

No.

In the Supreme Court of the United States

PIERRE YVELT ALMONOR,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition for a Writ of Certiorari to the
United States Court of Appeals for the
Fourth Circuit**

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

The Constitution’s Venue Clause provides that “the Trial of all Crimes * * * shall be held in the State where the said Crimes shall have been committed.” U.S. Const. art. III, § 2, cl. 3. The Vicinage Clause likewise guarantees criminal defendants the right to trial “by an impartial jury of the State and district wherein the crime shall have been committed.” *Id.* amend. VI.

In this case, petitioner was convicted of conspiracy in the Western District of North Carolina though his own actions had no nexus to that State. Venue rested entirely on acts petitioner did not know about, undertaken by a co-conspirator he did not know existed. The only connection between petitioner and his purported co-conspirator was a shared “hub” who directed multiple parallel but otherwise unconnected scams.

The questions presented are:

1. Whether—as the Second Circuit holds but the Third, Fourth, Sixth, and Ninth Circuits deny—for a co-conspirator’s act to justify criminal venue, it must have been reasonably foreseeable to the defendant that the act would occur in the district where venue is sought.

2. Whether proving a single hub-and-spoke conspiracy requires proof of a connection between the spokes beyond shared methods of criminality and involvement with the hub—as this Court held in the seminal case of *Kotteakos v. United States*, 328 U.S. 750 (1946)—or whether, as the court below determined, a single conspiracy can be proved through “overlap of the key actors [*i.e.*, the hub individuals] and the same methods, goals, nature, and results in each * * * scheme[].” App., *infra*, 6a.

PARTIES TO THE PROCEEDING

The parties to the proceeding in the court below were petitioner Pierre Yvelt Almonor, appellant below; and respondent the United States of America, appellee below.

RELATED PROCEEDINGS

United States v. Almonor, No. 24-4022 (4th Cir. Dec. 16, 2025)

United States v. Almonor, No. 3:18-cr-00206-MOC-SCR-1 (W.D.N.C. Jan. 8, 2024).

TABLE OF CONTENTS

Question Presented	i
Parties to the Proceeding	ii
Related Proceedings	ii
Table of Authorities.....	v
Petition for a Writ of Certiorari.....	1
Opinions Below	1
Jurisdiction.....	1
Constitutional Provisions Involved	1
Statement	2
A. Legal background	5
B. Factual background	8
C. Proceedings below.....	10
Reasons for Granting the Petition.....	12
I. The Court should grant certiorari to resolve whether foreseeability is required for criminal venue.	12
A. The lower courts are divided over the question presented.....	13
B. This case is an ideal vehicle to resolve the important and recurring question of criminal venue for conspiracy.	15
C. Original constitutional understanding counsels in favor of reasonable foreseeability for criminal venue.	19
II. Alternatively, the panel’s decision is irreconcilable with <i>Kotteakos</i>	27
III. The Court may wish to grant, vacate, and remand in light of <i>Abouammo</i>	31
Conclusion	32

Appendix A – Court of appeals decision	1a
Appendix B – First district court oral decision	16a
Appendix C – Second district court oral decision ..	21a
Appendix D – Order denying rehearing	24a

