

No. 25A1044

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**IN THE SUPREME COURT OF THE UNITED STATES**

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**RODNEY IGNACIO-CASTRO,**  
*Petitioner,*

-v-

**UNITED STATES OF AMERICA,**  
*Respondent.*

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

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**PETITION FOR WRIT OF *CERTIORARI***

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## **QUESTIONS PRESENTED FOR REVIEW**

1. Whether the Fifth Circuit's expansion of the definition of a "controlled substance" to include drug proceeds, for purposes of U.S.S.G. § 2D1.1(b)(12), is in contradiction with its plain meaning and this Court's precedent?

## **PARTIES TO THE PROCEEDING**

Petitioner is Rodney Ignacio Castro.

Respondent is the United States of America.

No corporate parties are involved in this case.

## **RELATED PROCEEDINGS**

### **U.S. District Court:**

On September 11, 2024, judgment was entered against Petitioner Rodney Ignacio Castro in *United States v. Castro*, No. 1:22-cr-00115. (Appendix A).

### **U.S. Court of Appeals:**

On November 25, 2025, the Fifth Circuit published its opinion in the Appeal for Castro's matter, *United States v. Castro*, No. 24-40621 (5<sup>th</sup> Cir. 2025). Wherein the court affirmed the Petitioner's sentence. (Appendix B).

On December 29, 2025, the Fifth Circuit denied the Petitioner's petition for panel rehearing (Appendix C).

**TABLE OF CONTENTS**

QUESTIONS PRESENTED FOR REVIEW ..... II

PARTIES TO THE PROCEEDING ..... II

RELATED PROCEEDINGS.....III

TABLE OF CONTENTS.....IV

TABLE OF AUTHORITIES .....VI

PETITION FOR A WRIT OF CERTIORARI ..... 1

OPINIONS BELOW ..... 1

STATEMENT OF JURISDICTION..... 1

STATUTORY PROVISIONS INVOLVED .....2

INTRODUCTION .....2

STATEMENT OF THE CASE.....3

REASONS FOR GRANTING THE WRIT.....6

I. This Case Presents an Ideal Vehicle to Clarify the Proper Scope of the  
Premise Enhancement, as Intended by Congress. .... 6

CONCLUSION..... 17

CERTIFICATE OF SERVICE BY MAILING ..... 18

CERTIFICATE OF COMPLIANCE..... 19

**INDEX TO APPENDICES**

APPENDIX "A" Eastern District of Texas Judgment .....001a

APPENDIX "B" Fifth Circuit Opinion .....010a

APPENDIX "C" Fifth Circuit Denial for Panel Rehearing.....030a

APPENDIX "D" Order Granting Application for Extension of Time.....033a

## TABLE OF AUTHORITIES

| <b>Cases</b>   | <b>Page(s)</b> |
|--|----------------|
| <i>United States v. Tony</i> , 121 F.4th 56 (10th Cir. 2024) .....   | 8              |
| <i>United States v. Serfass</i> , 684 F.3d 548 (5th Cir. 2012) .....   | 8              |
| <i>United States v. Cross</i> , 371 F.3d 176 (4th Cir. 2004) .....   | 8              |
| <i>United States v. Gay</i> , 240 F.3d 1222 (10th Cir. 2001) .....   | 8              |
| <i>Mohamad v. Palestinian Auth.</i> , 566 U.S. 449, 132 S. Ct. 1702 (2012) .....   | 8              |
| <i>United States v. Fulford</i> , 662 F.3d 1174 (11th Cir. 2011) .....   | 8              |
| <i>United States v. Nam Van Hoang</i> , 636 F.3d 677 (5th Cir. 2011) .....   | 8              |
| <i>United States v. Dawson</i> , 32 F.4th 254 (3d Cir. 2022) .....   | 9, 11          |
| <i>Niz-Chavez v. Garland</i> , 141 S. Ct. 1474, 209 L. Ed. 2d 433 (2021) .....   | 9              |
| <i>United States v. Lewis</i> , 58 F.4th 764 (3d Cir. 2023) .....  | 9              |
| <i>United States v. Ruth</i> , 966 F.3d 642 (7th Cir. 2020) .....  | 9              |
| <i>United States v. Ward</i> , 972 F.3d 364 (4th Cir. 2020) .....  | 9, 11          |
| <i>United States v. Martinez</i> , 870 F.3d 1163 (9th Cir. 2017) .....   | 10             |
| <i>United States v. Martinez-Cruz</i> , 836 F.3d 1305 (10th Cir. 2016) .....   | 10             |
| <i>Williams v. Taylor</i> , 529 U.S. 362, 120 S. Ct. 1495, 146 L. Ed. 2d 389 (2000) .....  | 10             |
| <i>United Sav. Ass’n of Tex. v. Timbers of Inwood Forest Assocs.</i> , 484 U.S. 365, 108 S. Ct. 626, 98 L. Ed. 2d 740 (1988) ..... | 10             |
| <i>Robinson v. Shell Oil Co.</i> , 519 U.S. 337, 117 S. Ct. 843, 136 L. Ed. 2d 808 (1997) .....                                    | 11             |
| <i>United States v. Clayborn</i> , 951 F.3d 937 (8th Cir. 2020) .....  | 11             |
| <i>United States v. Shannon</i> , 631 F.3d 1187 (11th Cir. 2011) .....   | 12             |
| <i>United States v. One 1990 Beechcraft</i> , 619 F.3d 1275 (11th Cir. 2010) .....   | 12             |

