancement. *See generally United States v. Grayson*, 438 U.S. 41 (1978); *Dunnigan*, 507 U.S. 87. In those cases, the defendants' lies were egregious. Circuit courts have likewise permitted enhanced sentences where a defendant's lies were outrageous. *See*, *e.g.*, *United States v. Sager*, 227 F.3d 1138 (9th Cir. 2000), *cert. denied*, 531 U.S. 1095 (involving story contradicted by two witnesses and "significant circumstantial evidence"); *United States v. Fan*, 36 F.3d 240 (2nd Cir. 1994) (involving story contradicted by several witnesses, documentary evidence, and internal inconsistencies); *United States v. Claymore*, 978 F.2d 421 (8th Cir. 1992) (involving story contradicted by victim and genetic evidence of paternity); *United States v. McDonough*, 959 F.2d 1137 (1st Cir. 1992) (acts which defendant denied recorded on video tape).

By contrast, courts have been unwilling to apply the enhancement based on a defendant's lie unless the lie is sufficiently egregious. *See*, *e.g.*, *United States v. Hilliard*, 31 F.3d 1509 (10th Cir. 1994) (noting evidence indicating that inferences could support either defendant's or government's position).

Mr. Amado's supposed false testimony provides this Court the opportunity to answer the question of how much a defendant's testimony must differ from other evidence to enhance a sentence based upon uncharged alleged perjury. This question is critical because, as this Court has reasoned, it impacts the right of a criminal defendant to testimony in their own defense.

Beyond the issue of falsity in Mr. Amado's case, there was neither a showing nor proof of materiality or willful intent. Willful intent is undercut most notably by Mr. Amado's inculpatory admissions regarding his ownership of a vast quantity of drugs.

Further, given the incriminating admissions Mr. Amado made, none of this testimony—even if false—was material. *See United States v. Hilliard*, 31 F.3d 1509, 1520-21 (10th Cir. 1994) (questioning the falsity given the lack of clearly contradictory evidence and stating, "in any event, Mr. Hilliard's testimony on his recall of walking around and photographing items of bank equipment to be retained is not material given Mr. Hilliard's admissions that he was aware of the list and the photographs. Stated another way, his testimony on this point, if believed, would not tend to influence or affect the issue concerning the terms of the sale . . . Even if the testimony in question was believed, the government was free to argue that Mr. Hilliard was aware of the one list concerning bank equipment, and surely would have documented exclusion of the tenant improvements in a like fashion"). The jury could use Mr. Amado's incriminating admissions to convict him of the crimes charged; any allegedly false statements on less central matters would not have influenced the jury and, therefore, were not material.

B. The record did not establish that Mr. Amado was a career offender and, given the dire consequences of such a designation, it should not be made casually.

The Presentence Investigation Report ("PSR") counted two prior sentences separately, both for the purposes of calculating criminal history points (assessing three points for each) and for the purposes of career offender status (meeting the

two prior convictions threshold). JA II, 42-43. These convictions, however, were sentenced on the same day. *Id.* They should have been treated as a single conviction. Had that been the case, Mr. Amado's criminal history score would have been eight, he would not have been deemed a career offender, and the Criminal History Category would have been IV. Without the obstruction of justice enhancement and a Criminal History Category IV, the Guidelines range would have been 324-405 months instead of 360 months to life.[4]

Under U.S.S.G. § 4B1.1(a), a defendant is deemed a career offender if, in relevant part, "the defendant has at least two prior felony convictions of either a crime of violence or a controlled substance offense." Prior sets of convictions are to be treated as "one prior conviction for the purposes of the career offender guideline . . . if . . . the sentences were imposed on the same day." *United States v. Davila-Felix*, 667 F.3d 47, 50, n.4 (1st Cir. 2011); *see also United States v. Godin*, 522 F.3d 133, 134 (1st Cir. 2008); U.S.S.G. § 4B1.2(c); U.S.S.G. § 4A1.2(a)(2) (also requiring there to be no "intervening arrest").

Both the government and the PSR were clear that the only convictions which could have formed the basis for career offender status were those listed in paragraphs 124 and 125 of the PSR. *See* JA II, 72. The PSR is, at best, ambiguous as to whether these two sets of convictions should be treated separately or as one

[4] The First Circuit found any error in applying the designation to be harmless, *see* Appx. A, at 24, but that finding necessarily depends upon the application of the obstruction of justice enhancement. Without that enhancement, the error was not harmless.

conviction for criminal history purposes. The PSR notes that both sets of convictions were sentenced on the same day, and while it documents separate arrests relating to each, *see* JA II, 42-43, it does not indicate when the incident that resulted in the second conviction occurred.

The incident resulting in the first set of convictions occurred, according to the PSR, on February 18, 2017; it dealt with an arrest by the Brockton Police Department on a temporary warrant and the subsequent discovery of drugs on Mr. Amado's person. JA II, 42. The second conviction, however, was based on a controlled buy orchestrated by a different police department. JA II, 43. The PSR does not indicate when the controlled buy occurred, but as an undercover investigation into "a Fentanyl distributor in the area," it is likely the controlled buy occurred at some point prior to the arrest, and the PSR does not indicate otherwise. *Id.* Accordingly, it is possible the incident underlying the second conviction occurred prior to the arrest on the first set of convictions. As such, it may be that there was not an "intervening arrest"; if that is the case, because the two sets of convictions were sentenced on the same day, they would be treated as a single conviction, and Mr. Amado would not be a career offender.