TABLE OF AUTHORITIES

Cases

<i>Abouammo v. United States</i> , 146 S. Ct. 1571 (2026).....	2, 5, 6, 7, 12, 16, 18, 19, 24, 26, 31, 32
<i>Blumenthal v. United States</i> , 332 U.S. 539 (1947).....	28, 29, 30
<i>Brown v. Elliott</i> , 225 U.S. 392 (1912).....	25
<i>Harrison v. United States</i> , 7 F.2d 259 (2d Cir. 1925)	18
<i>Hyde v. United States</i> , 225 U.S. 347 (1912).....	3, 22, 23, 24, 25, 26
<i>Klein v. Martin</i> , 607 U.S. 213 (2026).....	27
<i>Kotteakos v. United States</i> , 328 U.S. 750 (1946).....	4, 5, 11, 12, 27, 28, 29, 30
<i>Krulewitch v. United States</i> , 336 U.S. 440 (1949).....	3, 4, 17, 19, 23
<i>Pinkerton v. United States</i> , 328 U.S. 640 (1946).....	26
<i>Presley v. Georgia</i> , 558 U.S. 209 (2010).....	27, 30
<i>Salazar-Limon v. City of Houston</i> , 581 U.S. 946 (2017).....	27
<i>Smith v. United States</i> , 599 U.S. 236 (2023).....	2, 6, 16, 19, 22, 23
<i>United States v. Burr</i> , 25 F. Cas. 55 (C.C.D. Va. 1807)	3, 20, 22, 23
<i>United States v. Cabrales</i> , 524 U.S. 1 (1998).....	2, 5, 16

Cases—continued

<i>United States v. Cores</i> , 356 U.S. 405 (1958).....	7, 14, 16, 19, 24
<i>United States v. Davis</i> , 689 F.3d 179 (2d Cir. 2012)	14, 25
<i>United States v. Gonzalez</i> , 683 F.3d 1221 (9th Cir. 2012).....	15
<i>United States v. Guerrero</i> , 76 F.4th 519 (6th Cir. 2023)	13, 15
<i>United States v. Johnson</i> , 323 U.S. 273 (1944).....	16, 17, 20
<i>United States v. Johnson</i> , 510 F.3d 521 (4th Cir. 2007).....	12, 15, 18, 20
<i>United States v. Kirk Tang Yuk</i> , 885 F.3d 57 (2d Cir. 2018)	3, 13, 14, 25
<i>United States v. Palma-Ruedas</i> , 121 F.3d 841 (3d Cir. 1997)	6, 20
<i>United States v. Reed</i> , 773 F.2d 477 (2d Cir. 1985)	14, 15
<i>United States v. Renteria</i> , 903 F.3d 326 (3d Cir. 2018)	13, 15
<i>United States v. Reynolds</i> , 919 F.2d 435 (7th Cir. 1990).....	18
<i>United States v. Rommy</i> , 506 F.3d 108 (2d Cir. 2007)	14, 25
<i>United States v. Socony-Vacuum Oil Co.</i> , 310 U.S. 150 (1940).....	26
<i>United States v. Strickland</i> , 245 F.3d 368 (4th Cir. 2001).....	30
<i>United States v. Svoboda</i> , 347 F.3d 471 (2d Cir. 2003)	14

Cases—continued

<i>United States v. Trenton Potteries Co.</i> , 273 U.S. 392 (1927).....	25
<i>Whitfield v. United States</i> , 543 U.S. 209 (2005).....	24

Constitutional Provisions and Statutes

U.S. Const.	
amend. VI.....	1, 5, 7
art. III, § 2, cl. 3.....	1, 5, 32
Md. Const. of 1776, Decl. of Rights, art. XVIII.....	20
18 U.S.C. § 1956(h).....	10, 24
28 U.S.C. § 1254(1).....	1
Dockyards Act of 1772, 12 Geo. III, ch. 24	6

Other Authorities

4 William Blackstone, <i>Commentaries</i>	5, 21
William Wirt Blume, <i>Place of Trial of Criminal Cases: Constitutional Vicinage and Venue</i> , 43 Mich. L. Rev. 59, 63-65 (1944).....	6
E. Coke, 1 Institutes of the Laws of England § 193 (1628)	6
Beth Allison Davis & Josh Vitullo, <i>Federal Criminal Conspiracy</i> , 38 Am. Crim. L. Rev. 777 (2001)	18
3 <i>The Debates in the Several State Conventions on the Adoption of the Federal Constitution</i> (Jonathan Elliot, ed., 2d ed. 1891)	7
Declaration and Resolves of the First Continental Congress (Oct. 14, 1774)	6

