

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

LOUIS D. COLEMAN III,
Petitioner,

v.

UNITED STATES,
Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Under the federal kidnapping statute, “[w]hoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and *holds* for ransom or reward or otherwise any person” shall be punished by up to life imprisonment, and by death or life imprisonment if “the death of any person results.” 18 U.S.C. § 1201(a) (emphasis added).

Under this Court’s precedent, “holding a kidnapped person for a proscribed purpose necessarily implies an unlawful physical or mental restraint for an *appreciable period* against the person’s will and with a willful intent so to confine the victim.” *Chatwin v. United States*, 326 U.S. 455, 460 (1946) (emphasis added).

The Question Presented, upon which the circuits are divided, is:

For the government to obtain a conviction under the federal kidnapping statute, must it prove that a person was held for an appreciable period separate and apart from the restraint committed during another offense, such as assault or robbery?

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**IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

The petitioner, Louis Coleman, respectfully seeks a writ of certiorari to review the judgment of the United States Court of Appeals for the First Circuit.

OPINIONS BELOW

The reported opinion of the Court of Appeals is found at Appendix A and at *United States v. Coleman*, 149 F.4th 1 (1st Cir. 2025). Appendix B contains the unreported order denying Mr. Coleman’s timely petition for rehearing en banc. The district court did not issue a written order related to the question raised here.

JURISDICTION

The Court of Appeals entered judgment on July 21, 2025. On December 22, 2025, the First Circuit denied Mr. Coleman’s timely petition for rehearing en banc. This petition is being filed within ninety days of that denial. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISION INVOLVED

KIDNAPPING

18 U.S.C. § 1201(a)

(a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, when—

(1) the person is willfully transported in interstate or foreign commerce, regardless of whether the person was alive when transported across a State boundary, or the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense;

(2) any such act against the person is done within the special maritime and territorial jurisdiction of the United States;

(3) any such act against the person is done within the special aircraft jurisdiction of the United States as defined in section 46501 of title 49;

(4) the person is a foreign official, an internationally protected person, or an official guest as those terms are defined in section 1116(b) of this title; or

(5) the person is among those officers and employees described in section 1114 of this title and any such act against the person is done while the person is engaged in, or on account of, the performance of official duties,

shall be punished by imprisonment for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment.

INTRODUCTION

The federal kidnapping statute requires that the victim be “held.” 18 U.S.C. § 1201(a). This Court has explained that the victim must be held for “an appreciable period.” *Chatwin v. United States*, 326 U.S. 455, 460 (1946).

Five circuits have held that this “appreciable period” does not include any period of restraint that was inherent in the commission of another offense. *See United States v. Murphy*, 100 F.4th 1184, 1199 (10th Cir. 2024) (noting these circuits “sought to preserve the distinctive nature of kidnapping by interpreting the offense to require an appreciable temporal period of detention (i.e., holding) beyond that inherent in the commission of another offense”); *Government of the Virgin Islands v. Berry*, 604 F.2d 221 (3d Cir. 1979); *United States v. Howard*, 918 F.2d 1529 (11th Cir. 1990); *United States v. Jackson*, 24 F.4th 1308 (9th Cir. 2022); *United States v. Krivoi*, 80 F.4th 142 (2d Cir. 2023); *see also United States v. Abdullahi*, 144 F.4th 1034, 1039-40 (8th Cir. 2025) (noting agreement among circuits).

In the decision below, the First Circuit expressly rejected that view: “Although several of our sister circuits have held that the appreciable period requirement is not met when a kidnapping is incidental to the commission of another crime, such as extortion or assault, we disagree and reject that view.” App.

A at 45.¹

¹ Citations are as follows: App. A, App. B, and App. C refer to the appendices to this petition. Coleman Br., Pro Se Br., Reply Br., JA.X, and Pet. Reh’g En Banc refer to the counseled opening brief, pro se opening brief, counseled reply brief, joint

This circuit conflict is untenable. The federal kidnapping statute carries severe penalties, including death or life imprisonment if death resulted from the offense. 18 U.S.C. § 1201(a). As this case illustrates, the First Circuit's rule allows the federal government to essentially transform state offenses into federal kidnapping offenses with the most severe penalties. Such important questions of liberty cannot depend on geography.

This case implicates the split and is an excellent vehicle for resolving it. The First Circuit acknowledged the split and squarely held that the time inherent in another offense can be part of the appreciable hold required to prove kidnapping. App. A at 44-47. The government alleged that Mr. Coleman committed other crimes during the charged kidnapping. App. A at 16, 46. In five other circuits, the period of restraint inherent in those offenses would not have been considered part of appreciable period of holding. Excluding the period of restraint inherent in other offenses from the appreciable period of holding required to prove kidnapping would have changed the result in this case. As a result of his conviction for kidnapping resulting in death, Mr. Coleman is serving a life sentence without the possibility of parole.

appendix volume X, and petition for rehearing en banc that Mr. Coleman filed in *United States v. Coleman*, Nos. 22-1882, 23-1315, 23-1322, United States Court of Appeals for the First Circuit.