"The government bears the burden of establishing, by a preponderance of the evidence, the existence of a prior conviction for sentencing enhancement purposes." *United States v. Bryant*, 571 F.3d 147, 153 (1st Cir. 2009). Even if the PSR had referenced an incident date for the second conviction, and referred to sources in support thereof, such would not have been enough for the government to meet its

burden. *See id*. at 155-56 ("We hold that it was simply not enough for the district court to have relied on the government's recitation of the sources cited in the PSR without any additional inquiry into the reliability of these sources."); *Erlinger v. United States*, 602 U.S. 821, 841 (2024) (questioning the reliability of *Shepard* documents, which can be "prone to error," and noting that where a defendant pleads guilty, he "may have no incentive to contest what does not matter to his conviction at the time" such as "the time or location of his offense" (quotations omitted)). Because the government failed to meet its burden, the First Circuit erred in failing to at least remand the issue.

One final point must be addressed. The First Circuit found this argument to be unpreserved and waived. But that finding is simply incorrect. Trial counsel *did* raise this argument below. *See* JA I, 1738. Counsel specifically argued that "paragraphs 124 and 125 were sentenced on the same day, September 20, 2020, and should be treated as a single conviction," quoting U.S.S.G. § 4A1.2 and even bolding the relevant language. *Id*. The First Circuit erred in finding the issue unpreserved and waived, presenting this Court an opportunity to ensure that appellate courts are addressing arguments raised in district court.

C. While claims of sentencing disparity must compare "apples to apples," this Court should not permit massive sentencing disparities unjustified by purported material differences.

Mr. Amado was sentenced to a term of incarceration that is more than double that of a man who, by all accounts, was Mr. Amado's co-equal in the DTO. *See* JA II, 13-14 (identifying Cardoso, who received a 188-month sentence, as a co-leader

and co-"high-level supplier"). Cardoso's convictions (which, like Mr. Amado's, also included a conviction for felon in possession of a firearm) may even reflect worse conduct than Mr. Amado's, as Cardoso was convicted of crimes relating to the distribution of 500 grams or more of methamphetamine *in addition to* the fentanyl and cocaine quantities for which Mr. Amado was held responsible. *Id.* "In imposing sentence, a district court must consider 'the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.'" *United States v. Brown*, 26 F.4th 48, 69 (1st Cir. 2022) (quoting 18 U.S.C. § 3553(a)(6)). "Though that is typically concerned with national disparities, we have also considered claims that a sentence is substantively unreasonable because of a disparity relative to a co-defendant's sentence." *Id.*

There is another distinction that impacts this analysis: Cardoso pled guilty while Mr. Amado exercised his constitutional right to be tried by a jury of his peers. *See* JA II, 13-14. The First Circuit has indicated that a co-defendant's guilty plea can be a material difference that justifies a sentencing disparity. *See United States v. Robles-Alvarez*, 874 F.3d 46, 53 (1st Cir. 2017).

Given the nature of the two co-defendants' convictions and their status as equals in the DTO, however, a disparity of *more than 16 years in prison* cannot be justified on the sole basis of a guilty plea. And the district court did not address the disparity argument or explain why Mr. Amado was to be treated so drastically differently than his co-defendant. *See id.* (finding procedural error where the district court failed to explain its rejection of a downward variance argument);

United States v. Reyes-Santiago, 804 F.3d 453, 473-74 (1st Cir. 2015) (vacating a sentence and remanding so that the defendant's sentence "can be appropriately aligned with those of his co-defendants"). The district court's sentence was unreasonable and incompatible with the principle that a court "shall impose a sentence *sufficient, but not greater than necessary*, to comply with" the factors outlined in 18 U.S.C. § 3553. 18 U.S.C. § 3553(a) (emphasis added).[5]

While the First Circuit noted Cardoso's guilty plea, along with a vague reference to Cardoso's "lower Guidelines range and less significant criminal history," such differences can only justify a sentencing disparity to a certain extent. Public confidence in the judicial system and its ability to treat similarly situated co-defendants similarly, with some type of uniformity, is undermined when the sentencing disparity becomes, as in this case, too drastic. To be sure, in analyzing sentencing disparities, we must "compare apples to apples." *See United States v. Coplan-Benjamin*, 79 F.4th 36, 43 (1st Cir. 2023). Mr. Amado and his co-defendant are, at most, slightly different varieties of apples; the lower courts were not comparing apples to oranges here. This case provides the Court an opportunity to clarify the parameters of sentencing disparity analyses to establish a system that

[5] Also impacting the lack of necessity for such a severe incarcerative sentence is, as the defense argued (*see* JA I, 1938), that Mr. Amado's longest prior sentence appeared to be two-and-a-half years. Removing a 34-year-old man from society and the lives of his children until he is old enough to be eligible for Medicare, especially when the rehabilitative and deterrent effect of a lesser sentence has not been tested, is greater than necessary to serve the purposes of sentencing.

promotes better uniformity among similarly situated co-defendants, preserve the integrity of the judicial system, and further Congress's objective when it comes to sentencing. *See generally United States v. Booker*, 543 U.S. 220 (2005).

CONCLUSION

For the foregoing reasons, Mr. Amado respectfully asks this Court to accept his Petition.

Dated this 5th day of January, 2026.

Respectfully submitted,

/s/ Donna J. Brown
Donna J. Brown, Esq.
Wadleigh, Starr & Peters, PLLC
95 Market Street
Manchester, NH 03101
603-669-4140
dbrown@wadleighlaw.com

Counsel for Petitioner Aderito Patrick Amado
CJA Appointed