

25-6889

ORIGINAL

No. 25-_____

FILED

NOV 18 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

In the
Supreme Court of the United States

ASHU JOSHI, Petitioner,

v.

UNITED STATES OF AMERICA, Respondent.

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

PETITION FOR WRIT OF CERTIORARI

Ashu Joshi
Reg. No. 48232044
F.C.I. Forrest City Low
P.O. Box 9000
Forrest City, AR 72336
Pro Se

Date: 11/18/2025

QUESTIONS PRESENTED

1. Whether, consistent with federalism and due-process principles, 18 U.S.C. § 2252A(a)(2) may be applied to conduct occurring entirely within a state-recognized marriage where no public or commercial dissemination occurred.

2. Whether counsel rendered ineffective assistance under *Strickland v. Washington* by failing to advise Petitioner that private marital conduct did not satisfy the statutory elements of distribution and by neglecting to preserve the Kentucky marriage recognition as a defense.

3. Whether the federal government's disregard of a Kentucky court's marriage ratification violated principles of federalism and due process under the Tenth and Fifth Amendments.

This case presents issues of significant national importance at the intersection of federal criminal law and state domestic-relations authority. The questions recur frequently in federal prosecutions and produce inconsistent outcomes for identical conduct across circuits. Guidance from this Court is urgently needed.

PARTIES TO THE PROCEEDING

The petitioner is Ashu Joshi. The respondent is the United States of America. No other parties appeared in the court of appeals. This case arises from a federal criminal matter; no corporate disclosure is required.

RELATED PROCEEDINGS

Dole v. Joshi, No. 19-CI-00372, Kentucky

Circuit Court, Knox County.

Judgment recognizing marriage entered 2019

United States v. Joshi, No. 4:18-cr-00876-JAR,

U.S. District Court for the Eastern District of Missouri.

Judgment entered Oct. 7, 2020.

United States v. Joshi, No. 4:21-cv-01253-JAR,

U.S. District Court for the Eastern District of Missouri.

Judgment entered August 21, 2023.

United States v. Joshi, No. 24-2326,

U. S. Court of Appeals for the Eighth Circuit.

Judgment entered September 10, 2024.

United States v. Joshi, No. 24-2326,

U. S. Court of Appeals for the Eighth Circuit.

Judgment entered September 17, 2025.

TABLE OF CONTENTS

Table of Contents.....	2
Table of Authorities.....	3
Questions Presented.....	4
Parties to the Proceeding.....	5
Related Proceedings.....	6
Opinions Below.....	7
Jurisdiction.....	8
Statutory Provisions Involved.....	9
Introduction and Summary of Argument.....	10
Statement of the Case.....	15
Reasons for Granting the Writ.....	17
Conclusion.....	29
Certificate of Service.....	32
Appendix A: Eighth Circuit Order Denying Recall of Mandate.....	33
Appendix B: District Court and Prior Writ Filings (No. 24A807).....	35
Appendix C: Statutory Provisions Involved.....	36

TABLE OF AUTHORITIES

Cases:

Bond v. United States, 572 U.S. 844 (2014)24

Bouie v. City of Columbia, 378 U.S. 347 (1964)25

Boykin v. Alabama, 395 U.S. 238 (1969)23

Durham v. United States, 618 F.3d 921 (8th Cir. 2010)19

Granderson v. United States, 511 U.S. 39 (1994)19

Hill v. Lockhart, 474 U.S. 52 (1985)22

Lopez v. United States, 514 U.S. 549 (1995)24

Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803)27

Ortiz-Graulau v. United States, 526 F.3d 16 (1st Cir. 2008)11

Richardson v. United States, 713 F.3d 232 (5th Cir. 2013)11

Sosna v. Iowa, 419 U.S. 393 (1975)25

Strickland v. Washington, 466 U.S. 668 (1984)22

United States v. Clavis, 956 F.2d 1079 (11th Cir. 1992) 22

United States v. Holmes, No. 23-6190 (2024) (Thomas, J., statement)12

United States v. Shaffer, 472 F.3d 1219 (10th Cir. 2007)11

United States v. Thaxton, No. 23-4196 (9th Cir. Feb. 25, 2025) 12

United States v. Wright, No. 1:12-cr-66 (W.D. Mich. Jan. 15, 2013)20

Younger v. Harris, 401 U.S. 37 (1971)25

Other Authorities:

H.R. Rep. No. 104-90, 104th Cong., 1st Sess. (1995) 19

Statutes:

18 U.S.C. §§ 2251(a), 2252A(a)(2), 2423(a)9

28 U.S.C. § 1254(1)9

Constitutional Provisions:

U.S. Const. art. I, § 8, cl. 3 (Commerce Clause)24

U.S. Const. art. IV, § 1 (Full Faith and Credit Clause)13

U.S. Const. amend. X21

OPINIONS BELOW

The decision of the Eighth Circuit denying Petitioner's motion to recall the mandate was entered September 17, 2025, and appears as Appendix A. The district court's denial of Petitioner's motion under 28 U.S.C. § 2255 appears at Appendix B.

JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1254(1). The Eighth Circuit entered its order on September 17, 2025. This petition is filed within ninety days thereof.

This petition does not seek review of the same questions previously presented in No. ⁽²⁴⁻¹¹⁰⁰⁾ 24A807. It arises from the Eighth Circuit's subsequent denial of Petitioner's motion to recall the mandate on September 17, 2025, and raises new statutory, constitutional, and ineffective-assistance issues based on post-judgment proceedings and newly recognized conflicts among the circuits and presents new and independent federal questions not previously before the Court. (Petition timely filed within 90 days of judgment, see Sup. Ct. R. 13.)

STATUTORY PROVISIONS INVOLVED

18 U.S.C. § 2252A(a)(2) makes it a crime to knowingly distribute any material that contains child pornography using a means of interstate or foreign commerce. Congress did not define the term “knowingly distributes,” and courts have developed divergent interpretations of this key mens-rea element.

18 U.S.C. § 2251(a) prohibits the use of a minor for the purpose of producing a visual depiction of sexually explicit conduct. Congress likewise did not define the term “purpose,” a silence that has the resulting interpretations diverge sharply among the circuits.

INTRODUCTION AND SUMMARY OF ARGUMENT

This petition asks the Court to resolve a deep and acknowledged division among the federal courts over the reach of 18 U.S.C. §§ 2251(a) and 2252A(a)(2), and to reaffirm the constitutional boundary between federal criminal law and the States' domestic-relations authority. The question presented is straightforward yet nationally significant: whether Congress intended to criminalize private, non-commercial sharing of images within a state-recognized marriage. The inconsistent application of these statutes across circuits has produced uncertainty affecting prosecutions in nearly every federal district.

That uncertainty subjects ordinary citizens to disparate federal punishment for identical private conduct and invites prosecutorial overreach that undermines state authority. The circuits are no longer merely diverging—they are applying conflicting statutory standards to identical conduct, producing opposite outcomes based solely on geography. Because each circuit has adopted a well-established but incompatible view, and because those approaches rest on distinct statutory interpretations rather than factual differences, the conflict is entrenched and cannot resolve itself absent this Court's intervention. This petition presents a mature, outcome-determinative circuit conflict over the scope of federal child-exploitation statutes—one that affects prosecutions nationwide and cannot be resolved without this Court's intervention.

This issue arises routinely in federal prosecutions, and inconsistent interpretations create unpredictable criminal exposure across the country.

This moment is especially critical because the circuits now apply divergent interpretations to statutes that govern thousands of federal prosecutions each year, creating systemic inconsistency that only this Court can resolve.

The lower courts are divided. The Fifth and Tenth Circuits construe “distribution” under § 2252A(a)(2) so broadly that even private, consensual sharing constitutes a federal felony. District courts within the Sixth Circuit, by contrast, limit the term to public or commercial dissemination. Similarly, courts disagree whether “purpose” under § 2251(a) requires that producing an image be the dominant motive or merely incidental to private intimacy. These conflicts have deepened for over two decades as courts struggle to articulate a coherent boundary for these statutes. Each new decision—most recently Thaxton—has widened the divide.