STATEMENT OF THE CASE

I. History of the Federal Kidnapping Act.

The Federal Kidnapping Act was enacted in 1932 “against a background of organized violence”:

Ruthless criminal bands utilized every known legal and scientific means to achieve their aims and to protect themselves. Victims were selected from among the wealthy with great care and study. Details of the seizures and detentions were fully and meticulously worked out in advance. Ransom was the usual motive. Law enforcement authorities, lacking coordination, with no uniform system of intercommunication and restricted in authority to activities in their own jurisdiction, found themselves laughed at by criminals bound by no such inhibitions or restrictions.... The procedure was simple—a man would be kidnapped in one State and whisked into another, and still another, his captors knowing full well that the police in the jurisdiction where the crime was committed had no authority as far as the State of confinement and concealment was concerned.

Chatwin, 326 U.S. at 462-63 (internal quotations omitted). The statute was meant to “assist the states in stamping out this growing and sinister menace of kidna[p]ping.” *Id.* at 463. “Given added impetus by the emotion which gripped the nation due to the famous Lindbergh kidnaping case, the federal statute was speedily adopted.” *Id.*

The current statute provides that “[w]hoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person” shall be punished by up to life imprisonment, and by death or life imprisonment if “the death of any person results.”² 18 U.S.C. § 1201(a). This

² The quoted part of the kidnapping statute is substantively unchanged from the version considered in *Chatwin*: the Federal Kidnapping Act “punishes any one who knowingly transports or aids in transporting in interstate or foreign commerce ‘any person who shall have been unlawfully seized, confined, inveigled, decoyed,

Court has held that “the purpose of the Act was to outlaw interstate kidnap[pl]ings rather than general transgressions of morality involving the crossing of state lines” and that “the broad language of the statute must be interpreted and applied with that plain fact in mind.” *Chatwin*, 326 U.S. at 464. Applying this framework, *Chatwin* held that “holding a kidnapped person for a proscribed purpose necessarily implies an unlawful physical or mental restraint *for an appreciable period...*” *Id.* at 460 (emphasis added). It did not further define “hold” or “appreciable period.”

II. Factual background of this case.

Louis Coleman and Jassy Correia met outside a Boston club in the early morning on February 24, 2019. App. A 12-14; *see also* App. C at 2 (setting out timeline of their meeting and interactions). After a brief conversation, they walked for about 6 minutes to his car on Tremont Street, where she got in willingly. App. A at 12-14, 46 & n.35; App. C at 2. Mr. Coleman drove away from the highway for 1 minute, stopped for about 3 minutes, then drove for approximately 2 minutes in a mile-long loop, returning to Tremont Street (now facing the highway) about half a mile from where they started. App. A at 14; App. C at 2. About 15 minutes after they met, Mr. Coleman parked on Tremont Street for 12 minutes. App. A at 14; App. C at 2. There is no video of what happened inside the car during that time. App. A at 14. Mr. Coleman drove to the highway after this 12-minute stop. *Id.*

kidnapped, abducted, or carried away by any means whatsoever and held for ransom or reward or otherwise....” 326 U.S. at 456 (quoting 18 U.S.C. § 408a).

Nearly 2 hours after they met, Mr. Coleman returned to his apartment in Rhode Island and carried Ms. Correia's body inside. *Id.*

The government charged Mr. Coleman with kidnapping resulting in death in violation of 18 U.S.C. § 1201(a)(1). App. A at 16. It argued that Mr. Coleman lied to Ms. Correia to get her to join him and that he assaulted, sexually assaulted, and killed her during the 12-minute stop. *Id.* at 16, 46. Mr. Coleman contended that he and Ms. Correia had consensual sex and that she died as the result of an unexpected altercation during the drive to Rhode Island. *Id.* at 16. Mr. Coleman was convicted and sentenced to mandatory life without parole.³ App. A at 16.

Mr. Coleman argued on appeal that there was insufficient evidence that he held Ms. Correia for an appreciable time, and he relied on the five circuit cases that adopted the majority view of the kidnapping statute.⁴ App. A at 45-47; *see also* Coleman Br. at 64-66; Reply Br. at 27-43. In part, Mr. Coleman argued that the restraint inherent in the alleged assault, sexual assault, and homicide could not be part of the appreciable period of holding. App. A at 45-47; *see also* Coleman Br. at 64-66; Reply Br. at 27-43. Specifically, he argued that the court had to exclude the 12-minute stop during which the government alleged that he assaulted, sexually assaulted, and killed Ms. Correia. App. A at 45-47; *see also* Coleman Br. at 64-66; Reply Br. at 27-43. This alleged 12-minute period of restraint was inherent in those crimes and cannot be part of the appreciable hold required by § 1201. Mr. Coleman

³ The government did not seek the death penalty.

