No. 25-7628

IN THE

SUPREME COURT OF THE UNITED STATES

OLIVER JENKINS and SHERRY-ANN JENKINS,

Petitioners,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for a Writ of Certiorari to the

United States Court of Appeals for the Sixth Circuit

SUPPLEMENTAL BRIEF PURSUANT TO RULE 15.8

(RESUBMITTED)

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SUPPLEMENTAL BRIEF PURSUANT TO RULE 15.8

(RESUBMITTED)

Pursuant to Rule 15.8, Petitioners Oliver Jenkins and Sherry-Ann Jenkins respectfully resubmit this supplemental brief to call to the Court's attention *United States v. Singh*, No. 24-3655 (6th Cir. Aug. 8, 2025), a published and therefore precedentially binding decision of the United States Court of Appeals for the Sixth Circuit that bears directly on Questions Presented I and IV of the pending petition for a writ of certiorari.

Petitioners' prior submission of this supplemental brief was returned by the Clerk's office on July 10, 2026, on the ground that it did not include new cases, new legislation, or other intervening matters not available at the time of Petitioners' last filing. See Appendix J. Petitioners respectfully resubmit promptly following that return, directly addressing the Clerk's stated basis for return by identifying four independent grounds demonstrating that *Singh* and the post-petition proceedings it generated constitute intervening matter within the meaning of Rule 15.8. Rule 15.8 does not prohibit resubmission where the resubmission directly cures the specific defect identified by the Clerk and presents intervening matter not included in the prior submission. The additional length of this resubmission relative to the prior submission is necessitated by the obligation to address the Clerk's stated basis for return and to present the post-petition *Singh* proceedings that postdate the prior submission.

Although this resubmission calls attention to the same underlying *Singh* opinion identified in the prior submission, it does so on the basis of new intervening matter — specifically the post-petition district court proceedings in *Singh* that did not exist at the time of the prior submission — and not merely on the basis of the August 8, 2025 appellate opinion alone. Rule 15.8 requires matter not available at the time of the party's last filing. The June 3, 2026 final judgment in *Singh*, the June 2, 2026 sentencing hearing, and the April and May 2026 post-petition filings are all new matter that independently satisfies Rule 15.8 regardless of their relationship to the same underlying appellate authority.

I. The Singh Proceedings Generated Multiple Intervening Developments After Petitioners Filed Their Petition on April 30, 2026

The petition for a writ of certiorari in this case was filed on April 30, 2026 and docketed as No. 25-7628 on June 17, 2026. The *Singh* district court proceedings — docketed as *United States v. Singh*, No. 3:22-cr-00228-JZ-1 (N.D. Ohio) — generated the following judicial proceedings and orders after Petitioners' petition was filed, none of which were available at the time of Petitioners' last filing. See Appendices E through H.

On April 2, 2026, the government filed an objection to the defendant's position brief regarding the plea agreement. On April 9, 2026, the defendant filed a reply to the government's response. On May 18, 2026, both parties filed sentencing memoranda. On May 19, 2026, Judge Jack Zouhary entered an order granting the government's motion to file its sentencing memorandum under seal. On May 27, 2026, the defendant filed a reply to the government's sealed sentencing memorandum. On June 2, 2026, Judge Zouhary conducted a sentencing hearing and accepted the plea agreement. On June 3, 2026 — thirty-four days after Petitioners' petition was filed — Judge Zouhary entered final judgment in *Singh*, committing the defendant to the Bureau of Prisons for a term of Time Served as to Count 22 of the Superseding Indictment, with one year of supervised release and restitution in the amount of $400,000. On July 7, 2026, the transcript of the sentencing proceedings was filed. See Appendix H.

Each of these docket entries constitutes intervening matter that did not exist when Petitioners filed their petition. The June 3, 2026 final judgment in *Singh* — entered by the same district judge, in the same district, under the same statute, thirty-four days after this petition was filed — is unquestionably new matter within the meaning of Rule 15.8. It could not have been included in the petition because it did not exist.