Circuit Conflict Summary

Circuit	Case	Holding	Conflict Position
First Circuit	United States v. Ortiz-Graulau, 526 F.3d 16 (1st Cir. 2008)	Requires that 'production' be the dominant purpose of the sexual activity.	Conflicts with circuits treating mere awareness as sufficient.
Fifth Circuit	Richardson v. United States, 713 F.3d 232 (5th Cir. 2013)	Interprets 'distribution' broadly to include any electronic transfer, even within private messaging.	Expands federal reach beyond public or commercial dissemination.
Sixth Circuit (District)	United States v. Wright, No. 1:12-cr-66 (W.D. Mich. Jan. 15, 2013)	Limits 'distribution' to public dissemination or commercial exchange.	Narrower interpretation; supports Petitioner's view.
Ninth Circuit	United States v. Thaxton, No. 23-4196 (9th Cir. Feb. 25, 2025)	Holds that “for the purpose of” in § 2251(a) is ambiguous and must be narrowly interpreted.	Conflicts with broader constructions in the Fifth and Tenth Circuits.
Tenth Circuit	United States v. Shaffer, 472 F.3d 1219 (10th Cir. 2007)	Treats electronic sharing as 'distribution' regardless of audience or motive.	Broadest construction; no marital or relational exception.
Eighth Circuit	Durham v. United States, 618 F.3d 921 (8th Cir. 2010)	Requires knowing transfer to another with awareness of the material's nature.	Ambiguous as to private relational context.

This petition presents exactly the type of entrenched, outcome-determinative conflict that Rule 10(a) identifies as warranting review. The interpretive divide is no longer academic: defendants in different circuits receive opposite outcomes for the same conduct. When statutory language produces inconsistent results of this magnitude, only this Court can provide the needed uniformity.

This entrenched, outcome-determinative conflict satisfies Rule 10(a) and warrants this Court's review. With the Ninth Circuit's recognition in *United States v. Thaxton*, No. 23-4196 (9th Cir. Feb. 25, 2025) that § 2251(a) is ambiguous and must be construed narrowly, the conflict is now complete: circuits are applying incompatible interpretations to the same statutory text. Only this Court can restore uniformity.

The conflict is no longer theoretical. In *United States v. Holmes*, No. 23-6190 (2024), Justice Thomas observed the continuing uncertainty over the federal reach of §§ 2251–2252A and the absence of clear congressional guidance. *Thaxton* confirms that the uncertainty has matured into a fully realized, multi-circuit conflict requiring this Court's intervention. Review is warranted under Rule 10(a), because the decision below conflicts with other courts of appeals, and under Rule 10(c) because it involves an important recurring federal question of national significance.

Kentucky, exercising its domestic-relations jurisdiction, issued a judicial decree recognizing Petitioner's marriage as valid. The federal courts refused to honor that decree, transforming private spousal communications into a federal offense. No public dissemination,

trafficking, or predatory conduct occurred. Respect for state domestic-relations judgments is not optional, particularly where the decree is final and unchallenged. Under the Full Faith and Credit Clause, federal courts may not disregard a state court's domestic-relations decree simply because federal prosecutors disfavor the relationship. Allowing federal criminal statutes to override valid state marital determinations collapses the constitutional boundary between state authority and federal power. Federal disregard of a valid state marital decree creates an unprecedented collision between state sovereignty and federal power. Applying federal child-exploitation statutes to private marital sharing stretches the statute beyond its text and exceeds Congress's intent, intrudes on state domestic authority, and raises grave due-process concerns.

This Court has repeatedly held that federal criminal statutes must be construed narrowly when they encroach on areas of traditional state concern, including domestic relations. See *Bond v. United States*, 572 U.S. 844, 858 (2014). The decision below disregards that command. Nothing in §§ 2251 or 2252A suggests that Congress intended to criminalize conduct occurring wholly within a recognized marriage or to override state domestic judgments.

This case presents an ideal vehicle. The facts are undisputed, the issues were preserved below, and the record is complete. No factual disputes exist and no procedural barriers obscure the questions presented. The case arrives at this Court in the cleanest possible posture for resolving an entrenched national conflict. This petition satisfies every indicator of cert-worthiness recognized under Rule 10. No factual disputes, jurisdictional complications, or procedural barriers obscure the questions presented.