⁴ He preserved this argument by filing Rule 29 motions below. *See* App. A at 42; *see also* JA.III at 1814; JA.IV at 1949-50, 2271, 2297.

also argued that the court erred by not instructing the jury that it had to find that Ms. Correia was held for an appreciable period separate from the restraint inherent in these other offenses.⁵ App. A at 52; Pro Se Br. at 3.

The First Circuit expressly rejected these legal arguments and the consensus view adopted by the five circuits: “Although several of our sister circuits have held that the appreciable period requirement is *not* met when a kidnapping is incidental to the commission of another crime, we disagree and reject that view.” App. A at 45; *see also Murphy*, 100 F.4th at 1199 (describing agreement among circuits). The First Circuit acknowledged that these five “circuits generally treat kidnapping as incidental to another crime when the time of the hold is not considerably longer than the time it takes to commit the other crime.” App. A at 45 (citing *Berry*, 601 F.2d at 227; *Howard*, 918 F.2d at 1535-36; *Jackson*, 24 F.4th at 1314; *Krivoi*, 80 F.4th at 153; *Murphy*, 100 F.4th at 1199). But the First Circuit “decline[d] to adopt the requirement formulated in” those cases “that when a victim is necessarily held during the commission of another crime (e.g., assault or homicide), the hold must be appreciably longer than the time it takes to commit that offense.” *Id.* It explained that the statute “uses only the word ‘holds’” and that context does not suggest “an ‘incidental kidnapping’ exception.” *Id.* It wrote that *Chatwin* was concerned with “the risk of prosecuting immoral, not illegal behavior.” *Id.* It concluded that the

⁵ The district court instructed that the victim had to be detained for an appreciable period. App. A at 52. It denied Mr. Coleman’s request to instruct the jury that the victim had to be detained for an appreciable period “beyond the time inherent in her death and alleged sexual assault.” *Id.*

requirement that the victim be held “for an appreciable period” would “ensure that the federal kidnapping statute, which carries severe penalties, is not applied to situations ‘lacking the characteristics of true kidnap[pl]ings.’” *Id.* (quoting *Chatwin*, 326 U.S. at 464). It provided no test or definition for “hold” or “appreciable period.”

The First Circuit concluded that whether Ms. Correia was held for 27 minutes or 21 minutes,⁶ there was an appreciable hold sufficient to prove kidnapping. *Id.* at 46. Had the court applied the majority rule, it would have excluded the time inherent in another offense—at least the 12-minute stop during which the government alleged that Mr. Coleman sexually assaulted and killed Ms. Correia. It would then have had to determine whether a substantially shorter time—as little as the 9 minutes they spent in his car before the 12-minute stop—was a hold for an appreciable period sufficient to support a federal kidnapping conviction. The First Circuit did not address this question. The court’s conclusion that the restraint inherent in another offense can be part of the required appreciable hold also dictated its ruling on the related jury-instruction issue. App. A at 52. The court held that instructions explaining the test adopted by the five other circuits were “not substantively correct as a statement of law.” App. A at 52 (“For the reasons we provided in rejecting Coleman’s argument that there was insufficient evidence of an appreciable hold, we also conclude that this proposed

⁶ The difference comes from subtracting the 6 minutes during which Mr. Coleman and Ms. Correia walked to his car. App. A at 46 & n.35. The First Circuit left open the question of whether Ms. Correia was held during those 6 minutes. *Id.*

instruction was not substantively correct as a statement of law, and thus the district court did not err in omitting it.” (internal citation omitted)).

Mr. Coleman filed a timely petition asking the First Circuit to review this aspect of the panel’s decision en banc. This petition emphasized the circuit split and the wide-reaching impact of the conflict. Pet. Reh’g En Banc at 1-18. The court denied this petition without explanation. App. B at 1.

REASONS FOR GRANTING THE PETITION

I. **The decision below expressly created a circuit split with five other circuits.**

In *Chatwin*, this Court explained that: “The act of holding a kidnapped person for a proscribed purpose necessarily implies an unlawful physical or mental restraint *for an appreciable period* against the person’s will and with a willful intent so to confine the victim.” 326 U.S. at 460 (emphasis added). As explained below, five circuits have held that the “appreciable period” does not include the restraint inherent in the commission of another offense. However, the First Circuit decision below expressly rejected that conclusion, squarely creating a 5–1 circuit conflict. App. A at 44-46.

