No. 25-6945

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

REPLY BRIEF FOR PETITIONER

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This case presents a question of statutory interpretation: what must the government prove to show that someone was *held* for an *appreciable period* to satisfy the federal kidnapping statute (18 U.S.C. § 1201(a)). *See* Pet. i, 3-4.[1] The government agrees that it must prove that someone was held for an appreciable period to secure a conviction under 18 U.S.C. § 1201(a). BIO 8, 10. The issue here is how to define a holding for an appreciable period. *See* Pet. i, 3-4. Specifically, whether the government must prove that someone was held for an appreciable period separate and apart from the restraint committed during another offense. *See id.* The circuits are divided on this legal question about the proper interpretation of § 1201(a). *See* Pet. 10-16.

Focusing on the facts of this case and those of cases in five other circuits, the government attempts to recast Mr. Coleman's claim as a factual-sufficiency issue and questions the existence of a circuit split on the statutory-construction issue presented. BIO I, 8, 13. Mr. Coleman argued in the courts below that the federal kidnapping statute requires proof of "'an appreciable temporal period of detention (i.e., holding) beyond that inherent in the commission of another offense.'" *See* Pet. 3 (quoting *United States v. Murphy*, 100 F.4th 1184, 1199 (10th Cir. 2024)). Five Circuits have adopted such a rule. *Id.* (noting agreement among circuits); *Government of the Virgin Islands v. Berry*, 604 F.2d 221 (3d Cir. 1979); *United*

[1] Citations are as follows: Pet. is Mr. Coleman's cert petition; BIO is the government's Brief in Opposition; and App. A is appendix A to the cert petition.

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). The First Circuit expressly rejected the majority rule: "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 (citing cases from five other circuits).

The resolution of this statutory-construction issue mattered. The government alleged that petitioner assaulted, sexually assaulted, and killed the victim during a 12-minute period. App. A at 16. Having rejected the majority approach to the kidnapping statute, the First Circuit did not require proof of an appreciable period of holding separate and apart from this 12-minute period. *See* Pet. 7-9. The government recognizes that the First Circuit's statutory interpretation controlled its sufficiency analysis. BIO 7-8. Had the court instead adopted the majority approach, deciding whether there was an appreciable period of holding would have entailed a different, more difficult, legal analysis. *See* Pet. 4, 19-20.

This case presents an important issue of statutory interpretation on which the circuits are divided. *See* Pet. 10-18. This issue potentially arises in any federal case that involves restraint, and the First Circuit approach permits more crimes to be charged as kidnapping than the majority approach. *See* Pet. 17-18. The issue

involves the interpretation of this Court's cases, which only this Court can resolve. This case presents an excellent vehicle for it to do so. *See* Pet. 18-20.

I. The First Circuit's conclusion that there was sufficient evidence to support the kidnapping conviction rested on its incorrect interpretation of § 1201(a), a statutory-construction issue on which the circuits are split.

The government argues that the First Circuit "correctly determined that the evidence was sufficient for a reasonable jury to find that petitioner held [the victim] for an appreciable period." BIO 10. In support, it notes that the victim was "confined" for at least 21 minutes, moved from her initial location, and isolated from her friends. BIO 10-11; *see also* BIO I. In making this argument, and in framing the question presented, the government ignores the legal error Mr. Coleman raises. This detention was only longer than 20 minutes if the 12 minutes that were incidental to other offenses are included. *See* Pet. 9. Under the majority approach, there would need to be an appreciable hold apart from those 12 minutes. *See* Pet. 11-15. Departing from the majority approach, the First Circuit did not perform that analysis. *See* Pet. 15-16.

Mr. Coleman does not ask this Court to review whether there was a holding for an appreciable period if the 12 minutes are included. He asks it to determine whether the First Circuit erred by disagreeing with five other circuits in construing the kidnapping statute to not require an appreciable hold separate and apart from the restraint inherent in other offenses.

II. Five circuits have held that a federal kidnapping conviction requires proof that a person was held for an appreciable period separate and apart from the restraint committed during another offense.

While the government maintains that there is no justification for requiring proof that a person was held for an appreciable period separate and apart from the restraint involved in another offense (BIO 11-13), five circuits have adopted just such a rule. *See* Pet. 11-15.