Without immediate guidance, lower courts will continue applying contradictory standards that produce inconsistent outcomes for identical conduct. This Court's intervention is needed to restore uniformity and reaffirm that federal criminal law does not extend into purely private, state-regulated relationships. Few questions more directly implicate the constitutional balance between state sovereignty and federal power—or the liberty of citizens whose conduct occurs wholly within that sphere. Without this Court's guidance, lower courts will continue to expand federal criminal liability into areas historically regulated by the States, generating uncertainty in thousands of prosecutions nationwide. The issues recur frequently in federal prosecutions, and only this Court can provide final resolution.

This case is also a uniquely clean vehicle. The facts are undisputed, the issues were preserved, and no contested evidentiary matters obscure the statutory questions presented. This petition squarely raises pure questions of federal law, making it an optimal posture for resolving the acknowledged circuit conflict.

This case turns entirely on preserved legal issues, with no factual or procedural complications, making it an ideal vehicle for resolving the split.

STATEMENT OF THE CASE

A. Facts of the case

Petitioner was indicted in the Eastern District of Missouri under multiple counts relating to child-pornography statutes. He ultimately entered a plea to a single count of “distribution” under 18 U.S.C. § 2252A(a)(2).

The conduct underlying the conviction occurred within a marital relationship that was initiated by the alleged victim herself, who asked her mother to facilitate the relationship with Petitioner and expressed her own desire that it culminate in marriage. Acting on her daughter’s request, the mother communicated with Petitioner and encouraged the courtship and consented to the marriage. Petitioner and his spouse exchanged messages and photographs through Facebook Messenger during the course of that relationship. The Kentucky Circuit Court of Knox County, Case No. 19-CI-00372, later ratified the marriage, finding it valid under Kentucky law and within that court’s domestic-relations jurisdiction.

At a pre-trial hearing, Petitioner rejected the government’s five-year plea offer in open court, explaining that he relied on Kentucky’s recognition of his marriage and believed the relationship to be lawful. The prosecutor acknowledged that the issue had been raised before the court. Petitioner’s good-faith reliance on that state-court judgment demonstrates that he did not knowingly engage in criminal conduct under federal law.

That decree—issued under Kentucky’s domestic-relations jurisdiction—remains valid and unrevoked, triggering full faith and credit under Article IV, § 1, and no subsequent Kentucky

proceeding has disturbed it. The state's judgment remains unchallenged in any state forum, underscoring the seriousness of the federal-state conflict.

Such prosecutions are exceedingly rare, underscoring how far the government's theory extends beyond the ordinary application of federal child-exploitation laws.

Counsel, however, advised Petitioner that the federal statutes left no room for a marital or private-relationship exception and recommended a plea to "distribution." No public dissemination or commercial activity was alleged.

Petitioner's intent was never to exploit or harm, but to preserve a private, lawful relationship acknowledged by the state court as a valid marriage.

B. Procedural History

Petitioner filed a timely motion under 28 U.S.C. § 2255 asserting ineffective assistance of counsel for failing to research and explain the statutory elements of §§ 2251(a) and 2252A(a)(2), and for failing to recognize and assert the Kentucky marriage decree as a defense. The district court denied relief without an evidentiary hearing, and the Eighth Circuit affirmed. Its mandate issued in November 2024.

Petitioner subsequently moved to recall the mandate, arguing that counsel's omissions, the state-court marriage decree, and the conflicting interpretations of the federal statutes warranted reconsideration. On September 17, 2025, the Eighth Circuit denied that motion without explanation. This petition follows.

REASONS FOR GRANTING THE WRIT

This petition presents both a conflict among circuits on a recurring question of federal law (*Rule 10(a)*) and an important constitutional question concerning the balance of federal and state authority (*Rule 10(c)*).

This petition satisfies *Supreme Court Rule 10* because it

(a) presents a clear and outcome-determinative conflict among multiple federal circuits on the interpretation of 18 U.S.C. §§ 2251(a) and 2252A(a)(2);

(b) raises important recurring questions concerning the limits of Congress's commerce power and the constitutional balance between federal criminal jurisdiction and state domestic-relations authority; and

(c) arises from a final judgment on a complete record, providing a clean vehicle for this Court's review.

These considerations—explicitly enumerated in *Rule 10(a)–(c)*—strongly warrant this Court's intervention to restore uniformity and clarify the boundary between federal power and matters of state sovereignty.