A. **Five circuits have held that the federal kidnapping statute requires proof of a holding for an appreciable period separate from the restraint inherent in another offense.**

Applying *Chatwin*, five circuits have held that the restraint inherent in another offense cannot be part of the appreciable hold required to prove kidnapping. These courts followed the same path to formulating a test to distinguish the appreciable hold required for kidnapping from the restraint inherent in other

offenses. They recognized that neither § 1201 nor *Chatwin* defines “hold” or “appreciable period.” They acknowledged that without a limiting definition for these terms, the federal kidnapping statute subjects large swaths of conduct to harsh penalties. They agreed that kidnapping “require[s] an appreciable temporal period of detention (i.e., holding) beyond that inherent in the commission of another offense.” *Murphy*, 100 F.4th at 1199.

i. The Third Circuit—*Government of the Virgin Islands v. Berry*.

The Third Circuit confronted the issue first, in a case involving a “nearly identical” statute. *Berry*, 604 F.2d at 226. Citing *Chatwin*, *Berry* emphasized that “over literal interpretation of the kidnapping laws” would lead to individuals “who have committed such substantive crimes as robbery or assault which inherently involve the temporary detention or seizure of the victim” receiving “the far greater penalties prescribed by the kidnapping statute.” *Id.* at 226. The Third Circuit noted that state courts “limit[ed] severely the scope of their state kidnapping statutes” to avoid the “inequity inherent in permitting kidnapping prosecutions of those who in reality committed lesser or different offenses, of which temporary seizure or detention played an incidental part.” *Id.* It specified four factors to consider in deciding whether a hold was for an appreciable period:

(1) the duration of the detention or asportation; (2) whether the detention or asportation occurred during the commission of a separate offense; (3) whether the detention or asportation which occurred is inherent in the separate offense; and (4) whether the asportation or detention created a significant danger to the victim independent of that posed by the separate offense.

Id. at 227. After applying this test, the Third Circuit reversed the defendant’s kidnapping conviction because the only possible period of holding that was not inherent to another offense was a brief car ride. *Id.* at 228-29.

ii. The Eleventh Circuit—United States v. Howard.

Citing *Chatwin*, the Eleventh Circuit recognized that “the broadness of the statutory language’ requires an abundance of judicial discretion to limit its application to appropriate circumstances.” *Howard*, 918 F.2d at 1535-36. It noted that “[m]ost robberies, however, necessarily involve at least a momentary detention of the victim, and we cannot imagine that Congress intended to subject a robbery defendant to additional liability for kidnapping unless the detention was somehow excessive in relation to the underlying robbery.” *Id.* at 1535. In response to these concerns, the court “[a]dopt[ed] the *Berry* test” as a “viable” way “to distinguish kidnapping from other offenses involving asportation or detention of the victim.” *Id.* at 1535-36. After applying the *Berry* test, the Court overturned convictions for conspiracy and attempt to kidnap. *Id.* at 1536-37.

iii. The Ninth Circuit—United States v. Jackson.

The Ninth Circuit wrote that it did “not approach the federal kidnapping statute with a blank slate,” citing *Chatwin*’s warnings about its potential breadth. *Jackson*, 24 F.4th at 1311. It explained the importance of ensuring that it did not “convert the kidnapping statute into a steroidal version of the assault [and robbery] laws.” *Id.* at 1312. It then turned to the question of “how to distinguish facts that constitute kidnapping from those that do not.” *Id.* Finding “much in the *Berry*

factors to commend their use,” the court held that “in kidnapping prosecutions under 18 U.S.C. § 1201(a)(2), courts should consider the *Berry* factors to evaluate whether the charged conduct constitutes kidnapping.” *Id.* at 1313-14. Applying these factors, the court concluded that although the facts supported an assault conviction, the kidnapping conviction was not supported by sufficient facts and had to be overturned.

iv. The Second Circuit—United States v. Krivoi.

The Second Circuit noted that “hold” in § 1201 is ambiguous. *Krivoi*, 80 F.4th at 152-53. It held that *Chatwin* and canons of statutory interpretation, including the rule of lenity, dictate that it is “improper to adopt the broadest possible interpretation of the term ‘holds.’” *Id.* at 153 (“Just as the Supreme Court recognized the need to adopt a narrow reading of the kidnapping statute at issue in *Chatwin*, we recognize the dangers of reading the current version of the federal kidnapping statute too broadly.”). The court “adopt[ed] a narrowing gloss on the current kidnapping statute that is similar in key respects to the *Berry* test, but somewhat simplified and easier to apply.” *Id.*

It adopted a “simplified” version of the *Berry* test to avoid the “significant” danger of reading the kidnapping statute broadly. *Id.* at 153-54. It concluded that when someone is charged with kidnapping and another offense, the hold element of kidnapping is only met “if the defendant held the victim for a period that was appreciably longer than the time required to commit the other offense.” *Id.* at 153-54. It wrote that “like the *Berry* test, our approach separates the kidnappings that

defendants commit *in addition* to their other crimes from detentions that are merely necessary *components* of other crimes.” *Id.* It concluded that although the victim’s 30-minute detention was “relatively brief,” it was “longer than what they would have required if they had only extorted him” and was appreciable. *Id.*

v. The Tenth Circuit—United States v. Murphy.