|  |        |
|--|--------|
| <i>United States v. Caldwell</i> , 128 F.4th 1170 (10th Cir. 2025) .....                                     | 12     |
| <i>McCreary Cnty. v. ACLU</i> , 545 U.S. 844, 125 S. Ct. 2722, 162 L. Ed. 2d 729 (2005)<br>.....             | 12     |
| <i>United States v. Jones</i> , 778 F.3d 375 (1st Cir. 2015) .....   | 13     |
| <i>United States v. Miller</i> , 698 F.3d 699 (8th Cir. 2012) .....  | 13     |
| <i>United States v. Johnson</i> , 737 F.3d 444 (6th Cir. 2013) .....   | 13, 14 |
| <i>United States v. Guzman-Reyes</i> , 853 F.3d 260 (5th Cir. 2017) .....                                    | 13     |
| <i>United States v. Tekola</i> , 169 F.4th 947 (9th Cir. 2026) .....   | 14     |
| <i>United States v. Shetler</i> , 665 F.3d 1150 (9th Cir. 2011) .....  | 14     |
| <i>United States v. Vinales</i> , 78 F.4th 550 (2d Cir. 2023) .....  | 14     |
| <i>United States v. Armstrong</i> , 60 F.4th 1151 (8th Cir. 2023) .....                                      | 14     |
| <i>United States v. Murphy</i> , 901 F.3d 1185 (10th Cir. 2018) .....  | 14     |
| <i>Stinson v. United States</i> , 508 U.S. 36, 113 S. Ct. 1913 (1993) .....                                  | 15     |
| <i>Bowles v. Seminole Rock &amp; Sand Co.</i> , 325 U.S. 410, 65 S. Ct. 1215, 89 L. Ed. 1700<br>(1945) ..... | 15     |
| <i>Kisor v. Wilkie</i> , 588 U.S. 558, 139 S. Ct. 2400 (2019) .....  | 15     |
| <i>United States v. Vargas</i> , 74 F.4th 673 (5th Cir. 2023) .....  | 17     |
| <i>United States v. Herrera</i> , 974 F.3d 1040 (9th Cir. 2020) .....  | 17     |
| <b>Statutes</b>  |        |
| 18 U.S.C. § 3231 .....   | 1      |
| 28 U.S.C. § 1291 .....   | 1      |
| 18 U.S.C. § 3742 .....   | 1      |
| 28 U.S.C. § 1254 .....   | 1      |
| 21 U.S.C. § 846 .....  | 3      |

|  |                       |
|--|-----------------------|
| 21 U.S.C. § 812 .....                            | 9                     |
| 21 U.S.C. § 802 .....                            | 9                     |
| 21 U.S.C. § 801 .....                            | 10                    |
| 21 U.S.C. § 802 .....                            | 11                    |
| 21 U.S.C. § 856 .....                            | 13, 14                |
| <b>Other</b>                                     |                       |
| U.S.S.G. § 2D1.1 .....                           | ii, 2, 3, 4, 6, 7, 14 |
| U.S.S.G. § 4B1.1 .....                           | 12                    |
| U.S.S.G. § 4B1.2 .....                           | 10, 11                |
| U.S.S.G. § 2G2.2 .....                           | 11                    |
| Black's Law Dictionary 597 (11th ed. 2019) ..... | 11                    |
| Black's Law Dictionary 429 (6th ed. 1990) .....  | 11                    |
| Black's Law Dictionary (5th ed. 1981) .....      | 11                    |

## **PETITION FOR A WRIT OF CERTIORARI**

Petitioner Rodney Ignacio Castro (hereinafter “Castro”) respectfully petitions for a Writ of Certiorari to review the judgment of the United States Circuit Court of Appeals for the Fifth Circuit.