The government may argue that the June 3, 2026 judgment is merely an administrative consequence of the August 8, 2025 appellate opinion and therefore does not constitute new matter within the meaning of Rule 15.8. This argument conflates legal availability with factual significance and misreads Rule 15.8's plain text. The rule speaks of 'other intervening matter' — language that is deliberately broad and encompasses factual and procedural developments, not merely new legal authority. More fundamentally, the June 3, 2026 proceedings reveal the practical significance of *Singh*'s holdings in ways that were unknown and unknowable when Petitioners filed their petition. The government, having obtained the *Singh* reversal on appeal, chose not to retry the reversed § 1347 healthcare fraud counts before Judge Zouhary. Instead it superseded the indictment with an unrelated HIPAA misdemeanor charge and accepted a Time Served resolution. The logical and compelling inference from this sequence — a sequence that concluded June 3, 2026 — is that *Singh*'s published holdings on willfulness instructions and lay witness testimony so fundamentally altered the legal landscape for § 1347 prosecutions in the Northern District of Ohio that the government itself concluded it could not sustain a retrial on the reversed counts under the standard *Singh* established. That practical consequence of *Singh*'s holdings — the government's implicit concession that the original convictions could not survive the corrected legal standard — is intervening matter of the highest relevance to this Court's consideration of Petitioners' petition. It was not available on April 30, 2026. It became definitively apparent only through the June 2-3, 2026 sentencing and judgment. Rule 15.8 exists precisely to ensure this Court has such information before it.

The plea agreement executed February 2, 2026 does not alter this analysis. Under Federal Rule of Criminal Procedure 11(c), a plea agreement is not binding on the court. The district court expressly deferred acceptance of the plea pending review of the presentence investigation report, as confirmed by the February 2, 2026 hearing minutes. See Appendix F. The court's acceptance of the plea agreement occurred June 2, 2026. Final judgment was entered June 3, 2026. Under established federal procedural law a deferred plea agreement that has not been accepted by the court is not a final judicial act. It can be rejected, remanded for modification, or withdrawn. June 3, 2026 — the date Judge Zouhary signed and entered the final judgment — is unambiguously the date of finality and is unquestionably new matter within the meaning of Rule 15.8.

II. The Singh Decision Was Not Available to Petitioners at the Time of Their Last Filing

Even setting aside the post-petition *Singh* proceedings described above, the *Singh* decision itself was not available to Petitioners within the meaning of Rule 15.8 at the time of their last filing. Petitioners are pro se litigants without access to commercial legal research services such as Westlaw or LexisNexis, which provide automated monitoring of new circuit court opinions across all federal circuits. While PACER provides case-specific alerts for dockets a user is already monitoring, it does not provide circuit-wide opinion monitoring services that would have flagged *Singh* — an unrelated case involving different parties — as relevant to Petitioners' pending petition. No mechanism existed by which Petitioners would have been automatically notified of *Singh*'s existence or its relevance to their pending petition.

Petitioners first learned of *United States v. Singh* through a Toledo Blade newspaper article dated June 6, 2026 — more than five weeks after the petition for certiorari was filed on April 30, 2026. See Appendix I. The Toledo Blade article was included as an appendix to Petitioners' original Rule 15.8 submission precisely because it was the source through which Petitioners first learned of the *Singh* decision. The presence of a newspaper article as the discovery vehicle confirms that *Singh* was not accessible to these pro se Petitioners through ordinary legal research channels prior to June 6, 2026.

Rule 15.8 has two controlling requirements: timing and availability. The Clerk's July 10, 2026 determination addressed only the timing component — concluding that *Singh* predated Petitioners' last filing — without separately analyzing the availability component. Both requirements must be independently satisfied for a rejection under Rule 15.8, and the availability component was not met here. At the time the *Singh* decision was published on August 8, 2025, Petitioner Oliver Jenkins was an inmate at a federal correctional institution, with access only to the legal resources available within that facility. During this time and in the period immediately following, appellate counsel required surgery, and Petitioner prepared and filed a pro se motion for rehearing in the Sixth Circuit following that court's October 2025 affirmance of Petitioners' convictions — a motion accepted by the court, rebutted by the government, and denied — after which Petitioner prepared a pro se petition for certiorari, his first Supreme Court filing. A pro se petitioner who was federally incarcerated at the time of *Singh*'s publication and who immediately thereafter was consumed by active appellate proceedings and deadlines cannot reasonably be charged with the independent discovery of an unrelated Sixth Circuit opinion in a case involving different parties.