The Tenth Circuit noted *Chatwin’s* “crucial limiting principle: courts must cabin § 1201 so as not to unfairly expand its breadth to reach offenses that do not inherently possess the characteristics of kidnapping.” *Murphy*, 100 F.4th at 1196–97. It wrote that without this principle, “any act of holding—however incidental—committed in connection with other criminal conduct could transform that other conduct into the distinct offense of kidnapping, and subject the perpetrator to the severe punishment imposed by the kidnapping statute.” *Id.* at 1197. The court “endorse[d]” the “unifying theme” from the four cases discussed above: “these courts have sought to preserve the distinctive nature of kidnapping by interpreting the offense to require an appreciable temporal period of detention (i.e., holding) beyond that inherent in the commission of another offense.” *Id.* at 1199. It held that “guided by *Chatwin*, we interpret the scope of § 1201 as requiring an appreciable period of detention (i.e., holding) beyond that necessary to commit any other offense.” *Id.* at 1202. It wrote that it was not necessary to “apply the *Berry* test because even under our less-formulaic approach, centered on *Chatwin*, we conclude that [these] kidnapping-related convictions cannot stand.” *Id.* at 1199 & n.12. It overturned the defendant’s kidnapping convictions because “the government did not present

sufficient evidence such that any reasonable juror could find beyond a reasonable doubt that Mr. Murphy held [the victim] for any appreciable period beyond the time necessary to effectuate his murder.” *Id.* at 1202.

B. The First Circuit expressly rejected the majority view.

The First Circuit rejected this approach to § 1201. App. A at 44-46. It recognized that *Chatwin* requires a holding for an appreciable period. *Id.* at 44. But it wrote that “[a]lthough several of our sister circuits have held that the appreciable period requirement is *not* met when a kidnapping is incidental to the commission of another crime, such as extortion or assault, we disagree and reject that view.” *Id.* at 45.

The majority circuits understood the need to narrow the definition of “hold” and “appreciable period,” and were guided by *Chatwin* and canons of construction in doing so. In contrast, the First Circuit did not recognize the ambiguity in the terms “hold” and “appreciable period.” It understood the majority rule as creating an “‘incidental kidnapping’ exception” rather than supplying a necessary definition. App. A at 45-46. While the five circuits recognized that a broad construction would allow § 1201 to be applied to non-kidnapping crimes typically left to the states, the First Circuit downplayed this possibility. App. A at 45-46. The five circuits understood that *Chatwin* was concerned with reserving the federal kidnapping statute for “true kidnap[pl]ings,” while the First Circuit read *Chatwin* narrowly as concerned with “the risk of prosecuting immoral, not illegal behavior.” *Id.* at 46.

Unlike the other five circuits, the First Circuit did not adopt a test or definition for “hold” or “appreciable period.”⁷ *Contrast Jackson*, 24 F.4th at 1312 (explaining that because *Chatwin* requires appreciable hold, courts must determine how to separate transitory holdings from kidnappings); *Cardozo v. United States*, 315 A.3d 658, 675 (D.C. Ct. App. 2024) (en banc) (“That still leaves the task of fleshing out what it means to hold or detain another, having concluded that a momentary seizure does not suffice.”). It offered no way to distinguish between another offense that includes restraint and the appreciable holding required to sustain a federal kidnapping conviction.

⁷ The First Circuit wrote that although it stood alone among the federal courts of appeals, “[t]he District of Columbia Court of Appeals rejected the *Berry* test in the context of D.C.’s kidnapping law, which was modeled after the federal statute....” App. A at 45, n.34 (citing *Cardozo v. United States*, 315 A.3d 658 (D.C. Ct. App. 2024) (en banc)). The analysis in *Cardozo* is more similar to the five circuits’ reasoning than it is to the First Circuit opinion below. *Cardozo* recognized that the kidnapping statute was “fairly opaque” and that neither it nor *Chatwin* defined “hold.” 315 A.3d at 663. It acknowledged that a broad construction would subject many relatively minor crimes to the harsh kidnapping penalties. *Id.* at 668-72. Instead of considering “whether the detention was incidental to some other offense,” it narrowed the statute by concluding that “holding” means keeping someone “in captivity for a substantial period of time like a hostage or prisoner.” *Id.* at 678, *see also id.* at 663 (“This conclusion is informed by (1) the statute’s text and context, (2) the statute’s legislative history and the harsh penalties it authorizes, (3) our obligation to avoid absurd statutory interpretations, and (4) the vast weight of authority interpreting the materially similar federal statute.”). It focused “on the duration of the detention” and expressed doubt that “detentions of less than thirty minutes should be sustained as kidnappings under our statute—unless there were some evidence that a lengthier detention was intended.” *Id.* Under the government’s theory, Mr. Coleman’s case involved a holding of 27 minutes at most, and there was no evidence that a longer detention was planned, so it does not involve a holding under the *Cardozo* test.

