IN THE

SUPREME COURT OF THE UNITED STATES

Appellate Case No. 25-4002

Paul Kenneth Cromar

Petitioner

V.

UNITED STATES OF AMERICA

Respondent-Plaintiff/Appellee

ON PETITION FOR A WRIT OF CERTIORARI

To The United States Court Of Appeals for the Tenth Circuit

APPLICATION FOR EXTENSION OF TIME

TO FILE PETITION FOR WRIT OF CERTIORARI

TO THE HONORABLE NEIL M. GORSUCH,ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE TENTH CIRCUIT:

Petitioner Paul Kenneth Cromar, proceeding pro se and incarcerated at the Federal Correctional Complex Florence, Satellite Camp, in Florence, Colorado, respectfully requests a 60-day extension of time to file a petition for a writ of certiorari.

BACKGROUND

On September 2, 2025, the United States Court of Appeals for the Tenth Circuit entered judgment denying Petitioner's appeal. Under Supreme Court Rule 13.1, the petition for certiorari is due on December 1, 2025. Petitioner has worked diligently every day since September 2 to

prepare this petition but cannot complete it by the deadline due to circumstances beyond his control.

GROUNDS FOR EXTENSION

I. Severe Institutional Limitations on Legal Resources

FCC Florence Satellite Camp houses approximately 300 inmates but currently provides only one working computer for legal research and one typewriter for preparing legal documents. All inmates must share these two resources at the camp law library facility. Despite Petitioner's daily efforts to access these and other resources, availability is significantly limited.

Petitioner is required to work at the Landscaping department from approximately 7:00 a.m. until 2:30 pm each weekday (similar to other inmates), and all inmates must return to their housing units by approximately 7:30 p.m. each evening. This leaves only narrow windows when the law library is open and resources might be available – for the entire population. As a practical matter, Petitioner experiences delays and cannot predict with certainty when and how much time he will be allowed access the computer or typewriter for meaningful periods.

II. Communication Delays Inherent to Incarceration

As a pro se petitioner, Petitioner relies on outside assistance to obtain case materials, review drafts, and provide guidance on legal issues. Communication occurs through the TRULINCS email system and postal mail, which results in a 5-to-7-day turnaround time for each complete exchange of information. And despite Mr. Cromar's requests, the prison camp significantly limits the amount of material he is allowed to hold on his cell at any given time. During the last several weeks (since the September 2 order) the Camp Administrator and other staff have challenged Mr. Cromar's possession of legal materials and pressed to impose significant limitations. This has also resulted in stress and delay.

Petitioner also has access to essentially one 15-minute phone call per day (from a 500-minute monthly allocation). Even dedicating all phone time to legal work provides extremely limited ability to discuss complex legal issues or coordinate with outside help. This also has slowed his work progress despite his efforts to be diligent.

III. Difficulty Obtaining the Complete Appellate Record

Despite diligent efforts since September 2, Petitioner has been unable to obtain the complete appellate record. The record is substantial, and outside sources assisting Petitioner have encountered repeated delays in providing all necessary materials. A complete record is essential to identify issues appropriate for certiorari review and to cite accurately to the record in the petition.

IV. Recent Development in Understanding Legal Issues

As documented in the Appellate Court's ruling Petitioner is a layman with no formal legal training. This is material because the court has repeatedly instructed that Cromar struggles to grasp its teachings on the law and key concepts relevant to his appeal.

For the past two and a half months, Petitioner worked diligently to draft a certiorari petition based on his understanding of the legal issues. He completed a draft earlier this week despite the limitations discussed above. However, through recent assistance from other inmates with legal knowledge and outside resources, Petitioner has come to understand more clearly some of the Tenth Circuit's decision and the reasons his arguments were rejected in ways he did not previously grasp.

This recently acquired new appreciation and understanding has revealed that the current draft petition Petitioner drafted—despite his diligent efforts—focuses on arguments not appropriate for certiorari review. Petitioner now understands he must substantially rework and refocus his petition on the issues properly preserved and suitable for this Court's consideration. This requires new legal research and new drafting, which is exceptionally time-consuming under the institutional constraints described above.