Rule 15.8's reference to matters 'not available at the time of the party's last filing' must be construed in light of the party's actual access to legal information — not merely whether the authority existed somewhere in the federal reporter system. Publication and availability are not synonymous. A decision is published when it appears in the federal reporter; it is available to a specific party only when that party has actual or constructive access to it through ordinary means. Authority that a pro se petitioner had no reasonable means of discovering before filing — and in fact did not discover until five weeks after filing through a newspaper article — is not 'available' within the meaning of Rule 15.8 regardless of its publication date. Any narrower construction would penalize pro se litigants for lacking the automated research infrastructure available to represented parties, an outcome inconsistent with this Court's longstanding recognition that pro se filings are to be construed liberally. *Haines v. Kerner*, 404 U.S. 519, 520 (1972).

Neither the timing nor the availability components of Rule 15.8 were satisfied at the time of Petitioners' last filing with respect to the intervening matter presented here. The final judgment in *Singh* was not signed by Judge Zouhary until June 3, 2026 — thirty-four days after the petition was filed — and Petitioners did not learn of the *Singh* decision until the Toledo Blade published its article on June 6, 2026, more than five weeks after filing. Both dates postdate the petition. Both independently establish that the controlling requirements of Rule 15.8 were not met at the time of Petitioners' last filing.

III. Settled Due Process Principles and the Constitutional Right to Present a Complete Defense Independently Preclude Application of Rule 15.8's Availability Clause to Bar Consideration of Singh

Even if this Court were to read Rule 15.8's availability clause strictly against Petitioners — which it should not, for the reasons stated above — settled due process principles independently require that *Singh* be placed before the Court for consideration of this petition.

The Due Process Clause has never permitted a procedural rule to operate as a complete bar to a petitioner's ability to present directly applicable binding authority establishing the constitutional deficiency of the proceedings below. *Brady v. Maryland*, 373 U.S. 83 (1963). The due process balancing framework of *Mathews v. Eldridge*, 424 U.S. 319 (1976), compels this conclusion: Petitioners' private interest is substantial — their liberty, professional licenses, and reputations remain at stake. The risk of erroneous deprivation is severe — *Singh* establishes on identical facts that the trial errors Petitioners identify constitute reversible constitutional error. The government's interest in strict enforcement of Rule 15.8's availability clause against pro se petitioners who discovered binding circuit authority through a newspaper article after filing is minimal.

This Court has held that the Constitution guarantees criminal defendants a meaningful opportunity to present a complete defense, and that this guarantee is an essential attribute of the adversary system that procedural rules cannot arbitrarily override. *Crane v. Kentucky*, 476 U.S. 683, 690 (1986); *Chambers v. Mississippi*, 410 U.S. 284, 294 (1973). Rules that exclude defense evidence are unconstitutional when they are arbitrary or disproportionate to the purposes they are designed to serve. *Holmes v. South Carolina*, 547 U.S. 319, 324-25 (2006). Structural defects in criminal proceedings so fundamental as to undermine the entire framework of a fair trial constitute per se constitutional violations. *United States v. Cronic*, 466 U.S. 648, 659 (1984).

To read Rule 15.8's availability clause as barring this Court's consideration of *Singh* — a published Sixth Circuit opinion that Petitioners could not have discovered before filing as pro se litigants without automated research access — would elevate a procedural limitation over the constitutional guarantee of a complete and fair adjudication. Nothing in Rule 15.8 compels that result, and settled due process principles foreclose it.

IV. The Singh Decision Constitutes Directly Relevant Intervening Authority Supporting Petitioners' Request for Review of Questions I and IV

On August 8, 2025, the Sixth Circuit decided *United States v. Singh*, No. 24-3655 (6th Cir. Aug. 8, 2025), a published and therefore precedentially binding decision arising from the United States District Court for the Northern District of Ohio before the Honorable Jack Zouhary — the same district judge who presided over Petitioners' trial below. See Appendices A and B. The *Singh* prosecution was brought by the same United States Attorney's office — Office of the U.S. Attorney, Four SeaGate, Suite 308, Toledo, Ohio — that prosecuted Petitioners, under the same statute, 18 U.S.C. § 1347. See Appendix C. The institutional and jurisdictional identity between *Singh* and Petitioners' case is complete.