### **OPINIONS BELOW**

On September 10, 2024, the United States District Court for the Eastern District of Texas (District Court) sentenced Castro to a term of 210 months. (Appendix A). The Fifth Circuit Court of Appeals (Fifth Circuit) affirmed Castro’s sentence in a published opinion on November 25, 2025. (Appendix B).

### **STATEMENT OF JURISDICTION**

The United States District Court for the Eastern District of Texas had jurisdiction in this criminal action pursuant to 18 U.S.C. § 3231. The Fifth Circuit had jurisdiction pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3742(a), and entered judgment on November 25, 2025. (Appendix B). The Fifth Circuit further denied the Petitioner’s petition for panel rehearing on December 29, 2025. (Appendix C). On March 23, 2026, Justice Alito extended the time within which to file a petition for a writ of certiorari to and including April 28, 2026. (Appendix D). The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

## **STATUTORY PROVISIONS INVOLVED**

U.S.S.G. § 2D1.1(b)(12):

If the defendant maintained a premises for the purpose of manufacturing or distributing a controlled substance, increase by 2 levels.

Application Note 17:

Application of Subsection (b)(12). Subsection (b)(12) applies to a defendant who knowingly maintains a premises (i.e., a building, room, or enclosure) for the purpose of manufacturing or distributing a controlled substance, including storage of a controlled substance for the purpose of distribution.

Among the factors the court should consider in determining whether the defendant “maintained” the premises are (A) whether the defendant held a possessory interest in (e.g., owned or rented) the premises and (B) the extent to which the defendant controlled access to, or activities at, the premises.

Manufacturing or distributing a controlled substance need not be the sole purpose for which the premises was maintained, but must be one of the defendant’s primary or principal uses for the premises, rather than one of the defendant’s incidental or collateral uses for the premises. In making this determination, the court should consider how frequently the premises was used by the defendant for manufacturing or distributing a controlled substance and how frequently the premises was used by the defendant for lawful purposes.

## **INTRODUCTION**

This case warrants this Court’s review because the Fifth Circuit affirmed the two-level premise sentencing enhancement based solely on the storage of alleged drug proceeds at an apartment where no drugs, paraphernalia, or distribution activity

were found. In doing so, the court expanded the enhancement beyond its text and purpose, allowing a substantial guideline increase, and a longer prison sentence, without the required showing that the premises was maintained primarily, or at all, for manufacturing or distributing a controlled substance. The decision creates a rule with broad, recurring consequences for federal sentencing and invites inconsistent application across courts.

This case is an ideal vehicle for review. The record is straightforward and undisputed, the issue was fully litigated, the decision below is published, and the panel included a dissent. The outcome turned on a legal interpretation that will affect many cases and materially alter sentencing exposure nationwide. This Court’s intervention is needed to restore the limiting principle intended by Congress that the premises enhancement applies to locations maintained for drug manufacturing or distribution, not merely for storing money connected to drug activity.

## **STATEMENT OF THE CASE**

### **I. Procedural History**

Castro pled guilty to Count One of his Indictment, Conspiracy to Possess with Intent to Distribute and Distribution of a Controlled Substance, in violation of 21 U.S.C. § 846, on August 14, 2023. Castro’s Pre-Sentence Report (“PSR”) applied the firearm enhancement under § 2D1.1(b)(1) and the premise enhancement under § 2D1.1(b)(12), both relating to contraband discovered at a downtown Houston

apartment. The PSR calculated Castro's Total Offense Level as 33 and his criminal history category at Level III, which led to an advisory guideline range of 168 to 210 months. The district court sentenced Castro to 210 months.