Relying on *Chatwin v. United States*, 326 U.S. 455 (1946), five circuits have held that the restraint inherent in another offense cannot satisfy the appreciable hold required to prove kidnapping. *Id.* They formulated tests to distinguish the appreciable hold required for kidnapping from the restraint inherent in other offenses. *Id.* They acknowledged that without a limiting definition for "hold" or "appreciable period," the federal kidnapping statute subjects large swaths of conduct to harsh penalties. *Id.* 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; *see also* Pet. 11-15. The government does not engage with the legal reasoning in these cases or explain why it is incorrect. The First Circuit explicitly recognized that it was departing from this legal interpretation and creating a circuit split. App. A at 44-46; *see also* Pet. 10-18.

The hypotheticals the government offers are inapt. It suggests that "[k]eeping someone confined for seven days so that she starves to death" would not be kidnapping under the majority approach. BIO 11. None of the cases cited by the petitioner or government involve similar facts, and the majority approach would not

lead to this result. Similarly, the government complains that under the majority approach, a "kidnapper who assaulted and murdered his victim would be less likely to be convicted than one who merely held her against her will" and that "a defendant could escape conviction if the kidnapping was temporally coextensive with some other crime, such as an interstate carjacking." BIO 12. In making these arguments, the government presupposes that the crimes involved were "kidnapping." Kidnapping is defined by statute and requires proof of certain elements. Under the majority approach, a crime is only a kidnapping if it includes a hold for an appreciable period separate and apart from the restraint committed during another offense. *See* Pet. 11-15. If a crime does not have that separate appreciable period of holding, it is not a kidnapping. Someone who committed assault, murder, or carjacking with no period of detention beyond that required by those offenses could be convicted of assault, murder, or carjacking—not kidnapping.

The government relies on a D.C. Court of Appeals case. BIO 12 (citing *Cardozo v. United States*, 315 A.3d 658 (D.C. 2024) (en banc)). *Cardozo* included much of the same reasoning as the five circuits but fashioned a different test. *See* Pet. 16, n.7. *Cardozo* recognized that the kidnapping statute was "fairly opaque" and that a broad construction of "hold" would subject many relatively minor crimes to harsh penalties. *Cardozo*, 315 A.3d at 663, 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.

It doubted 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. *See* Pet. 16, n.7. The government does not contest Mr. Coleman's assertion that the facts of his case would not be a kidnapping under *Cardozo*.

III. This circuit split involves a question of statutory construction, not a question of factual sufficiency. The First Circuit misinterpreted § 1201(a) and did not perform the proper analysis to determine whether this case involved an appreciable hold. The statutory-construction issue is important, recurring, and outcome determinative in this case and many others.

The government tries to minimize the circuit split by arguing that "[i]t is not clear that all of those circuits would necessarily foreclose the possibility that a kidnapping may 'overlap[]' with the commission of another offense." BIO 13. This is not a question that the circuits addressed, and it is not an argument that Mr. Coleman has made. It is irrelevant to the issue here. The five majority circuits agree that determining whether there was a hold for an appreciable period requires a period of detention separate and apart from that committed during another offense. *See* Pet. 11-15; *Murphy*, 100 F.4th at 1199 (noting agreement among circuits); *see also Abdullahi*, 144 F.4th at 1039-40 (same). These circuits recognized their agreement. The First Circuit recognized its departure from this legal interpretation of § 1201(a) and concluded that no such distinct period of detention

was required. The government's suggestion that there is no meaningful split is inconsistent with the law and with the courts' understandings of their own rulings.

The government argues that the facts of the majority cases suggest that those courts would find an appreciable hold in Mr. Coleman's case. BIO 14-18. Rather than applying the tests described by the five circuits, the government attempts to distinguish the facts of this case from the facts facing the five circuits. *Id.* However, this petition raises the legal question of the proper construction of an element of the kidnapping statute, not the factual question of evidentiary sufficiency.

Requiring proof of an appreciable hold separate and apart from the restraint inherent in another offense would have changed the result here. *See* Pet. 4, 18-20. The First Circuit made a legal error in interpreting 18 U.S.C. § 1201. *See* Pet. 20-25. If this Court were to take the case and conclude that the First Circuit erred, it could remand for proceedings consistent with its opinion. On remand the First Circuit might determine that there was sufficient evidence even under the proper test. The fact that the lower court might reach the same conclusion on different grounds is not a reason to deny this petition. *See, e.g.*, *Skinner v. Switzer*, 562 U.S. 521, 537 (2011) (noting arguments "unaddressed by the courts below, are ripe for consideration on remand" and remanding "for further proceedings consistent with this opinion); *Cutter v. Wilkinson*, 544 U.S. 709, 718, n.7 (2005) (declining to consider "defensive pleas [that] were not addressed by the Court of Appeals"). This case warrants review because the First Circuit misinterpreted the federal kidnapping statute, not because of how it might apply the proper interpretation.

