

No. _____

IN THE

Supreme Court of the United States

ROBERTO GODINEZ-GOMEZ, PETITIONER,

v.

UNITED STATES OF AMERICA, RESPONDENT

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

When considering imposing a term of supervised release, a sentencing court must weigh the factors specified by 18 U.S.C. § 3583(c) while also considering U.S.S.G. § 5D1.1(c), which generally discourages applying supervised release to deportable defendants. Petitioner Roberto Godinez-Gomez, a deportable defendant, received a sentence including supervised release. In the decision below, the Fifth Circuit affirmed under plain-error review without requiring a case-specific explanation for supervised release. The court held that, even assuming error in imposing supervised release on a deportable defendant, Petitioner failed to show an effect on substantial rights. That approach permits recurring violations of § 5D1.1(c)'s deportable-defendant presumption to evade correction whenever the sentencing record is silent. The courts of appeals are divided in how they apply 18 U.S.C. § 3583(c) and U.S.S.G. § 5D1.1(c) to deportable defendants. Therefore, the question presented is as follows:

May appellate courts affirm, under plain-error review, the imposition of supervised release on a deportable defendant where the district court failed to provide the case-specific justification contemplated by U.S.S.G. § 5D1.1(c) and relied only on generalized sentencing rationales?

PARTIES TO THE PROCEEDING

The parties are Roberto Godinez-Gomez and the United States of America.

RELATED PROCEEDINGS

United States Court of Appeals for the Fifth Circuit:

United States of America v. Roberto Godinez-Gomez, No. 25-50475

(March 11, 2026)

United States District Court for the Western District of Texas:

United States of America v. Roberto Godinez-Gomez, No. 2:24-cr-02729

(June 4, 2025)

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OPINIONS BELOW

The unpublished decision of the Fifth Circuit Court of Appeals is attached as [App. A]. The judgment of the District Court is attached as [App. B].

JURISDICTION

The decision of the Court of Appeals was entered on March 11, 2026 [App. A]. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). The jurisdiction of the Fifth Circuit Court of Appeals was invoked from the denial by the United States District Court for the Western District of Texas under 28 U.S.C. § 1291 and 18 U.S.C. § 3742.

STATUTORY PROVISIONS

This case concerns the statutory and guideline provisions governing when a district court may impose supervised release on a defendant who will be deported after imprisonment. The relevant statutory provisions are as follows.

Title 18 U.S.C. § 3583(c) provides that “The court, in determining whether to include a term of supervised release, and, if a term of supervised release is to be included, in determining the length of the term and the conditions of supervised release, shall consider the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7).”

The incorporated 18 U.S.C. § 3553(a) factors include, in relevant part, “the nature and circumstances of the offense and the history and characteristics of the

defendant,” 18 U.S.C. § 3553(a)(1); the need “to afford adequate deterrence to criminal conduct,” § 3553(a)(2)(B); the need “to protect the public from further crimes of the defendant,” § 3553(a)(2)(C); and the need “to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner,” § 3553(a)(2)(D).

U.S.S.G. § 5D1.1(c) states that “The court ordinarily should not impose a term of supervised release in a case in which supervised release is not required by statute and the defendant is a deportable alien who likely will be deported after imprisonment.”

Application Note 9 to § 5D1.1 explains:

In a case in which the defendant is a deportable alien specified in subsection (c) and supervised release is not required by statute, the court ordinarily should not impose a term of supervised release. Unless such a defendant legally returns to the United States, supervised release is unnecessary. If such a defendant illegally returns to the United States, the need to afford adequate deterrence and protect the public ordinarily is adequately served by a new prosecution. The court should, however, consider imposing a term of supervised release on such a defendant if the court determines it would provide an added measure of deterrence and protection based on the facts and circumstances of a particular case.

These provisions are central to this case. Petitioner challenges the district court’s imposition of supervised release under 18 U.S.C. § 3583(c) and U.S.S.G. § 5D1.1(c), which require the court to consider whether supervision is justified for a deportable defendant despite the Guidelines’ ordinary presumption against it.