Mr. Cromar desires to present to this court only a meritorious petition and therefore is required now to rework 99% of the draft he prepared. This is a good faith effort to both respect and respond to the prior court instructions as well as diligent efforts to pursue and advocate for his rights and reversible error he believes occurred in securing his conviction.

Specifically, while he is working on a fourth issue, he currently intends to present that his conviction should be reviewed by this court on three narrow statutory interpretation questions that are independent of the arguments courts have called "meritless" related to income taxation. Adjusting his approach, he currently expects that his petition will present the following questions for review:

1. Whether 26 U.S.C. § 7212(b), which criminalizes forcible rescue of "property after it shall have been seized under this title," applies to property judicially foreclosed through Title 28 procedures where no physical seizure by IRS agents under Title 26 authority occurred, implicating rule of lenity concerns in criminal statutory construction.

2. Whether a defendant receives due process when the government obtains a civil default judgment after the defendant pursued jurisdictional challenges, then criminally prosecutes based on that judgment while instructing the jury not to question the underlying liability, such that the merits of the tax debt are never adjudicated at trial under the beyond-reasonable-doubt standard.

3. Whether, after *Loper Bright Enterprises v. Raimondo* overturned Chevron deference, criminal tax liability may rest on an IRS *assessment* that does not comply with the plain text of 26 U.S.C. § 6020(b)(2), which requires substitute returns to be "subscribed" to constitute "prima facie good and sufficient" evidence, where only unsubscribed Form 4549 examination reports were used.

Petitioner does not seek additional time due to lack of diligence, but rather because his initial diligent work—done without adequate legal knowledge—must now be substantially revised based on his improved but recently acquired understanding of the applicable legal standards.

V. Institutional Restrictions Beyond Petitioner's Control

During a significant portion of the past six weeks, the Teller Unit (Petitioner's assigned housing unit) was placed under restriction by the Camp Administrator. During approximately one week of this period, access to email terminals was completely denied to all inmates in the housing unit. These restrictions, entirely beyond Petitioner's control, further limited his ability to communicate with outside assistance and work on his petition.

DILIGENCE AND GOOD FAITH

Petitioner has worked on this petition daily since September 2, 2025. He has not delayed or been idle. Rather, the combination of severely limited institutional resources, communication barriers inherent to incarceration, difficulty obtaining the record, and his recent realization—through outside assistance—that his work must be substantially revised has made it impossible to complete a proper petition by December 1, 2025.

Petitioner does not take this deadline lightly and understands the importance of timely filing. He respectfully submits that the circumstances described above constitute good cause for a brief extension.

REQUEST FOR RELIEF

Petitioner respectfully requests an extension of 60 days—until January 30, 2026—to file his petition for writ of certiorari. This additional time will allow Petitioner to:

1. Complete legal research using the limited shared resources available;

2. Obtain and review the complete appellate record;

3. Properly revise and refocus his petition on issues appropriate for certiorari review;

4. Communicate with outside assistance despite the inherent delays of institutional mail and email systems; and

5. Prepare a petition that accurately presents the issues for this Court's consideration.

EXPLANATION FOR TIMING OF THIS APPLICATION

Supreme Court Rule 13.5 provides that applications should ordinarily be filed at least 10 days before the expiration of the time to file. This application is being filed with just morethan 10 days remaining. Petitioner learned only recently the specific procedures and requirements for such an application and has prepared it as quickly as institutional constraints permit.

CONCLUSION

Petitioner believes the questions he intends to present may warrant this Court's review, particularly in light of this Court's recent decision in *Loper Bright Enterprises v. Raimondo* and its implications for criminal tax prosecutions based on agency assessments. For the foregoing reasons, Petitioner respectfully requests that this Court grant an extension of 60 days to file his petition for writ of certiorari.

Respectfully submitted November 20, 2025.

