

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

MATTHEW LEE PELTON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

AMENDED PETITION FOR WRIT OF CERTIORARI

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3006A

QUESTION PRESENTED FOR REVIEW

- I. The question for this Court's review is whether "quality of life losses" and "productivity losses" are properly awarded as criminal restitution pursuant to U.S.C. § 2259.

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AMENDED PETITION FOR WRIT OF CERTIORARI¹

Matthew Lee Pelton respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

OPINIONS BELOW

The opinion of the Ninth Circuit Court of Appeals is not published in the Federal Reporter, but the opinion, *United States v. Matthew Lee Pelton*, No. 23-3242, No. 46.1 (9th Cir. Sept. 19, 2025), is attached as Appendix A. The district court's amended order imposing the restitution at issue, *United States v. Matthew Lee Pelton*, 21-cr-00351-JSW, CR 191 (N.D. Cal. Oct. 18, 2023), is attached as Attachment B.

JURISDICTION

The Ninth Circuit entered its order affirming the lower court's restitution order on September 19, 2025, *see* App. A. On December 10, 2025, Petitioner's request for a 60-day extension of time to file the instant petition for a writ of certiorari was granted. *See* Application 25A679. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1). This petition is timely per Sup. Ct. R. 13.1 and 14.5.²

¹ The amendment to this Petition for Writ of Certiorari corrects the date of the judgment sought to be reviewed in the "Jurisdiction" section on this page. This corrected Petition has been submitted within 60 days after the date of the Clerk's letter (dated February 18, 2026) in accordance with Sup. Ct. R. 14.5.

² *See* footnote 1, *supra*.

STATUTORY PROVISIONS

1. Title 18, Section 2259, of the United States Code states, in relevant part:

(a) In general. Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

(b) (1) Scope and nature of order. Directions. Except as provided in paragraph (2), the order of restitution under this section shall direct the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses.

...

(c) (2) Full amount of the victim's losses. For purposes of this subsection, the term "full amount of the victim's losses" includes any costs incurred, or that are reasonably projected to be incurred in the future, by the victim, as a proximate result of the offenses involving the victim, and in the case of trafficking in child pornography offenses, as a proximate result of all trafficking in child pornography offenses, including –

(A) medical services relating to physical, psychiatric, or psychological care;

(B) physical and occupational therapy or rehabilitation;

(C) necessary transportation, temporary housing, and child care expenses;

(D) lost income;

(E) reasonable attorneys' fees, as well as other costs incurred; and

(F) any other relevant losses incurred by the victim.

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STATEMENT OF THE CASE

- I. **Petitioner pleads guilty, and the district court orders restitution in excess of \$903,000 pursuant to 18 U.S.C. § 2259, over \$340,000 of which was awarded for “productivity losses” and “quality of life losses.”**

Petitioner entered guilty pleas to violating 18 U.S.C. § 2251(a), (e) (Conspiracy to Produce Child Pornography) and 18 U.S.C. §§ 2251 (a), (e) and 2 (Production of Child Pornography and Aiding and Abetting). CR 136, 137, 175.³ While Mr. Pelton agreed to pay restitution in an amount to be set by the court at sentencing, the plea agreement contained no specific amount or estimated range for the restitution to be imposed, noting only that restitution was to be determined by the court; that, pursuant to 18 U.S.C. § 3663(a)(3), the amount would not be limited to the loss attributable to the counts to which Mr. Pelton pleaded guilty; and that the court would not consider Mr. Pelton’s economic circumstances in determining the restitution amount. CR 136, 175. The district court sentenced Mr. Pelton to a term of 30 years’ imprisonment in the Bureau of Prisons. CR 156, 194. According to the Bureau of Prisons, Petitioner’s current projected release date is March 25, 2047. See <https://www.bop.gov.inmateloc/> (Reg. No. 62879-509) (last visited January 26, 2026).