Other Authorities—continued

Declaration of Independence, 1 Stat. 1 (1776)	2, 6, 16, 19
3 Max Farrand, <i>Records of the Federal Convention of 1787</i> (1911)	7
Francis H. Heller, <i>The Sixth Amendment to the Constitution of the United States</i> (1951)	7
Peter C. Hoffer, <i>The Treason Trials of Aaron Burr</i> (2008)	21
2 Wayne R. LeFave, <i>Substantive Criminal Law</i> § 12.3(b)(2) (3d ed. Oct. 2025 update)	29, 30
R. Kent Newmyer, <i>The Treason Trial of Aaron Burr</i> (2012)	20
Melvin L. Otey, <i>The Vexing Case of Venue for Violent Crimes in Aid of Racketeering</i> , 125 Penn St. L. Rev. 737 (2021)	16, 17
3 Joseph Story, <i>Commentaries on the Constitution of the United States</i> (1833)	2, 8, 20
Robert L. Ullmann, <i>One Hundred Years After Hyde: Time to Expand Venue Safeguards in Federal Criminal Conspiracy Cases?</i> , 52 Santa Clara L. Rev. 1003 (2012)	18

PETITION FOR A WRIT OF CERTIORARI

Petitioner Pierre Yvelt Almonor respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case.

OPINIONS BELOW

The opinion of the court of appeals (App., *infra*, 1a-15a) is unreported, but is available at 2025 WL 3642268. The district court's orders denying petitioner's motions regarding improper venue were rendered orally, and are reproduced in the appendix at 16a-20a, and 21a-23a, respectively.

JURISDICTION

The court of appeals entered its judgment on December 16, 2025, and denied a timely filed petition for rehearing on March 3, 2026. On June 1, 2026, The Chief Justice extended the time to file this petition to July 31, 2026. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

Article III, Section 2, Clause 3 provides in relevant part:

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed[.]

The Sixth Amendment to the Constitution provides in relevant part:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed,

which district shall have been previously ascertained by law[.]

STATEMENT

A criminal defendant’s right to be tried where the crime was committed was “highly prized by the founding generation.” *Smith v. United States*, 599 U.S. 236, 248 (2023). Indeed, “[v]enue in criminal cases mattered more than might be supposed to the Nation’s Founders” (*Abouammo v. United States*, 146 S. Ct. 1571, 1576 (2026)), who listed Britain’s practice of “transporting us beyond seas to be tried for pretended offences” as one of the concrete abuses justifying revolution (Declaration of Independence, 1 Stat. 1, 1-2 (1776)).

The Crown’s history of whisking colonists accused of crimes back to Britain to stand trial was so repugnant to the Framers, and a local trial viewed as so essential to liberty, that “the Constitution not once but ‘twice safeguards the defendant’s venue right’”: Once in Article III, § 2, cl. 3, and again in the Sixth Amendment. *Abouammo*, 146 S. Ct. at 1576 (quoting *United States v. Cabrales*, 524 U.S. 1, 6 (1998)). As Justice Story explained, these provisions—the Venue and Vicinage Clauses—exist “to secure the party accused from being dragged to a trial in some distant state, away from his friends, and witnesses, and neighbourhood.” 3 Joseph Story, *Commentaries on the Constitution of the United States* § 1781 (1833).

And yet that is just what happened to petitioner here. Petitioner, a Florida resident who had never set foot in North Carolina, was tried and convicted of money laundering conspiracy in the Western District of North Carolina. Venue rested entirely on acts

performed by a co-conspirator petitioner did not know existed, in a State petitioner had no reason to foresee any conspiracy would reach.

The Court’s review is warranted for two reasons.