Paul Kenneth Cromar
Federal Reg. No. 13871-081
Federal Correctional Complex Florence
Satellite Camp
P.O. Box 6000
Florence, CO 81226-6000
Pro Se

CERTIFICATE OF SERVICE

I, Paul Kenneth Cromar, hereby certify that on November 20, 2025, I caused a copy of this Application for Extension of Time to be mailed to:

Office of the Solicitor General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

United States Attorney's Office for the District of Utah
111 South Main Street, Suite 1800
Salt Lake City, UT 84111

Paul Kenneth Cromar

FILED
United States Court of Appeals
Tenth Circuit

September 2, 2025

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

PAUL KENNETH CROMAR,

Defendant - Appellant.

No. 25-4002
(D.C. No. 2:23-CR-00159-HCN-1)
(D. Utah)

ORDER AND JUDGMENT*

Before **HARTZ**, **MORITZ**, and **ROSSMAN**, Circuit Judges.

Paul Kenneth Cromar, proceeding pro se, appeals his convictions for tax evasion under 26 U.S.C. § 7201 and forcible rescue of seized property in violation of 21 U.S.C. § 7212(c). Exercising jurisdiction under 28 U.S.C. § 1291, we affirm.

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* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

Background and Procedural History[1]

Subscribing to the legal theories associated with the sovereign-citizen and tax-protester movements, Cromar failed to pay taxes or file a tax return from 1999 to 2005. In 2017, the United States sued Cromar seeking to recover the unpaid income taxes and to foreclose tax liens through a sale of his real property in Cedar Hills, Utah. Cromar never answered the complaint but filed numerous motions challenging the court's subject-matter jurisdiction and the government's taxing authority. The court denied the motions and ultimately entered default judgment against Cromar, determining he owed more than $1 million in back taxes and penalties, a liability that generated statutory liens on his property. Following an unsuccessful interlocutory appeal to this court, the district court entered an order of foreclosure and judicial sale, requiring Cromar and his wife to vacate the property by April 5, 2019. Cromar appealed that order, and we affirmed, specifically rejecting his constitutional challenges to the government's taxing authority. *See United States v. Cromar*, 807 F. App'x 821, 824-25 (10th Cir. 2020).[2]

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[1] We relay the facts in the light most favorable to the government as appropriate when reviewing the sufficiency of the evidence to uphold a conviction. *United States v. Goldesberry*, 128 F.4th 1183, 1191 (10th Cir. 2025).

[2] While the tax case was unfolding, the Cromars filed a collateral action in Utah state court against the United States and certain IRS officials and government attorneys, accusing the defendants of conspiring to implement an unconstitutional federal income tax with the aim of stealing the Cromars' property. The government removed that case to federal court, and it was ultimately dismissed. This court affirmed. *See Cromar v. United States*, 816 F. App'x 235, 240 (10th Cir. 2020).

In May 2019, Gary Chapman, the IRS agent assigned to handle the sale of the Cedar Hills property, discovered that Cromar and his wife were still living there. He enlisted the help of law enforcement who removed the Cromars from the property on June 25, 2019, and then changed the locks. That September, Chapman sold the property at auction to Copper Birch LLC. Copper Birch recorded the deed of transfer on April 29, 2020. Days before, on April 23, Cromar had broken into the house and moved back in along with his wife. Upon learning this, Copper Birch retained counsel and sued the Cromars for unlawful detainer in state court.

After two occupancy hearings, the state court sided with Copper Birch and ordered the Cromars to vacate the premises by September 5, 2020. The order authorized law enforcement to forcibly remove them if they failed to comply. They did not comply, so on September 24, law enforcement returned to the house to forcibly remove them. Nobody answered the door or heeded the officers' calls to come outside. Around the same time, however, separate law enforcement officers encountered Cromar at a shopping center and convinced him to call his wife, who was in the house. Eventually Cromar convinced his wife to peacefully leave the premises. When police officers cleared the house, they found sandbags, a cache of weapons and ammunition, and wooden boards placed tactically throughout the house.