Castro appealed to the Fifth Circuit, filing his Appellant's Brief on March 7, 2025. Castro challenged the procedural reasonableness of his sentence based upon the application of the firearm and premise sentencing enhancements. The Government filed its Appellee's Brief on April 4, 2025. Castro filed his reply brief on April 25, 2025, reurging his argument that insufficient evidence exists to support each enhancement and, specifically, that his conclusory statement in his Factual Basis cannot be relied on to support either enhancement. After briefing and oral argument, the Fifth Circuit, in a published opinion, affirmed the district court's application of both enhancements. Panel Judge James L. Dennis concurred as to the application of the firearm enhancement, pursuant to § 2D1.1(b)(1), and dissented as to the application of the premise enhancement, pursuant to § 2D1.1(b)(12).

## **II. Facts Relevant to the Issue Presented**

Castro's arrest came as part of a large DEA drug investigation that spanned well over a year and included several co-defendants. This investigation included cooperating sources, surveillance, pole cameras, telephonic surveillance, and GPS location monitoring. The focus of this investigation appeared to be at a Houston residence occupied by co-defendants and frequented by Castro. Over the course of

several months, law enforcement observed multiple drug transactions at co-defendant's residence, between a co-defendant and others, suspected to be supplied by Castro. Wire interceptions revealed communication with Castro and various other co-defendants discussing cocaine quantity and pricing. During the months-long surveillance, Castro was observed at other known stash house on one occasion and observed twice at a laundromat to distribute cocaine. Despite law enforcement surveillance of the apartment, its GPS location monitoring of Castro, and the wiretap of his cell phone, the extent of the premise at issue, the downtown Houston apartment, presence in the record is: Castro was observed entering and exiting the parking garage of the apartment several times and referred to "living there" on a phone call.

Castro signed a Factual Basis, acknowledging his role in the conspiracy.

Castro's Factual Basis also mentioned the apartment briefly.

On September 28, 2021, a federal search warrant was executed at 1475 Texas Avenue, Unit 402, located in Houston, Texas. This apartment used by Rodney Ignacio Castro in furtherance of his drug trafficking activities. Upon execution of the search warrant, officers located a suitcase in the closet containing \$ 1,050,860.00 in U.S. Currency, and assorted jewelry worth roughly \$250,000.00, which were the proceeds of Rodney Ignacio Castro's cocaine trafficking enterprise. Law enforcement also located a handgun, which was possessed by Rodney Ignacio Castro.

Castro's PSR briefly references this apartment in one single paragraph, mirroring the language used in his Factual Basis. It is uncontested that no drugs nor drug paraphernalia was found in the downtown apartment.

Castro challenged the application of two enhancements at sentencing. The district court, denying both of Castro's objections, reasoned that the premise enhancement applied because "storing proceeds is part and parcel to [] distribution". The Fifth Circuit affirmed the district court, holding the act of storing drug proceeds falls within an expansive view of distributing.

### **REASONS FOR GRANTING THE WRIT**

#### **I. This Case Presents an Ideal Vehicle to Clarify the Proper Scope of the Premise Enhancement, as Intended by Congress.**

With respect to the premise sentencing enhancement of U.S.S.G. § 2D1.1(b)(12), this Court should grant this petition, vacate the underlying sentence, and remand to the United States Court of Appeals for the Fifth Circuit. The Fifth Circuit affirmed the application of § 2D1.1(b)(12) based on the storage of drug proceeds. The court determined that drug proceeds fit within an expansive notion of distribution of a controlled substance. That decision expanded the application of this enhancement further than any appellate court has permitted and violated ordinary rules of statutory construction. This issue presents a question of exceptional federal

importance that results in disproportionate and unjust criminal sentences, and merits resolution.

§ 2D1.1(b)(12) increases a defendant's Sentencing Guideline offense level by two points if "the defendant maintained a premises for the purpose of manufacturing or distributing a controlled substance". The commentary explains that the enhancement "applies to a defendant who knowingly maintains a premises . . . for the purpose of manufacturing or distributing a controlled substance, **including storage of a controlled substance for the purpose of distribution.**" *Id.* § 2D1.1(b)(12), cmt. n.17 (emphasis added).