STATEMENT OF THE CASE

In September 2024, United States Border Patrol agents encountered petitioner Roberto Godinez-Gomez, a citizen of Mexico, near Carrizo Springs, Texas, within the Western District of Texas. Immigration records showed that petitioner had previously been removed from the United States and had not obtained permission to return. He was later charged with illegal reentry after removal, in violation of 8 U.S.C. § 1326(a) and (b)(1). Petitioner pleaded guilty without a plea agreement, and the district court accepted his plea.

The presentence report calculated a total offense level of 15 and a Criminal History Category of II, producing an advisory Guidelines range of 21 to 27 months' imprisonment. The report also reflected that petitioner was likely to be removed from the United States following completion of his custodial sentence. Defense counsel requested a lower sentence and emphasized mitigating facts, including the age of petitioner's prior felony conviction, the timing of his return, and his intent to return to his family in Mexico.

The district court imposed a sentence above the advisory range. It sentenced petitioner to 30 months' imprisonment, followed by a three-year term of supervised release. In explaining the upward variance, the court referenced petitioner's prior criminal history and the fact that he was on parole at the time of the offense. The court also stated that the sentence was necessary to promote respect for the law, deter future violations, and protect the public. But the court did not separately explain

why supervised release was necessary for a defendant who was expected to be removed from the United States.

The written judgment ordered that petitioner be surrendered to immigration authorities upon release from imprisonment. It further required that, if removed, petitioner remain outside the United States. Despite that expected removal, the district court imposed the high three-year term of supervised release without making a separate finding that supervision was necessary in light of petitioner's deportability and without explaining how supervised release would serve the statutory purposes identified in 18 U.S.C. § 3583(c).

On direct appeal, petitioner argued that the district court erred by imposing supervised release on a deportable defendant without the case-specific justification contemplated by U.S.S.G. § 5D1.1(c). Because no objection was made below, the United States Court of Appeals for the Fifth Circuit reviewed for plain error.

The Fifth Circuit affirmed in an unpublished opinion. As relevant here, it held that Petitioner failed to show that any error in the district court's decision to impose supervised release on a deportable alien affected his substantial rights. This case presents the recurring question of whether appellate courts may affirm, under plain-error review, the imposition of supervised release on a deportable defendant where the district court did not provide the case-specific justification contemplated by U.S.S.G. § 5D1.1(c).

REASONS FOR GRANTING THE WRIT

- I. The courts of appeals are divided over how rigorously to apply § 3583(c) and U.S.S.G. § 5D1.1(c)’s deportable-defendant presumption.**
- A. Section 5D1.1(c) creates a presumption against supervised release for likely deportees.**

This case presents a recurring question in federal illegal-reentry sentencing: whether a district court may impose supervised release on a defendant who is likely to be removed from the United States without making a case-specific finding that supervision is necessary despite deportability. Congress did not make supervised release automatic. Section 3583(c) requires a sentencing court to consider specified statutory factors before imposing a term of supervised release, including the nature and circumstances of the offense, the defendant’s history and characteristics, deterrence, protection of the public, and the need to provide correctional treatment.¹ The Sentencing Guidelines make that requirement more specific in the context of deportable defendants. Section 5D1.1(c) provides that a court “ordinarily should not impose a term of supervised release” where supervised release is not required by statute and where the defendant is a deportable alien who likely will be deported after imprisonment.²

That presumption reflects the practical reality of removal. Supervised release is ordinarily designed to assist a defendant in transitioning back into the community

¹ 18 U.S.C. § 3583(c); 18 U.S.C. § 3553(a)(1), (a)(2)(B)–(D).

² U.S.S.G. § 5D1.1(c).

and to permit monitoring inside the United States. But when a defendant is expected to be removed after imprisonment, the ordinary purposes of supervision are not served in the same way. The Guidelines therefore recognize that supervised release is usually unnecessary in such cases.