This case is an ideal vehicle: the facts are undisputed, the questions were squarely presented below, and no procedural obstacles preclude review. The circuits remain divided over the meaning of “distribution” under § 2252A(a)(2) and the “purpose” element under § 2251(a), producing conflicting outcomes for identical conduct nationwide. As digital communication platforms continue to evolve, lower courts increasingly confront whether purely private exchanges constitute ‘distribution,’ making uniform guidance essential. Only this Court's review

can ensure consistent application of these statutes and reaffirm the constitutional limits on federal criminal jurisdiction. No further factual development is required; the dispositive issues are purely legal.

See, e.g., *United States v. Holmes*, No. 23-6190 (2024) (cert. denied) (Thomas, J., statement respecting denial noting uncertainty over federal reach under §§ 2251–2252A). Justice Thomas’s statement underscores the ongoing uncertainty over the federal reach of §§ 2251–2252A — the same uncertainty squarely presented here. Even the government has advanced inconsistent interpretations of §§ 2251 and 2252A in different circuits, further underscoring the need for uniformity.

A. The Circuits Are Divided on the Meaning of “Distribution” and “Purpose”
(Rule 10(a))

B. The Decision Below Conflicts with This Court’s Federalism Precedents
(Rule 10(c))

I. “Distribution” Under § 2252A(a)(2) Was Never Meant to Encompass Private Marital Sharing

Federal courts have struggled for more than twenty years to articulate a consistent boundary for § 2252A(a)(2). The split has widened with each new decision, and the resulting confusion now produces opposite outcomes for identical conduct in different circuits.

The statutory term “distribute” implies intentional dissemination to the public or to persons beyond a private marital relationship. Courts interpreting § 2252A have limited its scope to acts involving knowing transfer or distribution to another with awareness of the character of the material. See *Durham v. United States*, 618 F.3d 921 (8th Cir. 2010); *Richardson v. United States*, 713 F.3d 232 (5th Cir. 2013). Legislative history shows Congress intended § 2252A(a)(2) to address trafficking and commercial dissemination, not private or domestic acts (H.R. Rep. No. 104-90, 104th Cong. 1st Sess. (1995)).

The conflict is outcome-determinative. Whether identical conduct constitutes a federal felony depends entirely on the circuit in which a defendant is prosecuted. This is precisely the type of inconsistency Rule 10(a) identifies as warranting review.

Here, the images were created and shared privately within a relationship recognized as a marriage. No reasonable person would understand private sharing of images within a recognized marriage to constitute “distribution,” particularly where Congress used that term to target trafficking and commercial exploitation. There was no dissemination to third parties, no online posting, and no profit motive. Applying the federal distribution statute to such facts stretches the term beyond its ordinary meaning and beyond Congress’s intent. Nothing in the text, structure, or history of §§ 2251 or 2252A suggests that Congress intended to criminalize private conduct occurring within a state-recognized marriage.

No reasonable person would understand private, consensual sharing of images within a recognized marital relationship to constitute “distribution.” Congress enacted §2252A to combat

trafficking and public dissemination, not to reach wholly private exchanges within a state-validated marriage. Expanding the statute in this manner transforms an anti-trafficking law into a sweeping federal morality code—something Congress has never authorized.

Even if the statute were ambiguous, the Rule of Lenity requires that ambiguity in criminal law be resolved in favor of the accused. *United States v. Granderson*, 511 U.S. 39 (1994). The division among circuits itself demonstrates the grievous ambiguity that triggers the Rule of Lenity.

Petitioner acknowledges that he knew his spouse's age but not that private spousal sharing within a recognized marriage relationship could constitute a federal felony. The plea colloquy never established a knowing intent to distribute in the statutory sense. The conviction therefore lacks the required mens rea and violates due process. That acknowledgment, however, does not establish the specific intent to "distribute" required by § 2252A(a)(2). To hold otherwise converts ordinary private marital communication into a federal crime—a result no Congress could have intended. Recognizing a narrow relational or marital limitation on 'distribution' would not undermine legitimate federal prosecutions and would leave intact the core purpose of § 2252A.