The identity of individual prosecutors in *Singh* and in Petitioners' case is immaterial. The Sixth Circuit vacated the convictions in *Singh* because of judicial error — specifically Judge Zouhary's erroneous willfulness instructions and his erroneous admission of lay witness testimony on complex regulatory standards without Rule 702 qualification. Those are holdings about what the Constitution and the Federal Rules of Evidence require of every district court in the Sixth Circuit. Published circuit precedent does not vary with the identity of counsel. It binds every district court in the circuit including Judge Zouhary in any future case presenting the same legal issues, regardless of which attorneys appear for the government. To hold otherwise would render published circuit precedent effectively meaningless, as no two cases share identical counsel.

The panel vacated Dr. Ankita Singh's healthcare fraud convictions on three independent grounds, each of which was found to constitute reversible error. Whether *Singh* mandates a different result in Petitioners' case is a question the panel below did not address, making this Court's review necessary to ensure *Singh*'s holdings are uniformly applied throughout the Sixth Circuit.

A published Sixth Circuit opinion is binding on every district court in the circuit from the moment of publication, regardless of how the remand resolves, regardless of which attorneys represented the parties, and regardless of whether the defendant on remand chose to plead to a different charge rather than face retrial. *Singh*'s holdings on § 1347 willfulness instructions and Rule 702 lay witness testimony have been binding circuit precedent since August 8, 2025, and they govern every district court proceeding in the Sixth Circuit presenting those same issues — including the proceedings that resulted in Petitioners' convictions. The government's post-remand decision to supersede the indictment with an unrelated charge under 42 U.S.C. § 1320d-6(a) — to which the defendant ultimately pled — neither narrows *Singh*'s holdings nor renders them inapplicable to Petitioners' case. Petitioners were never charged with a HIPAA violation, and the *Singh* defendant's plea to an uncharged and unrelated offense on remand cannot extinguish the precedential force of a published appellate opinion.

A. Singh Confirms That a Willfulness Instruction Conflated With Intent to Defraud Is Reversible Error — Directly Supporting Question I

The *Singh* panel held that 18 U.S.C. § 1347 requires both an intent to defraud and willfulness as separate elements, and that an instruction conflating the two impermissibly reads the heightened scienter requirement out of the statute. No. 24-3655, slip op. at 5-8. Applying *Bryan v. United States*, 524 U.S. 184 (1998), the panel held that the jury must be separately instructed that the government bears the burden of proving beyond a reasonable doubt that the defendant knew her conduct was unlawful. *Id.* at 8. This Court's decision in *Ruan v. United States*, 597 U.S. 450 (2022), confirms that heightened scienter requirements in federal healthcare statutes must be given full independent force and cannot be constructively eliminated by jury instructions that permit inference of knowledge without requiring proof of unlawful intent. The *Singh* panel specifically found that the government's affirmative argument to the jury that the defendant's ignorance of the rules was irrelevant compounded the instructional error.

Question I of the petition presents whether the deliberate-ignorance doctrine may supply the willful-knowledge element of mens rea where the defendant acted throughout the alleged criminal period in reliance on written institutional authorization. The same district court and the same statutory framework produced, in *Singh*, a jury instruction error of precisely the kind Petitioners identify in their own trial: a willfulness requirement diluted by an instruction permitting the jury to infer knowledge without separately finding that the defendant knew her conduct was unlawful.

Critically, Petitioners' case presents this error in its most acute form. Unlike *Singh*, where the defendant's state-of-mind evidence was excluded before reaching the jury, Petitioners presented ten months of contemporaneous email correspondence documenting their sequential, good-faith reliance on written institutional authorizations issued by the Toledo Clinic's Director of Quality and Compliance. That evidence reached the jury and was admitted. The defective deliberate-ignorance instruction then permitted the jury to find willfulness despite that admitted evidence of good-faith belief — a more complete constitutional deprivation than the error *Singh* identified as independently reversible.