The district court subsequently held a hearing to determine the amount of restitution to be awarded. Noting that, pursuant to 18 U.S.C. § 2259, a court must impose restitution for “the full amount of the victim’s losses,” the district court

³ CR” refers to the lower federal district court record, specifically to the document’s ECF number on the district court’s docket record for *United States v. Pelton*, 3:21-cr-00351-JSW (N.D. Cal.).

concluded this included “productivity losses” and “quality of life losses” and entered a restitution order on October 18, 2023, (amending said order on the same date) in the amount of \$903,773.30. CR 191; App. B. This amount included restitution in excess of \$340,000 to one of the minor victims for “productivity and quality of life losses,” for which the district court relied upon one study referenced in an out-of-circuit district court case, the stated purpose of which was to provide “relevant data for policymakers who plan and prioritize funding and resources” and “an accurate and up-to-date estimate of the U.S. economic impact of [child sexual abuse],” as well as reports authored by the doctor and psychologist who evaluated the minor victim.

Id.

- II. Petitioner appeals the restitution order to the Ninth Circuit, and the Circuit ultimately affirms based on the summary determination that the award fell within the statutory framework of 18 U.S.C. § 2259 and, subsequently, that such an award was proper as “other relevant losses.”**

Petitioner timely appealed pursuant to 28 U.S.C. § 1291. *United States v. Matthew Lee Pelton*, 23-3242 (9th Cir.). On appeal before the Ninth Circuit, Petitioner argued, *inter alia*, that the district court’s order for restitution for “productivity and quality of life losses” was erroneous as such non-pecuniary losses are outside the scope of that contemplated and permitted by the statutory scheme set forth in 18 U.S.C. § 2259; and that criminal restitution as part of a sentence

remains a criminal, not a civil, penalty and should not be confused with civil damages. ACR 15.1, 32.1⁴

By way of a memorandum disposition, the Ninth Circuit affirmed the district court's order awarding restitution for "productivity losses" and "quality of life losses." ACR 46.1; App. A. The summary affirmance stated, in pertinent part:

The court also awarded Minor Victim #2 \$346,242.76 in productivity and quality of life losses as "other relevant losses" under § 2259(c)(2)(F). In arriving at this award, the district court considered (i) reports from medical and mental health professionals, (ii) scholarship highlighting the long-term economic consequences of child sex abuse, (iii) other cases where courts awarded similar restitution amounts, and (iv) statistics on the economic consequences of child abuse from the Centers for Disease Control.

The district court had broad discretion to calculate a mandatory restitution award. In exercising that discretion, it considered expert medical advice, scholarly literature, and relevant statistics to arrive at its decision. That we may have awarded a different amount in the first instance does not justify reversal. ... Given § 2259's broad language and its reasoned decision, the district court did not abuse its discretion.

Id. at pp. 3-4.

REASONS FOR GRANTING THE WRIT

- I. **The Ninth Circuit's opinion cannot be reconciled with the purpose – and necessary and inherent limits – of criminal restitution, including that mandated by 18 U.S.C. § 2259, nor can it be reconciled with this Court's recent holdings.**

This Court recently held that "the statutory text and structure of the [Mandatory Victim's Restitution Act] demonstrate that restitution under that

⁴ "ACR" refers to the lower federal appellate court record, specifically to the document's docket number on the Ninth Circuit's docket record for *United States v. Pelton*, Case No. 23-3242.

Act is criminal punishment.” *Ellingburg v. United States*, 607 U.S. ____ (2026) (2026 U.S. LEXIS 504 at *8). Indeed, this Court found that “MVRA restitution is labeled as a penalty, is codified in the criminal code, is predicated on a criminal conviction, is imposed against a criminal defendant, is sometimes imposed in lieu of other penalties, is ordered at sentencing where the United States is the adverse party, and can result in resentencing when the defendant refuses to pay.” *Ellingburg*, 607 U.S. at ____ (2026 U.S. LEXIS 504 at *7).