The Fifth Circuit, for the first time, affirmed that "the act of storing drug proceeds falls within an expansive view of 'distributing,' since Castro would have necessarily taken the proceeds back from drug sales to the apartment in order to store them there." *See App. A.* The dissent highlights that the storage of proceeds cannot be squared with the plain text of the guideline or its commentary. While the majority simply held that drug proceeds fall within the expansive view of "distributing", in responding to the dissent, the majority noted that the dissent essentially applied the expression *unius canon* of construction and implied the commentary's "including storage of controlled substance" therefore excludes the storage of proceeds. *See App. A.* In reaching its conclusion, the Fifth Circuit ignored its own existing precedent,

expanded the language of the Sentencing Guidelines further than intended, and established a circuit split.

**a. Statutory Interpretation**

The Sentencing Guidelines are interpreted according to accepted and ordinary rules of statutory construction. *United States v. Tony*, 121 F.4th 56, 62 (10th Cir. 2024); *United States v. Serfass*, 684 F.3d 548, 550-51 (5th Cir. 2012). As with general statutory interpretation, a guideline is given its ordinary meaning, “as determined by examination of its language, structure, and purpose” and “in accord with the manifest intent of the lawmakers”. *United States v. Cross*, 371 F.3d 176, 180 (4th Cir. 2004); *United States v. Gay*, 240 F.3d 1222, 1231 (10th Cir. 2001). When a statute does not define a term, it is typically given its ordinary meaning. *Mohamad v. Palestinian Auth.*, 566 U.S. 449, 454, 132 S. Ct. 1702, 1706-07 (2012). When the language of the guideline is unambiguous, the court’s inquiry begins and ends with the plain meaning of that language, *Serfass*, 684 F.3d at 551, “because [it is] presume[d] that the Sentencing Commission said what it meant and meant what it said.” *United States v. Fulford*, 662 F.3d 1174, 1177 (11th Cir. 2011). Nevertheless, the court “do[es] not disregard ‘the cardinal rule that a statute is to be read as a whole, . . . since the meaning of statutory language, plain or not, depends on context.’” *United States v. Nam Van Hoang*, 636 F.3d 677, 681 (5th Cir. 2011).

“To assess ordinary usage, legal and general dictionaries are a good place to start, especially dictionaries ‘from the era’ of the Guideline’s enactment”. *United States v. Dawson*, 32 F.4th 254, 261 (3d Cir. 2022) (citations omitted); *see also Niz-Chavez v. Garland*, 141 S. Ct. 1474, 1480, 209 L. Ed. 2d 433 (2021) (“When called on to resolve a dispute over a statute’s meaning, this Court normally seeks to afford the law’s terms their ordinary meaning at the time Congress adopted them.”). When legal sources provide definitions specific to the relevant context, then those definitions ought to be relied on, at least when they are consistent with lay usage. *Id.*

The phrase “controlled substance” is undefined by the Guidelines and its Commentary; however, the plain meaning of “controlled substance” is unambiguous. *United States v. Lewis*, 58 F.4th 764, 769 (3d Cir. 2023). Under federal law, the term “controlled substance” means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of 21 U.S.C.S. § 812 (LexisNexis). *See Id.* § 802(6). Dictionaries define a “controlled substance” as a drug regulated by law. *Id.* (citing *Controlled substance*, *The Random House Dictionary of the English Language* (2d ed. 1987)); *see also United States v. Ruth*, 966 F.3d 642, 654 (7th Cir. 2020) (A controlled substance is generally understood to be “any of a category of behavior-altering or addictive drugs, as heroin or cocaine, whose possession and use are restricted by law.”), *United States v. Ward*, 972 F.3d 364, 371 (4th Cir. 2020) (“A controlled substance is any type of drug whose

manufacture, possession, and use is regulated by law.”<sup>1</sup> It is universally agreed that a controlled substance refers to substances controlled, at minimum, by the Controlled Substance Act, and, at maximum, a state equivalent statute. *See* 21 U.S.C.S. § 801.<sup>2</sup>

“As with the interpretation of legal texts generally, our search for the Sentencing Commission’s intent will most often begin and end with the text and structure of the Guidelines.” *United States v. Martinez*, 870 F.3d 1163, 1166 (9th Cir. 2017); *see also United States v. Martinez-Cruz*, 836 F.3d 1305, 1310 (10th Cir. 2016). “It is . . . a cardinal principle of statutory construction that we must give effect, if possible, to every clause and word of a statute.” *Williams v. Taylor*, 529 U.S. 362, 404, 120 S. Ct. 1495, 146 L. Ed. 2d 389 (2000). “A provision that may seem ambiguous in isolation is often clarified by the remainder of the statutory scheme.” *United Sav. Ass’n of Tex. v. Timbers of Inwood Forest Assocs.*, 484 U.S. 365, 371, 108 S. Ct. 626, 98 L. Ed. 2d 740 (1988). Thus, “[t]he plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the