In April 2023, Cromar was indicted on one count of tax evasion under § 7201, one count of obstruction under § 7212(a), and one count of forcible rescue of seized property under § 7212(b). He chose to represent himself, although the district court appointed the public defender as standby counsel. Over the course of an eight-day

jury trial, the government called sixteen witnesses and Cromar called fourteen. After three days of deliberations, Cromar was convicted on the tax evasion and forcible rescue counts and acquitted on the obstruction count. The district court sentenced him to 72 months' incarceration followed by three years of supervised release. This appeal followed.

Analysis

Cromar raises a plethora of issues on appeal, many of which are not sufficiently developed to allow for meaningful review, notwithstanding the liberal construction we have accorded his pro se filings. *See Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005) (court construes pro se briefs liberally but will not act as litigant's attorney); *Kelley v. City of Albuquerque*, 542 F.3d 802, 819 (10th Cir. 2008) (inadequately briefed issues do not invoke appellate review). He has adequately presented four issues: (1) the district court lacked subject matter jurisdiction; (2) the evidence was insufficient to sustain a conviction on both counts; (3) the district court's conduct of the case violated his due process rights; and (4) the government was not entitled to restitution. We address each of these arguments in turn.

I.

The overarching theory of Cromar's defense is that the district court lacked subject-matter jurisdiction to adjudicate any criminal charge against him based on his failure to pay a "*non-apportioned direct income tax* that was assessed by the IRS under authority of the 16th Amendment." Aplt. Opening Br. at 18. This argument is

a common refrain in tax protester cases. It goes like this: (1) the Constitution requires direct taxes[3] to be apportioned among the states according to each state's population, *see* Art. I, § 9, cl. 4; (2) income taxes are not so apportioned; but (3) income taxes have been referred to as "direct" taxes by this court, *see United States v. Collins*, 920 F.2d 619, 629 (10th Cir. 1990)[4]; accordingly (4) federal courts lack jurisdiction to enforce the collection of such non-apportioned direct taxes.

As we observed in *Collins*, "[e]fforts to argue that federal jurisdiction does not encompass prosecutions for federal tax evasion have been rejected as either 'silly' or 'frivolous' by a myriad of courts throughout the nation." 920 F.2d at 629 (collecting cases); *see also United States v. Hansen*, 929 F.3d 1238, 1245 (10th Cir. 2019); *United States v. Gerhard*, 615 F.3d 7, 25 n.9 (1st Cir. 2010); *United States v. Drachenberg*, 623 F.3d 122, 124 (2d Cir. 2010); *United States v. Cooper*, 170 F.3d 691, 691 (7th Cir. 1999). Yet Cromar argues the Supreme Court's recent decision in *Moore v. United States*, 602 U.S. 572 (2024), upends this line of authority because it makes clear that income taxes are indirect taxes, not direct taxes like we said in

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[3] "Generally speaking, *direct* taxes are those taxes imposed on persons or property." *Moore v. United States*, 602 U.S. 572, 582 (2024). Because direct taxes must be apportioned among the states according to population, Congress has enacted a direct tax only rarely and not since the Civil War. *Id.* "*[I]ndirect* taxes are the familiar federal taxes imposed on activities or transactions. That category of taxes includes . . . incomes taxes." *Id.* at 582-83. Indirect taxes are not subject to the apportionment clause. *Id.* at 583.

[4] *Collins* was superseded on other grounds by the Paperwork Reduction Act of 1995, as noted in *Lewis v. C.I.R.*, 523 F.3d 1272, 1276-77 (10th Cir. 2008).

Collins. According to Cromar, this means *Collins* was wrongly decided and the district court was therefore not entitled to rely on it in adjudicating his criminal case.