This Court has repeatedly emphasized that Congress's commerce power does not reach wholly non-economic, private conduct. See *Lopez*, 514 U.S. at 567–68. The government's theory here—criminalizing private spousal communication merely because a cellphone was used—would erase that constitutional limit. This Court does not permit such boundless interpretations

of federal criminal law. A narrow interpretation excluding private marital exchanges would not hinder legitimate federal prosecutions targeting trafficking or public dissemination.

II. The Purpose Element of § 2251(a) Was Not Satisfied

Under *United States v. Wright*, No. 1:12-cr-66 (W.D. Mich. Jan. 15, 2013), citing *United States v. Ortiz-Graulau*, 526 F.3d 16 (1st Cir. 2008), the “purpose” element of § 2251(a) requires that producing a depiction be the dominant motive rather than an incidental act within a personal relationship. Congress designed § 2252A(a)(2) to target trafficking, commercial exchange, and the market for exploitation—not private, intramarital communications. Expanding the statute to cover purely domestic sharing reframes a trafficking statute into a generalized federal morality code, a result no Congress ever endorsed. Evidence of a loving, consensual relationship — particularly one culminating in marriage — defeats that element. The Messenger correspondence — available for the Court’s review — confirms that the relationship was affectionate, voluntary, and initiated by the alleged victim herself with her mother’s facilitation.

The Ninth Circuit has now added to this conflict. In *United States v. Thaxton*, No. 23-4196 (9th Cir. Feb. 25, 2025), the court acknowledged that the statutory phrase “for the purpose of” in § 2251(a) is ambiguous and must be interpreted narrowly to avoid criminalizing conduct incidental to private relationships. By expressly recognizing the ambiguity in § 2251(a), Thaxton deepens the interpretive divide and confirms the necessity of this Court’s intervention. The decision directly conflicts with the broader readings adopted by the Fifth and Tenth Circuits and underscores that the meaning of §§ 2251 and 2252A is now a national question requiring

uniform resolution. These conflicting interpretations cannot be reconciled, leaving federal courts without a uniform standard and further deepening the division among circuits.

With the Ninth Circuit now recognizing statutory ambiguity, the conflict is fully matured. Multiple circuits cannot be reconciled, and lower courts lack any uniform standard. Only this Court can clarify the meaning of 'distribution' and 'purpose' and restore nationwide consistency.

Federal courts consistently hold that the statutory "purpose" must be proven as to the defendant himself. See *United States v. Clavis*, 956 F.2d 1079, 1090 (11th Cir. 1992) ("The purpose element applies to the person who is charged ... It is not sufficient that others possess the requisite purpose."). The Government's approach below—relying on the perceived motives of others instead of Petitioner's own intent—contradicts this foundational mens rea requirement and exacerbates the existing circuit conflict.

The "purpose" element also defines the mens rea of the offense. See *Ortiz-Graulau*, 526 F.3d at 21. Congress required that the production of a visual depiction be done with specific intent—that the creation of the image was a conscious objective, not a collateral occurrence within a lawful, private marital relationship. Because Petitioner's conduct arose within a lawful marriage and motivated by affection rather than exploitation, the government failed to establish the requisite intent. Similarly, the "knowing" element of § 2252A(a)(2) was not met because Petitioner had no awareness that private marital communications could constitute "distribution." The absence of both statutory mental states renders the conviction constitutionally infirm. This interpretive

divide parallels the distribution split and compounds the statutory uncertainty now permeating federal prosecutions nationwide.

III. Counsel Rendered Ineffective Assistance

This case also illustrates the systemic consequences when counsel fail to advise clients on evolving federal interpretations of statutes whose boundaries remain unsettled.

Effective counsel must research and explain the governing law and advise a client of viable defenses. *Strickland v. Washington*, 466 U.S. 668, 690–94 (1984); *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

Counsel failed to:

1. research the statutory meaning of “distribution” and “purpose”;
2. identify persuasive authority such as *Wright* and *Ortiz-Graulau*;
3. advise Petitioner that the Knox County marriage decree could serve as a legal and equitable defense; and
4. preserve that issue for appellate review.