II. This issue is important and recurring.

This issue has been recurring in the federal courts since *Berry* was decided in 1979.⁸ *Jackson*, *Krivoi*, and *Murphy* were decided within the last five years. The confusion discussed in these cases stems from *Chatwin*, and only this Court can clarify its own precedent. This issue arises not only when prosecutors charge kidnapping under § 1201, but every time they consider charging an offense that involves restraint. The split is entrenched, and only this Court can resolve it. Mr. Coleman sought en banc review highlighting the circuit split. *See* Pet. Reh'g En Banc at 1-18. The First Circuit denied his petition without comment, and no judge called for a poll or a vote. App. B at 1. There is no reason to believe that any of the five circuits will change their position. This conflict is ripe for resolution.

The First Circuit's decision allows many offenses to be charged as kidnapping in a way that is not possible elsewhere in the country. Imagine that someone drove from Connecticut to Rhode Island, grabbed someone, forced that person into an alley, sexually assaulted that person, and returned to Connecticut. Federal prosecutors in Connecticut considering this case would apply *Krivoi*. 80 F.4th 142,

⁸ In addition to the six cases discussed above, two circuits have confronted this issue without deciding it. The Fifth Circuit noted the need to “avoid convicting a defendant for a crime which is in effect a necessary element of another crime....” *United States v. Peden*, 961 F.2d 517, 522-23 (5th Cir. 1992). The court did not formally adopt the *Berry* test because it concluded that the kidnapping before it would “survive[] the test.” *Id.* The Eighth Circuit noted the broad agreement among the circuits that there must be a limiting principle to distinguish “stereotypical kidnapping” from other offenses. *Abdullahi*, 144 F.4th at 1039-40. It did not decide the issue because it found that the jury could have concluded that the case before it involved “a kidnapping that was distinguishable from [the] robbery under any of the alternatives.” *Id.* at 1040.

153-54. The restraint inherent in the sexual assault could not fulfill the appreciable hold requirement, and the government could not sustain a federal kidnapping conviction. In contrast, federal prosecutors in Rhode Island would apply *Coleman*. App. A at 44-46. The restraint inherent in the assault could be an appreciable hold, and a federal kidnapping conviction a possibility. Such a conviction would carry a possible life sentence, or mandatory death or life if death resulted. Geography should not determine whether someone can be charged with federal kidnapping especially given the statute's severe penalties.

III. This case is an excellent vehicle for addressing this issue.

This case is an excellent vehicle for resolving the question of whether the appreciable period of holding required for a kidnapping conviction can include a period of restraint inherent in another offense. The issue was preserved below by Rule 29 motions and discussion at the charge conference. App. A at 42; *see also* JA.III at 1814; JA.IV at 1949-50, 2271, 2297. It was raised on appeal, and Mr. Coleman's briefs relied on the five cases discussed here. Coleman Br. at 64-66; Reply Br. at 27-43. In a published opinion issued after oral argument, the First Circuit squarely and explicitly split with five other circuits: "Although several of our sister circuits have held that the appreciable period requirement is not met when a kidnapping is incidental to the commission of another crime, such as extortion or assault, we disagree and reject that view". App. A at 45.

The First Circuit's rejection of Mr. Coleman's arguments depended on its conclusion that a period of restraint inherent in another offense could be part of the

appreciable period required to sustain a kidnapping conviction. App. A at 44-47. The government alleged that Mr. Coleman held Ms. Correia for 27 or 21 minutes.⁹ App. A at 46. It alleged that Mr. Coleman assaulted, sexually assaulted, and killed Ms. Correia while they parked for 12 minutes on Tremont Street. App. A at 16, 46. Those 12 minutes are a period of restraint inherent in non-kidnapping offenses. The First Circuit considered those 12 minutes when deciding whether the government had proven a hold for an appreciable period. App. A at 46-47. Had Mr. Coleman been prosecuted in one of the five other circuits, the court would have excluded this 12-minute period. The First Circuit did *not* hold that there would have been a kidnapping even without that 12-minute period in the car. *Id.* If the 12-minute period was not dispositive, the First Circuit would not have had to answer the question: it could have held that whether or not the time inherent in another offense had to be excluded, the facts here sufficed to establish a kidnapping. *See Abdullahi*, 144 F.4th at 1039-40 (avoiding question of adopting *Berry*-style test because conduct charged met that test); *Peden*, 961 F.2d at 522-23 (same). If those 12 minutes did not matter, there would have been no reason for the First Circuit to explicitly create a split with five other circuits.