To be sure, § 5D1.1(c) does not create an absolute bar.³ The commentary permits supervised release where the court determines that supervision would provide an added measure of deterrence and protection based on the facts and circumstances of the particular case.⁴ But that exception confirms the point: A sentencing court must identify why this defendant requires supervision despite the ordinary presumption against it.

B. The circuits apply that presumption with materially different levels of rigor.

The courts of appeals have not applied § 5D1.1(c) with uniform rigor. Some decisions require a sentencing court to give a meaningful, case-specific explanation

³ See *United States v. Dominguez-Alvarado*, 695 F.3d 324, 329 (5th Cir. 2012) (“The word ‘ordinarily’ is hortatory, not mandatory.”).

⁴ U.S.S.G. § 5D1.1(c) (“The court ordinarily should not impose a term of supervised release in a case in which supervised release is not required by statute and the defendant is a deportable alien who likely will be deported after imprisonment.”); U.S.S.G. § 5D1.1 cmt. n.9 (“Unless such a defendant legally returns to the United States, supervised release is unnecessary” and, if the defendant illegally returns, “the need to afford adequate deterrence and protect the public ordinarily is adequately served by a new prosecution.”).

before imposing supervised release on a likely deportee.⁵ Those decisions treat the presumption against supervision as something that must be addressed by the sentencing court itself, not supplied later by appellate inference.

Other decisions are more forgiving.⁶ The Fifth Circuit has affirmed supervised release where the sentencing court made only brief case-specific references to deterrence, the defendant's background, and public protection, even though § 5D1.1(c) ordinarily discourages supervised release for deportable defendants. Other circuits apply intermediate approaches that ask whether the record as a whole shows that the district court understood the deportable-defendant presumption and imposed supervision for an added, case-specific purpose.⁷

The disagreement is not about whether supervised release may ever be imposed on a deportable defendant. It may. The disagreement is about what must appear on the record before that happens. In one jurisdiction, the sentencing court must explain why the defendant's circumstances justify supervision despite likely removal. In another, a general sentencing discussion may be enough. That

⁵ See *United States v. Azcona-Polanco*, 865 F.3d 148, 153 (3d Cir. 2017) ("Deportable immigrants are presumptively exempt from the discretionary imposition of supervised release under Section 5D1.1(c)," and a sentencing court should "directly address the presumption against imposing supervised release and provide the court's reasoning for taking a different course of action in the case before it."); *United States v. Solano-Rosales*, 781 F.3d 345, 354 & n.1 (6th Cir. 2015) ("clarity is better served by a direct discussion" of the presumption against supervised release and the reasons for imposing it).

⁶ See *Dominguez-Alvarado*, 695 F.3d at 329–30; *United States v. Cancino-Trinidad*, 710 F.3d 601, 607 (5th Cir. 2013) ("The court's comments indicate implicit consideration of the deterrent effect of SR [supervised release]").

⁷ See *United States v. Valdavinosa-Torres*, 704 F.3d 679, 693 (9th Cir. 2012) (affirming supervised release where the district court gave a "specific and particularized explanation" that supervision would provide "an added measure of deterrence and protection based on the facts" of the defendant's case); *United States v. Aplicano-Oyuela*, 792 F.3d 416, 424 (4th Cir. 2015).

inconsistency produces different sentencing outcomes based on geography rather than statutory command.

C. This case shows why the difference in approach matters.

This case illustrates the problem created when a court forgoes a case-specific explanation. Petitioner pleaded guilty to illegal reentry. The advisory Guidelines range was 21 to 27 months, but the district court imposed a 30-month sentence, followed by three years of supervised release. The court also ordered that petitioner be surrendered to immigration authorities upon release and remain outside the United States if removed. Regardless of the reasons which supported the custodial sentence, the record did not include a separate case-specific explanation for imposing supervised release despite § 5D1.1(c)'s deportable-defendant presumption. Those considerations may explain why the court selected the custodial sentence it imposed, but they do not answer the distinct supervised-release question: Why was a three-year term of supervised release necessary for a defendant expected to be removed from the country?