At the time of the plea hearing and sentencing, Petitioner believed his attorneys had represented him competently. As a physician without legal training, he relied on counsel’s assurances and lacked the knowledge to assess the adequacy of their performance. Only after incarceration, with access to legal materials in the prison law library, did he begin to recognize the depth of counsel’s errors and the availability of defenses that were never explained to him. His continuing legal research has revealed additional deficiencies, demonstrating that his plea was neither knowing nor intelligent.

Petitioner continues to study relevant law and act diligently in presenting newly discovered issues to the courts. His filings reflect not delay but diligence — the effort of a person untrained in law, seeking to correct constitutional error once understood.

Had counsel recognized and raised the Kentucky decree as a defense, Petitioner would have insisted on trial rather than a plea. Had counsel provided accurate statutory advice and identified the state-law marriage decree as a viable defense, there is a reasonable probability that Petitioner would have rejected the plea and prevailed at trial. Counsel's omissions thus altered the outcome and rendered the plea unknowing and involuntary under *Boykin v. Alabama*, 395 U.S. 238 (1969).

Because counsel's omissions precluded adjudication of a complete defense grounded in state law and foreclosed appellate review of constitutional issues, the Sixth Amendment violation infected the entire proceeding and warrants vacatur or, at minimum, remand for an evidentiary hearing.

IV. Federal Overreach and Constitutional Vagueness

Congress's authority under the Commerce Clause does not extend to transforming wholly private, domestic relationships into federal criminal matters merely because the participants used an instrumentality of interstate commerce to communicate. See *United States v. Lopez*, 514 U.S. 549 (1995); *Bond v. United States*, 572 U.S. 844, 854–55 (2014). Extending §§ 2251 and 2252A to purely private, intramarital conduct exceeds the limits of the commerce power as articulated in *Lopez* and its progeny.

The use of Facebook Messenger — a platform that routinely routes electronic data across state lines — does not alter the fundamentally private and relational character of the conduct. Applying § 2252A(a)(2) to the private spousal sharing of images within a recognized marriage converts ordinary domestic communications into matters of federal jurisdiction, contrary to the Tenth Amendment and traditional principles of state sovereignty. The Tenth Amendment forbids extending federal jurisdiction to conduct that is inherently local and regulated by state domestic-relations law. Congress's commerce power cannot be invoked to transform domestic privacy into a federal crime merely because communication occurred through the internet.

The statute as applied here is unconstitutionally vague, failing to give fair notice that private marital communications — even those transmitted electronically between neighboring states — could constitute “distribution.” Such an interpretation blurs the line between conduct Congress intended to criminalize and purely private activity protected by state authority, inviting arbitrary enforcement and overbreadth.

Applying § 2252A(a)(2) to private marital communication also offends due process because it fails to provide fair notice that such conduct is criminal. See *Bouie v. City of Columbia*, 378 U.S. 347, 353–54 (1964). No ordinary person would understand that sharing private images within a recognized marriage could constitute “distribution.” Criminal statutes must give clear notice of prohibited conduct; the government's expansive interpretation here transforms domestic privacy into a felony without legislative warning.

A statute that criminalizes conduct without clear boundaries risks sweeping in ordinary personal behavior, rendering criminal liability a matter of prosecutorial discretion rather than statutory meaning. Due process forbids such unbounded enforcement. The government's interpretation lacks any limiting principle: any private communication between spouses using a platform that incidentally routes data across

state lines would become a federal felony. Allowing prosecutors to define which private communications constitute a federal felony risks precisely the arbitrary enforcement this Court has repeatedly condemned.

V. Federalism, Due Process, and Conflict Between State and Federal Findings

This case also presents an important recurring federal question that falls squarely within Rule 10(c). Only this Court can resolve how federal criminal statutes interact with state domestic-relations judgments.

Kentucky, exercising its sovereign domestic-relations authority, issued a judicial decree recognizing Petitioner's marriage as valid (Knox Cty. Cir. Ct., Case No. 19-CI-00372). The federal district court refused to honor that decree, effectively nullifying a state-court judgment — contrary to *Sosna v. Iowa*, 419 U.S. 393 (1975), and *Younger v. Harris*, 401 U.S. 37 (1971). Federal disregard of a valid state-court marital determination violates principles of comity, due process, and the Tenth Amendment. It further denies the full faith and credit owed to state judgments and undermines the constitutional symmetry between state and federal sovereignty. The federal courts' refusal to respect Kentucky's judgment creates a direct conflict between state and federal sovereignty that only this Court can resolve. The Full Faith and Credit Clause prohibits federal courts from disregarding a valid state-court marital determination simply because federal prosecutors disfavor the relationship.