⁹ The difference comes from subtracting the 6-minute period during which Ms. Correia and Mr. Coleman walked to his car. App. A at 56 & n.35; *see also* App. C at 2. Mr. Coleman argued that he did not “hold” Ms. Correia during the 6-minute walk. App. A at 56 & n.35. She joined him voluntarily, got in his car on her own, and they walked on well-lit and populated streets. *Id.* The First Circuit left open the question of whether there was a holding during those 6 minutes. *Id.*

Moreover, there is good reason to believe that 9 or 15 minutes would be insufficient.¹⁰ The DC Court of Appeals collected cases from state and federal courts concluding that holdings less than 30 minutes are not appreciable and cannot support kidnapping convictions. *Cardozo*, 315 A.3d at 677-78. At the very least, were Mr. Coleman to prevail in this Court, the First Circuit would be required to perform this more difficult analysis on remand.

This case is representative of the type of cases that raise this issue. It does not involve a “stereotypical kidnapping” where someone was held for ransom or held hostage or prisoner. The conduct alleged involves other crimes—assault, sexual assault, homicide—that are typically prosecuted by the states. Indeed, the facts of the case read like a garden-variety state assault/homicide case. The only reason it is federal is because Mr. Coleman drove approximately 50 miles from his home in Rhode Island to a club in Massachusetts and returned to his home in Rhode Island after the alleged crime. Had he lived in Boston or gone to a club in Providence, this would have been a state case. The First Circuit ruling creates a disparity in the type of cases that can be prosecuted as federal kidnapping, and this case offers an excellent vehicle for resolving this split.

IV. The First Circuit’s decision is wrong.

The federal kidnapping statute does not define “hold.” 18 U.S.C. § 1201. Without a definition, the statute’s potential breadth is vast:

¹⁰ Again, the length of this period depends on whether the 6-minute walk is considered a hold, an issue the First Circuit did not decide. App. A at 46 & n.35.

Were we to sanction a careless concept of the crime of kidnaping or were we to disregard the background and setting of the Act the boundaries of potential liability would be lost in infinity. A loose construction of the statutory language conceivably could lead to the punishment of anyone who induced another to leave his surroundings and do some innocent or illegal act of benefit to the former, state lines subsequently being traversed. The absurdity of such a result, with its attendant likelihood of unfair punishment and blackmail, is sufficient by itself to foreclose that construction.

Chatwin, 326 U.S. at 464-65. The five circuits adopting the majority rule recognized this potential breadth. As the Second Circuit explained, hold has many possible definitions:

Here, the surrounding statutory text—which requires the government to prove that a defendant “unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away” the person, 18 U.S.C. § 1201(a)—implies that the term “holds” refers to some form of compelled or physical restraint. But even narrowing the term “holds” to coerced actions doesn’t do much in the way of resolving ambiguities. Every handshake involves a physical holding of a sort, but surely that is not what Congress had in mind for this element of the federal kidnapping crime, and it is “well-established that a statute should be interpreted in a way that avoids absurd results.”

Krivoi, 80 F.4th at 153. A clear definition of “hold” is necessary to ensure the consistent application of § 1201.

The statutory context provides the starting point for defining “hold.” *See Chatwin* 326 U.S. at 463-64; *see also Leocal v. Ashcroft*, 543 U.S. 1, 9 (2004) (“Particularly when interpreting a statute as elastic a word as ‘use,’ we construe language in its context and in light of the terms surrounding it.”); *Cardozo*, 315 A.3d at 667 (“[I]gnor[ing] context and giv[ing] the words holding and detaining their broadest possible meanings...is simply not a defensible approach to statutory interpretation....”). “[T]he purpose of the Act was to outlaw interstate kidnap[pl]ings rather than general transgressions of morality involving the crossing of state lines.

And the broad language of the statute must be interpreted and applied with that plain fact in mind.” *Chatwin*, 326 U.S. at 464. Section 1201 was meant to address an “unusual or notorious situation relating to the inability of state authorities to capture and punish participants” in “true kidnap[pl]ings.” *Id.* As many traditional state-court offenses typically involve restraint—including assault, sexual assault, and robbery—the context of § 1201 shows that there must be a narrowing definition of “hold” to ensure that other offenses are not charged as federal kidnapping.

The rule of lenity also supports the need for a narrow definition of “hold.” *See Krivoi*, 80 F.4th at 153; *see United States v. Santos*, 553 U.S. 507, 514 (2008) (plurality opinion) (explaining rule of lenity “requires ambiguous criminal laws to be interpreted in favor of the defendants subjected to them”).