So, too, does the statutory text and structure of 18 U.S.C. § 2259 demonstrate that a restitution award under said statute is criminal punishment. Indeed, an assessment of the history and purpose of criminal restitution, generally, and 18 U.S.C. § 2259, specifically, confirms that non-pecuniary damages such as “quality of life losses” and “productivity losses” are outside the scope of the actual losses and costs incurred contemplated and permitted by 18 U.S.C. § 2259 and, thus, are not properly awarded as criminal restitution.

In 1982, by way of the VWPA, federal courts had discretion to award restitution in criminal cases, *see* Pub. L. No. 97-291, 1982 S 2420 (first enacted as 18 U.S.C. § 3579, now codified at 18 U.S.C. § 3663). *United States v. Hardy*, 707 F. Supp. 2d 597, 602 (W.D. Pa. 2010). Twelve years later, in 1994, Congress enacted 18 U.S.C. § 2259 as part of the Violence Against Women Act (“VAWA”), mandating restitution for certain offenses of conviction, *see* Pub. L. No. 103-322, 108 Stat.

1796. *Hardy* at 602. A mere two years later, Congress followed suit with the MVRA of 1996, *see* Pub. L. No. 104-132, 110 Stat. 1214, amending §§ 2259 and 3663 and creating 18 U.S.C. § 3663A, mandating restitution for a broad range of crimes of violence and crimes against property. *Id.* Later, in 2004, Congress enacted the Crime Victims' Rights Act ("CVRA"), in which it reiterated the right to restitution created by the MVRA, *see* Pub. L. No. 108-405, 118 Stat. 2260. *Id.*

Prior to enacting § 2259 and the MVRA, the Supreme Court considered the purpose of discretionary restitution under the VWPA and held that "Congress meant restitution to compensate the victim for his or her loss, and explained that this was the reason restitution is tied to the loss caused by the offense of conviction." *Hardy* at 603 (quoting *Hughey v. United States*, 495 U.S. 411, 418 (1990)). As reflected in the legislative history, with the enactment of § 2259 and the MVRA, Congress intended to create a streamlined process that awarded restitution to all identifiable victims suffering costs incurred and an actual loss, creating a uniform scheme for ordering restitution in criminal cases and bringing the permissive and mandatory restitution statutes into conformity with one another. *Hardy* at 609 (citing S. Rep. No. 104-179 (1995)).

Certainly, § 2259 is phrased in generous terms, seeking to compensate the victims of sexual abuse for the full amount of their losses, including costs for mental health care costs already incurred, as well as those required in the future, to address the long-term effects of their abuse. *See, e.g., United States v. Laney*, 189 F.3d 954, 966 (9th Cir. 1999). But courts have agreed that criminal restitution as

part of a sentence “remains a criminal, not a civil, penalty” and should not be confused with civil damages. *Id.*; see also *United States v. Ramilo*, 986 F.2d 333, 336 (9th Cir. 1993) (“Under the [VWPA], restitution is part of the criminal sentence”); *United States v. Baggett*, 125 F.3d 1319, 1322 (9th Cir. 1997) (restitution ordered under the MVRA constitutes punishment for purpose of Ex Post Facto analysis); see also *United States v. Aguirre-Gonzales*, 597 F.3d 46, 52 (1st Cir. 2010). This Court’s holding in *Ellingburg*, *supra*, affirms this.

Yet, in its summary affirmance in the instant case, the Ninth Circuit improperly expanded the scope of this punishment beyond costs incurred (and costs to be incurred) to include non-economic damages – an expansion never before seen. Contrary to the Ninth Circuit’s claim that the district court considered “other cases where courts awarded similar restitution amounts,” see App. A at 3), other cases have *not* awarded non-economic damages. Indeed, in *United States v. Whitley*, 354 F. Supp. 3d 930 (N.D. Ill. 2019), the only case cited by the district court in support of this award for non-economic damages, the restitution amount had been agreed to by the parties based on a predetermined calculation of the funds remaining in the defendant’s retirement account after application of an agreed-upon fine and other case-related costs⁵, and the court found that the award would address the identified losses, all of which fell within in the purview of § 2259 (mental and physical health, transportation, housing, child care, educational and occupational expenses).