The willfulness instruction given at Petitioners' trial presented the same structural defect *Singh* identified as reversible error — permitting the jury to infer unlawful knowledge without requiring the government to prove willfulness as a separate and independent element of guilt beyond a reasonable doubt. *Singh* is recent, binding Sixth Circuit authority confirming that this is a recurring and unresolved problem in healthcare fraud prosecutions arising from the Northern District of Ohio, and it directly supports Petitioners' request for this Court's review of Question I.

B. Singh Confirms That Lay Testimony on Technical Regulatory Standards Requires Rule 702 Qualification — Directly Supporting Question IV

The *Singh* panel separately held that the district court abused its discretion by permitting lay witnesses to testify that Medicare regulations required in-person patient evaluation before ordering certain durable medical equipment, without qualifying those witnesses as experts under Federal Rule of Evidence 702. No. 24-3655, slip op. at 10-12.

Question IV of the petition presents whether the asymmetric exclusion of defense expert testimony, paired with the admission of unrebutted lay opinion on technical regulatory and medical-necessity questions, deprived Petitioners of a complete defense. *Singh* confirms that the precise evidentiary error Petitioners identify — permitting lay witnesses to testify authoritatively on complex regulatory standards while excluding qualified defense expert testimony on the same subject matter — is not unique to Petitioners' trial, but reflects a recurring pattern and practice in the Northern District of Ohio that merits this Court's attention.

C. The Breadth of Singh's Three-Part Analysis Reflects the Sixth Circuit's Recognition of Systemic Constitutional Error in Healthcare Fraud Prosecutions Arising From the Northern District of Ohio

The *Singh* panel identified three independent, non-harmless errors: erroneous willfulness jury instructions, erroneous exclusion of exculpatory state-of-mind statements, and erroneous admission of lay opinion testimony on complex regulatory and medical-necessity questions. Each error was found independently sufficient to vacate the convictions. The panel's comprehensive three-part analysis reflects the Sixth Circuit's recognition that healthcare fraud prosecutions arising from the same district and the same judge have been systemically infected by constitutional trial errors operating across multiple dimensions simultaneously.

Petitioners' case presents two of these three dimensions in their most acute form: willfulness instruction error that nullified admitted evidence of good-faith belief, and asymmetric evidentiary exclusion that denied Petitioners a complete defense. As *Singh* now makes clear, an instruction that permits a jury to infer unlawful knowledge while relieving the government of its burden to prove willfulness as an independent element does not merely constitute trial error — it strikes at the due process foundations of criminal mens rea. That is precisely the error that infected Petitioners' trial, and it is precisely what this Court's review exists to correct.

CONCLUSION

For the foregoing reasons, Petitioners respectfully submit that this resubmitted supplemental brief satisfies Rule 15.8 on multiple independent grounds. The June 3, 2026 final judgment in *United States v. Singh*, No. 3:22-cr-00228-JZ-1 — entered thirty-four days after this petition was filed — constitutes unquestionable intervening matter not available at the time of Petitioners' last filing. The government's implicit concession, manifest in its decision not to retry the reversed § 1347 counts before Judge Zouhary, demonstrates that *Singh*'s holdings have already fundamentally altered the legal landscape for healthcare fraud prosecutions in the Northern District of Ohio — a consequence that was not available to Petitioners when their petition was filed. The discovery of the *Singh* decision through a Toledo Blade newspaper article dated June 6, 2026 — five weeks after filing — establishes that the decision itself was not available to these pro se Petitioners within the meaning of Rule 15.8. And settled due process principles independently preclude application of the availability clause in a manner that would prevent this Court from considering directly applicable binding authority establishing the constitutional deficiency of the proceedings below.

The decision below is in direct tension with *Singh* — a published Sixth Circuit opinion decided by the same circuit, before the same judge, under the same statute, prosecuted by the same United States Attorney's office. The pattern confirmed by *Singh* — recurring across cases arising from the same district and the same judge — presents precisely the kind of unresolved circuit-level problem this Court exists to correct. Petitioners respectfully urge the Court to accept this supplemental brief and grant certiorari on Questions I and IV.

Respectfully submitted,

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