Principles of federalism further support the need for a narrow definition of “hold.” Evident throughout *Chatwin* and the five majority cases is the concern that a broad interpretation of § 1201 would turn conduct typically policed by the states into a serious federal offense. *See Chatwin*, 326 U.S. at 464; *Berry*, 604 F.2d at 226-27; *Murphy*, 100 F.4th at 1199; *Howard*, 918 F.2d at 1535; *Jackson*, 24 F.4th at 1311-12; *Krivoi*, 80 F.4th at 152-53. In the white-collar fraud context, this Court has recently noted the importance of not “plac[ing] under federal superintendence a vast array of conduct traditionally policed by the states.” *Ciminelli v. United States*, 598 U.S. 306, 315-16 (2023) (quoting *Cleveland v. United States*, 531 U.S. 12, 27 (2000)); *see also Snyder v. United States*, 603 U.S. 1, 14 (2024); *Ciminelli*, 598 U.S. at 312; *Kelly v. United States*, 590 U.S. 391, 403-04 (2020). Here too, the

words of a federal criminal statute meant to target specific conduct that could elude state enforcement must be interpreted in a way that does not subsume offenses typically policed by the states. The majority circuit approach alleviates these federalism concerns.

Chatwin specified that “hold” in § 1201 requires “restraint for an appreciable period,” but it did not define “appreciable period.” 326 U.S. at 460. The phrase “appreciable period” alone is not sufficient to separate other offenses involving restraint from kidnapping. *See, e.g., Jackson*, 24 F.4th at 1312 (explaining that because *Chatwin* requires appreciable hold, courts must determine how to separate transitory holdings from kidnappings); *Cardozo*, 315 A.3d at 675 (“That still leaves the task of fleshing out what it means to hold or detain another, having concluded that a momentary seizure does not suffice.”). The tests developed by the five circuits give courts and juries guidance in determining whether a period of restraint is sufficient to establish kidnapping or whether it is inherent in a non-kidnapping offense. They ensure consistency in the application of the federal kidnapping law and its harsh penalties.

The five majority circuits correctly applied *Chatwin*, canons of statutory construction, and principles of federalism to properly interpret § 1201. The federal kidnapping statute was enacted to target “true kidnap[pl]ings” involving interstate activity that was difficult for the states to police. *Chatwin*, 326 U.S. at 462-64. The narrowing definitions adopted by the five circuits ensure that the federal kidnapping statute and its penalties are reserved for the type of conduct Congress

wished to target. They ensure that crimes typically policed by the states do not become federal kidnapping convictions. They provide guidance to prosecutors, courts, and juries considering federal kidnapping charges, and ensure that there is consistency in how § 1201 is applied across jurisdictions. Congress has amended § 1201 since *Chatwin* and *Berry* were decided, most recently in 2006. It has never countermanded these cases or defined “hold” more broadly.

The First Circuit provided no persuasive reasons for rejecting the majority approach. The First Circuit did not define “hold” or “appreciable period.” App. A at 44-47. Despite acknowledging that *Chatwin* required courts to ensure that § 1201 was reserved for “true kidnap[p]ings,” the First Circuit provided no framework or test for ensuring that the federal kidnapping statute is not applied to other offenses. *Id.* The First Circuit framed the rules adopted by the other circuits as “exceptions” to the statute. App. A at 44-46. *Id.* These rules are not exceptions; they are definitions. *See, e.g., Krivoi*, 80 F.4th at 152-53 (discussing various possible meanings of hold); *see also Cardozo*, 315 A.3d at 664-65 (same).

In creating this split, the First Circuit misread *Chatwin* as being concerned with the risk of criminalizing immoral conduct, not of turning other criminal offenses into kidnapping. App. A at 45-46. *Chatwin* uses some language related to morality, but it also discusses the importance of ensuring that the kidnapping statute is reserved for interstate crimes that can only be prosecuted by the federal government and not applied to crimes that the states can charge and prosecute. *See Chatwin* 326 U.S. at 463-64.

The First Circuit gave short shrift to *Chatwin*, the context of the kidnapping statute, the rule of lenity, canons of statutory construction, and federalism concerns. Its decision to uphold Mr. Coleman's conviction shows that its ruling will permit federal kidnapping convictions in the First Circuit based on relatively short periods of restraint that are better understood as parts of other offenses. It created a circuit split that permits the prosecution of non-kidnapping offenses as federal kidnapping in the First Circuit and causes a major nationwide disparity in the application of §1201 and its serious penalties.

CONCLUSION

For the foregoing reasons, petitioner asks this Court to grant this petition for a writ of certiorari.

Respectfully submitted,



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