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<sup>1</sup> “*See also Controlled*, 3 Oxford English Dictionary 853 (2d ed. 1989) (Held in check, restrained, dominated.); *Substance*, 17 Oxford English Dictionary 65 (2d ed. 1989) (A species of matter of a definite chemical composition.)”

<sup>2</sup> Castro acknowledges a circuit split exists as to whether the definition of “controlled substance” under U.S.S.G. § 4B1.2(b) is controlled by the federal definition in CSA or state law definition. However, the resolution of that circuit split has no consideration here. Circuit courts agree that a controlled substance is limited to drugs restricted by *some* law.

statute as a whole.” *Robinson v. Shell Oil Co.*, 519 U.S. 337, 341, 117 S. Ct. 843, 136 L. Ed. 2d 808 (1997).

Therefore, the entirety of the phrase ‘distribution’ of ‘a controlled substance’ requires consideration. The only definition found in the Sentencing Guidelines Manual defines “distribution” as “any act, including possession with intent to distribute, production, transmission, advertisement, and transportation, related to the transfer of material involving the sexual exploitation of a minor.” U.S. Sent’g Guidelines Manual § 2G2.2 cmt. n. 1. Under federal statute criminalizing controlled substances, distribution means “delivery”—“the actual, constructive, or attempted transfer of a controlled substance.” 21 U.S.C. § 802(8) and (11). Dictionaries define distribution as “the action of dividing and dealing out or bestowing in portions among a number of recipients; apportionment, allotment”, 4 Oxford English Dictionary 868 (2d ed. 1989), and “the act or process of apportioning or giving out,” *Black’s Law Dictionary* 597 (11th ed. 2019). See *Ward*, 972 F.3d at 371; *United States v. Clayborn*, 951 F.3d 937, 939 (8th Cir. 2020)<sup>3</sup>; *Dawson*, 32 F.4th at 261-62<sup>4</sup>.

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<sup>3</sup> “Black’s Law Dictionary defines distribute as, ‘[t]o apportion; to divide among several,’ ‘[t]o arrange by class or order,’ ‘[t]o deliver,’ and ‘[t]o spread out; to disperse.’ *Distribute*, Black’s Law Dictionary (11th ed. 2019).

<sup>4</sup> “‘Distribution’ means ‘giving out or division among a number, sharing or parceling out, allotting, dispensing, apportioning.’ *Black’s Law Dictionary* 475 (6th ed. 1990); see also OXFORD ENGLISH DICTIONARY (2d ed. 1989) (‘The action of dividing and dealing out or bestowing in portions among a number of recipients; apportionment, allotment.’). Significantly, the *Black’s Law*

On that reading, the plain meaning of distribution of a controlled substance prohibits the act of delivering or giving a substance regulated by law to another. Expanding “distribution” of a “controlled substance” to include the storage of drug proceeds defies the plain, nature reading of the enhancement. The plain language of a statute is the primary tool of statutory construction; therefore, a court is prohibited from essentially rewriting a statute by adding or subtracting words. *United States v. Shannon*, 631 F.3d 1187, 1189 (11th Cir. 2011) (prohibiting reading “purchase” into U.S.S.G. § 4B1.1(a) — “the manufacture, import, export, distribution, or dispensing of a controlled substance”). Here, the plain language controls. *United States v. One 1990 Beechcraft*, 619 F.3d 1275, 1278 (11th Cir. 2010). The Fifth Circuit’s addition of “drug proceeds” to “controlled substance” adds language into the premise enhancement that cannot be reconciled with its plain meaning.