We reject this argument for the same reasons we explained in Cromar's civil tax case when we declined his invitation to "delve into the difficult question of the distinction between direct and indirect taxes." *Cromar*, 807 F. App'x at 824 (internal quotation marks omitted). To reiterate what we said then, since ratification of the Sixteenth Amendment, whether an income tax is a direct tax or indirect tax is immaterial. It is beyond dispute that "Congress has the power to tax the income of individuals." *United States v. Stillhammer*, 706 F.2d 1072, 1077 (10th Cir. 1983). Further, in this case as "in every federal criminal prosecution, subject-matter jurisdiction comes from 18 U.S.C. § 3231. That's the beginning and the end of the jurisdictional inquiry." *United States v. Tony*, 637 F.3d 1153, 1158 (10th Cir. 2011) (internal quotation marks, brackets, and ellipsis omitted). *Moore*, a civil case that upheld the constitutionality of the Mandatory Repatriation Tax, is simply inapposite.[5]

[5] Cromar refines his jurisdiction argument in his reply brief, claiming his misplaced reliance on *Collins*'s characterization of income tax as a direct tax negated the willfulness element of the tax evasion offense. This court does not ordinarily consider arguments raised for the first time in a reply brief, and there is no reason to do so here. *See United States v. Walker*, 85 F.4th 973, 989 n.13 (10th Cir. 2023). Moreover, Cromar fails to cite in the record where he raised this issue in the district court, as required by our local rules. *See* 10th Cir. R. 28.1(A) ("For each issue raised on appeal, all briefs must cite the precise references in the record where the issue was raised and ruled on."). Cromar objected repeatedly to the district court's subject matter jurisdiction and tendered numerous theories in defending against the tax evasion count. But he did not advance this one. And "our general rule against considering new arguments on appeal applies equally when a litigant changes to a new theory on appeal that falls under the same general category as an argument

II.

A.

Cromar challenges the sufficiency of the evidence to support his conviction of forcible rescue of seized property under 26 U.S.C. § 7212(b). We review sufficiency of the evidence de novo. *United States v. Davis*, 995 F.3d 1161, 1166 (10th Cir. 2021). "Evidence is sufficient to support a conviction if, viewing the evidence and all reasonable inferences from it in the light most favorable to the government, a rational trier of fact could find the defendant guilty beyond a reasonable doubt." *Id.* (internal quotation marks omitted).

Section 7212(b) criminalizes the forcible rescue of "any property after it shall have been seized under this title." "This title" refers to Title 26, the Internal Revenue Code. The essential elements of the offense are seizure and rescue. *United States v. Oliver*, 421 F.2d 1034, 1036 (10th Cir. 1970). Cromar argues the government failed to prove the seizure element because his house was seized under Title 28, not Title 26.

This argument is both factually and legally incorrect. Title 28 sets forth the procedures to be used when selling real estate pursuant to a court order. *See* 28 U.S.C. § 2001(a) (requiring public sale) and (b) (requiring notice and a hearing). The district court in the civil tax case invoked these provisions in ordering Cromar's property to be auctioned at a public sale. *Cromar*, 807 F. App'x at 825. But that

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presented at trial." *United States v. Nelson*, 868 F.3d 885, 891 n.4 (10th Cir. 2017) (internal quotation marks omitted).

doesn't mean the property was *seized* under Title 28. It is clear from the order of foreclosure and judicial sale that the property was seized under section 7403 of Title 26, which empowers the IRS to seize the property of delinquent taxpayers. *See* R. vol. 3 at 276 ("Under 26 U.S.C. § 7403, the United States is entitled to enforce its liens against the Subject Property in order to apply the proceeds towards the tax liabilities of Paul Kenneth Cromar."). The jury was shown the order of foreclosure and judicial sale. R. vol. 4 at 612-13. And several IRS revenue officers testified regarding the nature of the federal tax lien and how it led to the foreclosure order. *E.g.*, *id.* at 492-97. We agree with the government this evidence was sufficient to establish that Cromar's property was seized under Title 26.

B.

Cromar argues the government "was wrongfully and prejudicially allowed to improperly substitute Form [4549s] which are not actual or real tax returns, for the required evidence of a 'subscribed' tax return for each tax year in dispute." Aplt. Opening Br. at 29 (emphasis omitted). We construe this argument as a challenge to the sufficiency of the evidence on the tax evasion count.