Moreover, the First Circuit believed that the 12 minutes mattered and that the result would have been different under the majority approach. *See* Pet. 18-20. Splitting from the majority approach meant that the court below did not determine whether there was an appreciable hold apart from the 12 minutes inherent in assault, sexual assault, and murder. App. A at 46-47. The majority approach would demand proof of an appreciable period of holding separate and apart from those 12 minutes. The First Circuit did *not* hold that there would have been a kidnapping even without the 12-minute period. *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 regardless of whether there must be an appreciable period of holding apart from the restraint inherent in another offense, the facts sufficed to prove kidnapping. *See Abdullahi*, 144 F.4th at 1039-40 (avoiding adopting *Berry*-style test because conduct charged met that test); *United States v. Peden*, 961 F.2d 517, 522-23 (5th Cir. 1992) (same). If the 12 minutes did not matter, there would have been no reason for the First Circuit to create a split with five other circuits. *See* Pet. 18-20.

There is reason to believe that a 9- or 15-minute hold would be insufficient to sustain a kidnapping conviction.[2] *See* Pet. 20. 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

[2] 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.

at 677-78. At the very least, were Mr. Coleman to prevail in this Court, the First Circuit would be required to perform this analysis on remand. *See* Pet. 20.

IV. The First Circuit misinterpreted § 1201(a) and this Court's precedent. It created a circuit split that will recur and cause disparities nationwide.

The federal kidnapping statute was enacted to target "true kidnap[p]ings" involving interstate activity that was difficult for the states to police. *Chatwin*, 326 U.S. at 462-64; *see also* Pet. 5-6. Section 1201 does not define "hold," and its potential breadth is vast. 18 U.S.C. § 1201; *see Chatwin*, 326 U.S. at 464-65; Pet. 5-6, 10-15. The question of how to define "hold" and "appreciable period" has recurred since *Berry* was decided in 1979. *See* Pet. 17. The split has its roots in *Chatwin*, and only this Court can clarify its own precedent. This issue potentially arises every time prosecutors consider charging an offense that includes restraint. The conflict is ripe for resolution.

The statutory context, rule of lenity, and principles of federalism support the narrowing definitions adopted by the five circuits. *See* Pet. 20-25. The narrowing definitions ensure that § 1201 and its penalties are reserved for the type of conduct Congress meant to target. *See id.* They ensure that crimes typically policed by the states do not become federal kidnapping convictions. *See id.* They ensure that there is consistency in how § 1201 is applied across jurisdictions. *See id.*

The First Circuit departed from this approach and created a circuit split. App. A at 45. It gave no persuasive reasons for rejecting the majority approach and did not define "hold" or "appreciable period." App. A at 44-47; *see also* Pet. 20-25. 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 split over the proper interpretation of § 1201(a) is untenable; a clear definition of "hold" and "appreciable period" is necessary to ensure the consistent application of § 1201. The federal kidnapping statute carries severe penalties. 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. The government has not contested Mr. Coleman's assertion that where a sexual assault involved restraint and travel from Connecticut to Rhode Island, different charges could be levied in the two states based on the difference between First and Second Circuit caselaw. *See* Pet. 17-18. Geography should not determine whether someone can be charged with federal kidnapping especially given the statute's severe penalties.

This case is representative of the type of cases that raise this issue. *See* Pet. 20. Mr. Coleman explained that his case was a "garden-variety state assault/homicide," not a "stereotypical kidnapping." *Id.* He wrote that the only reason this case is federal is because he "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." *Id.* "Had he lived in Boston or gone to a club in Providence, this would have been a state case." *Id.* The government does not contest these assertions or characterizations. 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. *See* Pet. 18-20.

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. *See* Pet. 20-25. 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 nationwide disparity in the application of §1201 and its serious penalties.

CONCLUSION

For the foregoing reasons, as well as those contained in his petition for a writ of certiorari, Mr. Coleman asks this Court to grant his petition for a writ of certiorari.

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