Further, this plain language is consistent with, and can be found in, the purpose, structure, and context of the Guideline and the Sentencing Commission. *See United States v. Caldwell*, 128 F.4th 1170, 1179 (10th Cir. 2025); *McCreary Cnty. v. ACLU*, 545 U.S. 844, 861, 125 S. Ct. 2722, 162 L. Ed. 2d 729 (2005)

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*Dictionary* edition closest in time to the adoption of § 4B1.2(b)'s current form provided definitions of salient terms *particularized to the criminal drug law context*; in that sense, ‘a person “distributes” a dangerous drug when he sells, transfers, gives or *delivers* to another . . . .’ Black’s Law Dictionary 475 (6th ed. 1990) (emphasis added). ‘In the context of illegal transfer of drugs, “deliver” means the actual, constructive, or *attempted transfer* from one person to another of a controlled substance.’ See Black’s Law Dictionary 429 (6th ed. 1990) (emphasis added); *see also* Black’s Law Dictionary (5th ed. 1981)(same)”.

(“Examination of purpose is a staple of statutory interpretation that makes up the daily fare of every appellate court in the country”). Congress, through the Fair Sentencing Act of 2010, sought to address, among other things, conduct “generally described” in 21 U.S.C. § 856, which criminalized the maintenance of a premises used for drug manufacturing or distribution. *United States v. Jones*, 778 F.3d 375, 384 (1st Cir. 2015); Pub. L. No. 111-220, § 6(2), 124 Stat. 2372, 2373 (2010). The Act directed the Sentencing Commission to add the two-level premise enhancement if “the defendant maintained an establishment for the manufacture or distribution of a controlled substance, as generally described in section 416 of the Controlled Substances Act (21 U.S.C. § 856).” *United States v. Miller*, 698 F.3d 699, 705-06 (8th Cir. 2012). Consistent with the history of the premise enhancement, courts consider the purpose of its parallel criminal statute, § 856, when considering the purpose, intention, and interpretation Congress intended for the premise enhancement. *Miller*, 698 F.3d at 706-07; *United States v. Johnson*, 737 F.3d 444, 447 (6th Cir. 2013); *United States v. Guzman-Reyes*, 853 F.3d 260, 264 (5th Cir. 2017) (collecting cases). This statute, commonly known as the “crack house” or “stash house” statute, makes it unlawful to “knowingly open, lease, rent, use, or maintain any place, whether permanently or temporarily, for the purpose of manufacturing, distributing, or using any controlled substance.” 21 U.S.C. § 856(a)(1).

In enacting § 856 and in directing the Commission to adopt § 2D1.1(b)(12), Congress’ primary purpose was “to punish those who use their property to run drug businesses—hence, the more characteristics of a business that are present, the more likely it is that the property is being used ‘for the purpose of’ those drug activities prohibited by § 856(a)(1).” *United States v. Tekola*, 169 F.4th 947, 951 (9th Cir. 2026). Congressional purpose of targeting those who use their property to profit from drug sale, is consistent with the above plain reading of distribution of a controlled substance. *See United States v. Shetler*, 665 F.3d 1150, 1162-63 (9th Cir. 2011). The storage of drug proceeds, alone, does not demonstrate the use of a premise to run a drug business or profit from a drug sale.

The exclusion of “drug proceeds” from “controlled substance” can further be supported by case law. The Fifth Circuit is the only federal appellate court to uphold the premise enhancement on drug proceeds alone. Many circuits have considered the storage of drug proceeds as one characteristic of the business or “tool of the trade”, however, courts have required additional evidence regarding the premise to support an inference it was maintained for manufacturing or distribution. *See Johnson*, 737 F.3d 444; *United States v. Tekola*, 169 F.4th 947 (9th Cir. 2026); *United States v. Vinales*, 78 F.4th 550 (2d Cir. 2023); *United States v. Armstrong*, 60 F.4th 1151 (8th Cir. 2023); *United States v. Murphy*, 901 F.3d 1185 (10th Cir.

2018). Prior to the Fifth Circuit’s decision in *Castro*, it had also always required more. App. A.(collecting cases).