"To prove evasion under § 7201, the government must show (1) a substantial tax liability, (2) willfulness, and (3) an affirmative act constituting evasion or attempted evasion." *United States v. Hoskins*, 654 F.3d 1086, 1090 (10th Cir. 2011) (internal quotation marks omitted). Cromar appears to argue the government failed to establish a tax liability because, having no tax returns as evidence, it relied instead on an audit report prepared by a revenue agent and submitted on Form 4549. We

reject this argument. A filed tax return is not an element of tax evasion under § 7201. As the government points out, tax evaders often do not file tax returns. And this court has acknowledged that the government's evidence in tax evasion cases typically is circumstantial precisely because "direct proof is often unavailable." *United States v. Thompson*, 518 F.3d 832, 850 (10th Cir. 2008) (internal quotation marks omitted).

In this case, the government's proof consisted of an IRS audit of Cromar's finances. The auditor gave meticulous testimony about the audit process, including his collection of bank records and other financial information and his interview of Cromar. The auditor explained how he used that information to calculate Cromar's "deficiency amounts" for each tax period at issue. R. vol. 4 at 360. He also testified that Cromar was advised of the "taxpayer bill of rights," including his right to protest the deficiency amount. *Id.* at 362-64. Cromar did not file a protest or otherwise lodge any formal objection to the auditor's calculations. Accordingly, the auditor explained that his certification ultimately became a "substitute for return," which the IRS creates when the taxpayer fails to file a tax return. *Id.* at 378. This evidence was sufficient for a reasonable juror to find that Cromar owed a substantial tax liability.

III.

Cromar's due process argument encompasses a host of alleged errors by the district court, but his arguments are either frivolous or not sufficiently developed to invoke this court's review. Cromar accuses the district court of an "improper and

invalid use of the '*Touhy*' decision"[6] to deprive him of his Sixth Amendment right to compulsory process. Aplt. Opening Br. at 38. He claims the court blocked subpoenas to "almost all" of his prospective witnesses and "refus[ed] to issue essential subpoenas to critical desired defense witnesses like Mark Chapman and Mr. Scambos." *Id.* As the government points out, both those witnesses testified at trial, and Cromar examined them without restriction. Cromar identifies no other witnesses or documents as to which he was denied a subpoena, and he provides no description of the evidence lost as a result. As we noted earlier, perfunctory allegations of error that fail to frame and develop an issue are insufficient to invoke appellate review. *Kelley*, 542 F.3d at 819. Cromar has not sufficiently developed this argument for our consideration.

He next argues his due process rights were violated by the court's issuance of oral rulings rather than formal "Orders of the Court." Aplt. Opening Br. at 50 (emphasis omitted). He does not identify any particular ruling here but seems generally to contest the court's conduct of the case. The district court was not required to reduce to writing every ruling that it made over the course of a multi-year prosecution and week-long jury trial. District courts frequently rule from the bench. In this case, such oral rulings resulted in minute orders and written transcripts to which Cromar plainly has access. This argument is frivolous.

[6] *See United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

Finally, Cromar generally takes issue with the jury instructions but again fails to identify any particular instruction that was requested and denied or given over his objection. This issue is not sufficiently developed to invoke appellate review.

IV.

Cromar objects to the restitution award to the United States on the grounds that the government is not a statutory person and therefore cannot be a victim. This argument lacks merit. It's well settled that the government can be a victim for purposes of restitution. *United States v. Quarrell*, 310 F.3d 664, 677 (10th Cir. 2002).

Conclusion

Based on the evidence presented at trial, a rational jury could readily find that Cromar committed tax evasion and forcibly rescued seized property in violation of the internal revenue code. Cromar has failed to show any due process violations or other reversible errors by the district court. The district court's judgment is therefore affirmed.

Entered for the Court

Nancy L. Moritz
Circuit Judge