That distinction matters. Section 3583(c) governs whether to impose supervised release. Section 5D1.1(c) supplies a deportable-defendant presumption against doing so. A general statement that imprisonment is needed to deter future criminal conduct does not automatically explain why supervised release is also needed after removal. Nor does a reference to prior removals, standing alone, explain

why a new prosecution for illegal reentry would be inadequate to address future unlawful return.

If generalized criminal-history findings are enough, then § 5D1.1(c) has little practical force, because the presumption can be overcome without any direct engagement with the reason why the guideline exists.⁸ Nearly every illegal-reentry defendant has at least one prior removal, and many have criminal history. The Guidelines nevertheless provide that supervised release ordinarily should not be imposed when the defendant is likely to be deported. That presumption can be meaningful only if courts must identify what makes the particular case different from the ordinary one. Review is warranted to clarify that § 3583(c) and § 5D1.1(c) require more than boilerplate justifications. They require a case-specific explanation showing why supervised release is necessary despite expected deportation.

II. The Fifth Circuit’s plain-error approach makes the supervised-release explanation requirement practically unenforceable.

A. The court below affirmed because petitioner could not show substantial-rights prejudice from a silent record.

The Fifth Circuit did not hold that the district court gave a separate, case-specific explanation for supervised release. Instead, it affirmed because petitioner

⁸ See *Azcona-Polanco*, 865 F.3d at 153–54 (“[C]larity is better served by a direct discussion of the presumption against supervised release and the reasons for nevertheless imposing it.”) (quoting *Solano-Rosales*, 781 F.3d at 354 n.1); *id.* at 154 (explaining that an adequate explanation helps ensure supervised release is imposed only when substantively reasonable).

did not show that any error in imposing supervised release affected his substantial rights. That holding turns the absence of explanation into a barrier to relief.

This problem is the central issue. When a sentencing court fails to explain why supervised release is necessary, the record will often be silent on the very point the defendant must prove on appeal.⁹ The defendant is then required to show what the district court would have done had it considered the correct legal standard and explained its reasoning. In practice, the less the sentencing court says, the harder it becomes to obtain review.

That rule is especially problematic where the omitted explanation is required by statute and the Guidelines. Section 3583(c) requires consideration of specific factors before supervised release is imposed. Section 5D1.1(c) provides that supervised release ordinarily should not be imposed on likely deportees. When the district court does not address those requirements, appellate review should not collapse into speculation about whether the same sentence might have been imposed anyway.

⁹ See *United States v. Mondragon-Santiago*, 564 F.3d 357, 364–65 (5th Cir. 2009) (“[T]o show substantial prejudice, the defendant must prove that the error affected the sentencing outcome.”); *id.* at 365 (“Mondragon-Santiago’s sentence is within the Guidelines, and he fails to show that an explanation would have changed his sentence.”); See *Cancino-Trinidad*, 710 F.3d 601, 606 (5th Cir. 2013) (“An error that is plain, though, is not enough.”); *id.* at 606 (“A sentencing error affects a defendant’s substantial rights if he can show a reasonable probability that, but for the district court’s misapplication of the Guidelines, he would have received a lesser sentence.”).

B. The lower court’s approach rewards silence by making the absence of explanation harder to challenge.

Explanation requirements are not empty formalities.¹⁰ They ensure that sentencing courts actually apply the governing legal standards. They also provide the basis for meaningful appellate review. If a district court says nothing about why supervised release is necessary despite deportability, an appellate court cannot determine whether the court applied § 5D1.1(c), overlooked it, or imposed supervision as a matter of routine.

The Fifth Circuit’s approach permits affirmance in precisely that situation. It allows a court of appeals to assume, or at least tolerate, a missing explanation so long as the defendant cannot prove that a fuller explanation would have changed the outcome. That approach undermines the very purpose of requiring reasons.

It also reduces the incentive for sentencing courts to address § 5D1.1(c) directly. If a boilerplate statement about deterrence or criminal history is enough and if any failure to say more is insulated by plain-error review, then the Guidelines’ presumption against supervised release becomes easy to bypass. District courts may continue imposing supervised release in deportable-defendant cases without explaining why the case falls outside the ordinary rule.