**i. *Kisor* and *Stinson*.**

Until recently, it was settled that “commentary in the Guidelines Manual that interprets or explains a guideline is authoritative unless it violates the Constitution or a federal statute, or is inconsistent with, or a plainly erroneous reading of, that guideline”. *Stinson v. United States*, 508 U.S. 36, 38, 113 S. Ct. 1913, 1915 (1993). *Stinson*, borrowing from *Bowles v. Seminole Rock & Sand Co.*, 325 U.S. 410, 65 S. Ct. 1215, 89 L. Ed. 1700 (1945) (“*Seminole Rock*”) determined that commentary meeting those conditions was “binding” and “control[ling]”, even for “unambiguous” guidelines. *Id.* However, *Kisor* curtailed the deference rule of *Seminole Rock* and held that before a court may defer to an agency’s interpretation of its own regulation, it must “exhaust all the ‘traditional tools’ of construction” and find the regulation “genuinely ambiguous.” *Kisor v. Wilkie*, 588 U.S. 558, 574, 139 S. Ct. 2400, 2415 (2019). A circuit split exists as to whether *Kisor*, modifying *Seminole Rock*, also modified *Stinson*.<sup>5</sup> However, this case does not require this Court to resolve that split.

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<sup>5</sup> This Court recently granted a Petition for Writ of Certiorari addressing this circuit split. *Kendrick Jarrell Beaird v. United States*, cert. granted, No. 25-5343 (Apr. 20, 2026).

The majority's holding that drug proceeds fall within the expansive view of "distributing" does not necessarily require a *Kisor* or *Stinson* analysis. However, in responding to the dissent<sup>6</sup>, the majority noted that the dissent essentially, erroneously, applied the *expression unius* canon of construction and implied the commentary's "including storage of controlled substance" therefore excludes the storage of proceeds. App. A. In the event that the majority's response is of significance, under either standard of interpreting the commentary, the Fifth Circuit erred.

Under *Kisor*, the traditional rules of statutory construction do not find "distribution" of a "controlled substance" genuinely ambiguous, so the Commentary need not be considered. Under *Stinson*, the Commentary's note of "including storage of a controlled substance for the purpose of distribution" requires consideration but still does not permit the enhancement to be expanded to storage of drug proceeds. Traditional rules of statutory interpretation apply to the Commentary as well, and the plain meaning of "controlled substance" still controls. Expanding "controlled substance" to include the proceeds from a controlled substance does not equate to its plain meaning, regardless of any consideration of the *expressio unius* canon of

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<sup>6</sup> Rather, the dissent notes that storage of proceeds cannot be squared with the plain text of the guideline or its commentary.

construction<sup>7</sup>. While “including storage of a controlled substance” may not be exhaustive, the use of the word “include” does not permit *all* other possible interpretation. *See United States v. Herrera*, 974 F.3d 1040, 1048 (9th Cir. 2020).

### **CONCLUSION**

For the forgoing reasons, the Court should grant the Petition for Writ of Certiorari, vacate the underlying judgment, and remand for further proceedings consistent with this Court’s resolution of the statutory questions presented.

Respectfully submitted this 12<sup>th</sup> day of May 2026.

Respectfully submitted,

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<sup>7</sup> The *expressio unius* canon is “the common-sense semantic rule reflecting the shared intuition of English speakers that ‘[t]he expression of one thing implies the exclusion of others.’” *United States v. Vargas*, 74 F.4th 673, 704-05 (5th Cir. 2023)(Elrod, J., dissenting) (quoting Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 107). However, a limited exception to this canon exists when an unmentioned item would not normally be associated with the items listed.

**CERTIFICATE OF SERVICE BY MAILING**

I hereby certify that, on the 12<sup>th</sup> day of May 2026, the *corrected* original Petition and its Appendix, **as well as the Motion to Proceed in Forma Pauperis**, were sent to the Court by FedEx Express mail.

I also certify that on the same day, one copy of both the Petition and its Appendix were sent to Rodney Ignacio-Castro, at:

FCI Bastrop  
PO Box 1010  
Bastrop, Texas 78602

Lastly, I hereby certify that, on the same day, a true and correct copy of this Petition and Appendix was sent by FedEx Express mail to:

Solicitor General of the United States  
950 Pennsylvania Ave., N.W.; Room 5616  
Washington, DC 20530-0001

*/s/ James P. Whalen* \_\_\_\_\_  
JAMES P. WHALEN

**CERTIFICATE OF COMPLIANCE**

As required by Supreme Court Rule 33.1(h), I certify that the *corrected* Petition for a Writ of Certiorari contains 5,087 words, excluding the parts of the Petition that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.

SIGNED THIS THE 12<sup>TH</sup> DAY OF MAY 2026.

*/s/ James P. Whalen*  
\_\_\_\_\_  
JAMES P. WHALEN