Whitley, 354 F. Supp. 3d at 935-36, 938.

⁵ See *United States v. Whitley*, N.D. Ill. Case No. 16-cr-00719, ECF Doc. 92.

Previous cases in which criminal restitution had been sought for damages similar to those at issue here resulted in court's properly denying such compensation as criminal restitution. By way of example, *United States v. Erickson*, 388 F. Supp. 3d 1086 (D. Minn. 2019) presented a situation where the victim sought restitution for "loss of enjoyment of life" under 18 U.S.C. § 2259. In *Erickson*, the government properly conceded – and the court found – that "loss of enjoyment of life is not compensable under § 2259." *Erickson*, 388 F. Supp. 3d at 1092.

The proper mechanism to recover for such non-pecuniary damages, including pain and suffering, mental and emotional distress, or other "quality of life" losses is found in 18 U.S.C. § 2255. *See, e.g., Doe v. Hesketh*, 828 F.3d 159, 170 (3d Cir. 2016) ("[c]ivil actions, such as that provided in § 2255, also allow a victim to recover additional categories of damages *not compensable as part of restitution* ... such as pain and suffering or mental and emotional distress, which may not be available under the restitution statutes.") (*emphasis added*) (citing *United States v. Berk*, 666 F. Supp. 2d 182, 192 n.9 (D. Me. 2009) (expressing doubt that the mandatory restitution provision in § 2259 was intended to permit restitution for pain and suffering)). The *Berk* court further observed that, with the chosen verbiage in federal criminal restitution statutes, including 18 U.S.C. § 2259, authorizing restitution for the victim's "losses," "Congress decided that criminal restitution should be limited to the victim's readily identifiable expenses *and should not be extended to include damages which are difficult to calculate, such as pain and*

suffering.” *Id.* (quoting Note, *Restitution in the Criminal Process: Procedures for Fixing the Offender’s Liability*, 93 Yale L.J. 505, 509, n.16 (1984)) (*emphasis added*).

Criminal restitution is part of a criminal sentence – it remains a criminal, not a civil, penalty. *See Ellingburg, supra*. Accordingly, criminal restitution must not be confused with civil damages. This is what the previous courts to have addressed similar issues have found, *see Erickson, Hesketh, and Beck, supra; see also United States v. Rothenberg*, 923 F.3d 1309, 1339 (11th Cir. 2019) (rejecting the government’s request for criminal restitution under § 2259 in the amount of \$150,000 (amount based on the statutory amount authorized under Masha’s Law (18 U.S.C. § 2251)), finding that Masha’s Law does not provide much guidance in determining criminal restitution under § 2259 as the damages available to a plaintiff in a civil lawsuit, including an award for noneconomic damages such as “pain and suffering,” may be “quite different from the concrete ‘costs incurred’ for which § 2259 provides recompense”).

The Ninth Circuit’s decision cannot be reconciled with the constitutional and statutory limits on criminal restitution, generally, and criminal restitution sought pursuant to 18 U.S.C. § 2259, specifically. Non-pecuniary damages such as “quality of life losses” and “productivity losses” are not readily identifiable expenses that are appropriately awarded as criminal restitution under 18 U.S.C. § 2259. The Ninth Circuit’s error in affirming these non-pecuniary damages as criminal restitution is not nominal: the amount awarded by the district court, affirmed by the Ninth Circuit, was in excess of \$340,000 – more than one-third of the total restitution

award, and well over half of the restitution award for Minor Victim 2 alone. *See* App. B.

This Court should grant this petition to resolve whether the Ninth Circuit’s decision comports with this Court’s and other circuits’ precedents addressing the propriety of, and limitations on, criminal restitution orders.

CONCLUSION

For the foregoing reasons, this Court should grant this petition for a writ of certiorari. Alternatively, this Court should grant, vacate, and remand for entry of a new restitution order that does not include an award for “productivity losses” and “quality of life losses.”

Dated: February 24, 2026.

Respectfully submitted,

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