¹⁰ *Rita v. United States*, 551 U.S. 338, 356 (2007) (“The sentencing judge should set forth enough to satisfy the appellate court that he has considered the parties’ arguments and has a reasoned basis for exercising his own legal decisionmaking authority.”); *Gall v. United States*, 552 U.S. 38, 39 (2007) (the district court “must make an individualized assessment based on the facts presented” and “must adequately explain the chosen sentence to allow for meaningful appellate review”).

Statutory sentencing requirements are not supposed to operate this way. Congress required courts to consider specific factors before imposing supervised release. The Sentencing Commission advised that supervised release ordinarily should not be imposed on likely deportees. Appellate courts should not treat those requirements as optional simply because the defendant did not object after sentence was pronounced.

C. Deportable defendants are uniquely disadvantaged by that prejudice rule.

The prejudice problem is unusually severe in deportable-defendant cases. A defendant expected to be removed from the United States often cannot show immediate practical harm from supervised release while outside the country. But that situation is precisely why § 5D1.1(c) exists. The Guidelines recognize that supervised release is ordinarily unnecessary where the defendant is likely to be removed after imprisonment.

The Fifth Circuit's approach reverses that logic. It requires the defendant to prove prejudice from a sentencing component that the Guidelines already presume should not ordinarily be imposed. And because removal makes the practical consequences of supervision harder to demonstrate, the rule makes it more difficult to correct the very error the Guidelines sought to prevent.

The result is a recurring class of uncorrected sentencing errors. Deportable defendants frequently face high-volume sentencing proceedings. They often do not

object to supervised release at the moment of sentencing. If the court imposes supervision without a case-specific explanation, plain-error review becomes the only path to relief. Under the Fifth Circuit's approach, that path is largely closed because the silent record itself prevents a showing of substantial-rights prejudice.

This Court's intervention is needed to clarify that plain-error doctrine does not permit appellate courts to nullify the explanation requirement built into § 3583(c) and § 5D1.1(c). Where a district court imposes supervised release on a likely deportee without providing the required case-specific justification, the absence of reasons should not be treated as the reason the defendant loses.

III. The decision below conflicts with this Court's sentencing-explanation cases.

A. *Rita* and *Gall* require reasons sufficient for meaningful appellate review.

This Court has repeatedly emphasized that sentencing discretion must be accompanied by explanation. In *Rita*, the Court explained that the sentencing judge should set forth enough reasoning to satisfy the appellate court that he considered the parties' arguments and had a reasoned basis for exercising sentencing authority.¹¹ In *Gall*, the Court emphasized that the district court must make an individualized assessment based on the facts presented and adequately explain the

¹¹ *Rita*, 551 U.S. at 356.

chosen sentence.¹² Those principles apply here. The issue is not whether district courts retain discretion. They do. The issue is whether that discretion may be exercised silently when Congress and the Guidelines require consideration of particular factors before supervised release is imposed. A sentencing court may have reasons for imposing supervised release on a deportable defendant. But those reasons must appear on the record. Otherwise, appellate review becomes guesswork, and the explanation requirement loses its function.

Ultimately, when courts treat that required explanation as optional, the problem is not merely technical. In our constitutional structure, Congress writes the rules governing punishment, the Sentencing Commission channels sentencing discretion, and Article III courts must explain the exercise of that discretion in a way that permits review. A regime in which district courts may disregard those limits silently and in which courts of appeals may then affirm because the silence prevents a showing of prejudice undermines the republican premise that legal authority must be exercised according to law and subject to review. This Court's intervention is needed because the decision below allows an express sentencing limitation to become unenforceable in the very cases where the record is least capable of revealing the error.

¹² *Gall*, 552 U.S. at 39.

B. Supervised release is a separate sentencing component which requires separate statutory consideration.

Supervised release is not merely a trailing attachment to a prison sentence.¹³ It is a separate component of the sentence governed by its own statutory provision. Section 3583(c) tells courts what they must consider when deciding whether to impose it. Section 5D1.1(c) then provides a specific rule for likely deportees, which means that a district court's explanation for imprisonment does not automatically justify supervised release. A court may reasonably conclude that imprisonment is necessary to punish and deter an illegal-reentry offense. But supervised release raises a separate question: What purpose will supervision serve after the defendant is removed from the United States?