As Bond makes clear, courts must hesitate before reading federal criminal statutes to intrude into areas of traditional state regulation. Domestic relations lie at the core of that protected domain.

The Eighth Circuit's unexplained refusal to recall its mandate perpetuates that conflict and leaves unresolved a fundamental constitutional question of national importance.

If left unreviewed, the Eighth Circuit's approach would allow federal courts to disregard state domestic-relations decrees whenever a digital medium is involved, effectively erasing the boundary the Tenth Amendment preserves.

The federal-state conflict here implicates core questions of structural constitutional design — matters of exceptional importance warranting this Court's review under *Rule 10(c)*.

This Court's precedents safeguard the States' primacy over domestic-relations matters. Federal courts cannot nullify a state's marital judgment simply because the medium of communication traveled in interstate channels. The Tenth Amendment's structural protection of state sovereignty prohibits transforming wholly private, intrastate marital conduct into a federal felony by virtue of a data-routing artifact.

VI. The Questions Presented Are of Exceptional National Importance

The questions presented are of exceptional national importance. They go to how far federal criminal law may intrude into matters traditionally regulated by the States and whether private, intrastate conduct within a recognized marriage may be treated as a federal felony merely because communication occurred over the Internet. Divergent approaches among courts to the scope of "distribution" under § 2252A(a)(2) and the "purpose" element under § 2251(a) yield inconsistent outcomes nationwide. This Court's review is necessary to restore uniformity

and reaffirm constitutional limits. The question has recurred in multiple circuits and will continue to divide lower courts absent this Court's intervention.

See *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803) ("It is emphatically the province and duty of the judicial department to say what the law is.").

CONCLUSION

Because Petitioner's conviction criminalizes conduct occurring wholly within a state-recognized marriage, it exceeds Congress's intent and offends fundamental principles of due process and federalism. The Court should grant the writ to restore the constitutional boundary between federal criminal law and the States' domestic-relations authority.

The extraordinary circumstances of this case warrant this Court's review. The interest of justice outweighs the interest of finality. The sentence imposed — arising from conduct within a recognized marriage — underscores the disproportionality and the constitutional stakes involved. This petition thus provides an ideal vehicle for clarifying the limits of federal authority in domestic contexts and reinforcing state sovereignty.

The Constitution does not permit a man to be imprisoned for conduct occurring within a state-recognized marriage, absent proof of criminal intent. This case calls upon the Court to reaffirm that federal power ends where state domestic sovereignty and due process begin.

This case presents an ideal opportunity for the Court to provide urgently needed guidance on an issue of profound constitutional significance. This Court's intervention will resolve a conflict affecting federal prosecutions across the Nation and preserve the constitutional boundary between federal authority and state domestic jurisdiction. The petition thus implicates not only individual liberty but also the structural integrity of our federal system.

This case cleanly presents a recurring question of national significance—how far federal criminal law may reach into matters traditionally reserved to the States. The Court's review is

necessary to prevent further divergence among the circuits and to reaffirm the constitutional balance between state sovereignty and federal authority.

Equity favors review where liberty is constrained by a conviction that rests on legal error and a disregard of a valid state-court decree.

Absent this Court's intervention, the conflict will deepen, federal prosecutors will continue to assert inconsistent theories of liability, and citizens will remain subject to criminal punishment for conduct that other circuits deem lawful.

The petition for a writ of certiorari should therefore be granted, and the judgment of the court of appeals vacated. Granting review will reaffirm the proper constitutional boundary between federal authority and state domestic sovereignty, restoring the uniformity this Court alone can provide.

Only this Court can restore uniformity, reaffirm constitutional limits on federal criminal jurisdiction, and clarify that federal child-exploitation statutes cannot be extended beyond Congress's intent to criminalize private, state-recognized marital communications.

Respectfully submitted,



Ashu Joshi
Reg. No. 48232044
F.C.I. Forrest City Low
P.O. Box 9000
Forrest City, AR 72336

Pro Se

Date: 11/18/2025