The relevant point is narrower. The Fifth Circuit did not hold that the district court provided a separate, case-specific explanation for supervised release. It affirmed because Petitioner failed to show that any error in imposing supervised release affected his substantial rights. That posture cleanly presents the question of whether plain-error review may be used to affirm an unexplained supervised-release term where § 3583(c) and § 5D1.1(c) require a case-specific determination.

That missing explanation matters because § 5D1.1(c) makes this case different from an ordinary supervised-release case. For defendants likely to remain in the

¹³ See 18 U.S.C. § 3583(c); *United States v. Johnson*, 529 U.S. 53, 59–60 (2000) (supervised release “fulfills rehabilitative ends” and “provides individuals with postconfinement assistance”); *United States v. Granderson*, 511 U.S. 39, 50 (1994) (“Supervised release, in contrast to probation, is not a punishment in lieu of incarceration.”).

United States, supervision may serve familiar monitoring and reintegration purposes. For defendants likely to be removed, the Guidelines establish the opposite default rule. A district court that departs from that default must explain why.

C. Appellate courts may not supply the missing rationale after the fact.

The decision below permits appellate inference to replace district-court explanation. That approach conflicts with the logic of *Rita* and *Gall*.¹⁴ Sentencing reasons must come from the sentencing court, not from appellate reconstruction.¹⁵ The government can always point to facts in the record that might have supported supervised release. In this case, the government relied on petitioner’s criminal history, prior removals, parole status, and ties to the United States. But the question is not whether the appellate record contains facts that could have justified supervision. The question is whether the district court actually determined that supervised release would provide an added measure of deterrence and protection despite deportability.

That distinction is critical. Appellate courts review sentencing decisions. They do not make the sentences which they review. When the sentencing court fails to articulate the required rationale, the reviewing court cannot know whether the

¹⁴ See *Rita*, 551 U.S. at 356; *Gall*, 552 U.S. at 50 (“After settling on the appropriate sentence, [the district judge] must adequately explain the chosen sentence to allow for meaningful appellate review and to promote the perception of fair sentencing.”).

correct legal standard was applied. Allowing appellate courts to infer the missing reasoning from the record weakens sentencing procedure and invites routine affirmance of unexplained sentencing components.

This case therefore presents an important opportunity to reaffirm a basic principle: Where a sentencing component is governed by a specific statutory and Guidelines framework, the sentencing court must explain its decision in terms that allow meaningful review. A silent or generic record is not enough.

IV. This case is a clean and recurring vehicle.

A. The record is straightforward.

This case is a strong vehicle because the facts are simple and the legal issue is narrow. Petitioner pleaded guilty to illegal reentry. The advisory range was 21 to 27 months. The district court imposed 30 months in prison and three years of supervised release. The judgment also ordered surrender to immigration authorities upon release and required petitioner to remain outside the United States if removed.

This case cleanly presents the question because the petition is limited to the supervised-release component of the sentence. The issue in this petition is not the length of imprisonment, the Guidelines calculation, or any broader constitutional challenge. It is whether the Fifth Circuit may affirm under plain-error review where supervised release was imposed on a deportable defendant without a separate case-specific explanation under § 5D1.1(c).

B. The Fifth Circuit’s holding squarely presents the plain-error question.

The Fifth Circuit’s decision cleanly presents the appellate-review issue. The court applied plain-error review because the issue was not preserved. It then held that petitioner failed to show that any error in imposing supervised release affected his substantial rights. That holding squarely tees up the question presented. The issue is not merely whether the district court erred but whether an appellate court may affirm under plain-error review when the very absence of a case-specific explanation prevents meaningful review of whether the sentencing court applied § 3583(c) and § 5D1.1(c).

This question is important and recurring. Many sentencing errors are unpreserved. But plain-error review should not become a mechanism for erasing mandatory sentencing considerations whenever the district court fails to discuss them.¹⁶ If the Fifth Circuit’s approach stands, defendants in illegal-reentry cases will rarely be able to obtain relief from unexplained supervised-release terms, even though the Guidelines say those terms ordinarily should not be imposed.

¹⁶ See *Puckett v. United States*, 556 U.S. 129, 135 (2009) (plain error requires an error that is clear or obvious and affects substantial rights, and correction is discretionary where the error “seriously affect[s] the fairness, integrity or public reputation of judicial proceedings.”); *Rosales-Mireles v. United States*, 585 U.S. 129, 145 (2018) (“In the ordinary case, as here, the failure to correct a plain Guidelines error that affects a defendant’s substantial rights will seriously affect the fairness, integrity, and public reputation of judicial proceedings.”).

C. Illegal-reentry cases make this issue recurring and important.

Illegal-reentry prosecutions are among the most common federal criminal cases, especially in border districts. Sentencings in those cases often involve defendants who are expected to be removed from the United States immediately after imprisonment. The question of whether supervised release may be imposed without a case-specific explanation therefore arises repeatedly.

The consequences are not trivial.¹⁷ A supervised-release term imposes continuing legal obligations, exposes a defendant to possible revocation, and remains part of the criminal judgment. For a deportable defendant, it may operate less as reintegration support and more as an additional punitive tail attached to a removal order. For this reason, the Guidelines caution that supervised release ordinarily should not be imposed in this setting.

Without review, the same problem will continue. District courts will impose supervised release on likely deportees using generalized references to deterrence or criminal history. Appellate courts will affirm under plain-error review because the defendant cannot prove that a better explanation would have changed the outcome. And § 5D1.1(c)'s presumption will remain inconsistently enforced across circuits.

This Court should grant the petition to clarify that supervised release may not be imposed on a deportable defendant by routine or implication. Where § 3583(c) and

¹⁷ See *Granderson*, 511 U.S. at 50 (“Supervised release, in contrast to probation, is not a punishment in lieu of incarceration.”); *Johnson*, 529 U.S. at 59–60 (supervised release serves “rehabilitative ends” and provides “postconfinement assistance”).

§ 5D1.1(c) require a case-specific determination, the sentencing court must make that determination on the record. And where the record lacks that explanation, plain-error review should not be used to excuse the omission and make the Guidelines' presumption effectively unenforceable.

D. The issue affects thousands of defendants each year.

This Court's intervention is warranted because the issue is not marginal, rare, or factbound. It arises in immigration cases, the largest single crime type in the federal sentencing caseload. In that setting, supervised release is frequently imposed even though many defendants are expected to be removed from the United States after imprisonment. The result is a recurring mismatch between the Guidelines' deportable-defendant presumption and everyday sentencing practice in one of the busiest areas of federal criminal law. If district courts may impose supervised release without a case-specific explanation and if courts of appeals may affirm under plain-error review because the silent record prevents a showing of prejudice, then the problem will repeat thousands of times without meaningful correction. That kind of recurring, system-level sentencing issue is precisely what warrants this Court's review.

The problem is not isolated. The Sentencing Commission reported that in fiscal year 2025, immigration cases were "the largest single crime type in the federal caseload" while "supervised release was imposed in 61 percent of the cases," even though many immigration defendants are ordered deported after completing their

prison terms.¹⁸ That means this issue affects thousands of defendants each year. It also explains the importance of § 5D1.1(c). If supervised release is imposed by routine in immigration cases and appellate courts affirm unexplained terms because the record is silent, the Guidelines' deportable-defendant presumption will have little practical force in one of the largest categories of federal criminal cases.

CONCLUSION

For these reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,



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¹⁸ U.S. Sent'g Comm'n, 2025 Annual Report (2025) ("In immigration cases, which was the largest single crime type in the federal caseload, supervised release was imposed in 61 percent of the cases, reflecting that many individuals convicted of an immigration offense are often ordered deported from the United States once they complete their incarceration sentence.").