First, the Fourth Circuit’s decision perpetuates an acknowledged circuit split over whether the Constitution tolerates venue to be founded solely on a co-conspirator’s unforeseeable overt acts in the district of prosecution. The Second Circuit says no: “[I]t must have been ‘reasonably foreseeable’ to each defendant charged with the conspiracy that a qualifying overt act would occur in the district where the prosecution is brought.” *United States v. Kirk Tang Yuk*, 885 F.3d 57, 69 (2d Cir. 2018). The Fourth Circuit, joined by the Third, Sixth, and Ninth, says yes. See App., *infra*, 6a.

The question is important and ripe for review. Indeed, modern conspiracy law “reduces [the] protection” of the Venue and Vicinage Clauses “to a phantom” in conspiracy cases by permitting venue to be based on any co-conspirator’s overt acts. *Krulewitch v. United States*, 336 U.S. 440, 452 (1949) (Jackson, J., concurring); see also *Hyde v. United States*, 225 U.S. 347, 387 (1912) (Holmes, J., dissenting) (“[T]he opening to oppression * * * is very wide indeed” if, as current doctrine holds, venue can be premised solely on overt acts of co-conspirators); cf. *United States v. Burr*, 25 F. Cas. 55, 173 (No. 14,693) (C.C.D. Va. 1807) (Marshall, C.J.) (rejecting as “too extravagant to be * * * maintained” the notion that a defendant “may be tried in any state on the continent, where any overt act has been committed”). And the division implicates thousands of federal conspiracy prosecutions each year.

The Court should grant certiorari to resolve the split. And on the merits it should reinvigorate the

“phantom” Venue and Vicinage Clauses in the conspiracy context (*Krulewitch*, 336 U.S. at 452 (Jackson, J., concurring)) by holding that the Constitution prohibits prosecution in a district where it was not reasonably foreseeable to the defendant that any overt act would occur.

Second, the Fourth Circuit’s holding that petitioner was part of a single conspiracy touching North Carolina in the first place—as opposed to two distinct conspiracies in a rimless wheel, of which petitioner’s spoke had no relation to that State—is flatly irreconcilable with the Court’s seminal precedent in *Kotteakos v. United States*, 328 U.S. 750 (1946), warranting summary reversal.

Kotteakos holds that a hub-and-spoke arrangement does not constitute a single conspiracy merely because the spokes share a common hub, similar methods, and similar goals. 328 U.S. at 768-769 (rejecting “the view that one conspiracy [can be] made out by showing that each defendant was linked to [the hub] in one or more transactions” that share a “similarity of purpose”). Instead, “the common purpose of a single enterprise” is required to show a single conspiracy—and not merely “the several, though similar, purposes of numerous separate adventures of like character.” *Ibid.*

But “numerous separate adventures of like character” is all the government has proven here: It has pointed to no evidence that petitioner had any interest or connection (other than the common hub individuals and criminal methods) with the separate spoke that touched North Carolina. Yet the Fourth Circuit found a single conspiracy nonetheless, based on an “overlap of the key actors and the same methods, goals, nature,

and results.” App., *infra*, 6a. That reasoning, and result, is indistinguishable from what the Court rejected in *Kotteakos*. Summary reversal is therefore warranted.

Finally, if the Court chooses neither to review the case on the merits nor to summarily reverse, it should grant, vacate, and remand for reconsideration in light of its recent decision in *Abouammo*, 146 S. Ct. 1571, which both re-emphasized the importance of the Venue and Vicinage Clauses and rejected efforts to expand conspiracy venue doctrine into a non-conspiracy context, highlighting that doctrine’s tension with constitutional principles.

A. Legal background

“[T]he Constitution not once, but ‘twice safeguards’” the right of a criminal defendant to be tried where the crime was committed. *Abouammo*, 146 S. Ct. at 1576 (quoting *Cabralles*, 524 U.S. at 6). Article III provides that “[t]he Trial of all Crimes * * * shall be held in the State where the said Crimes shall have been committed.” U.S. Const. art. III, § 2, cl. 3. The Sixth Amendment guarantees trial “by an impartial jury of the State and district wherein the crime shall have been committed.” U.S. Const. amend. VI.

That principle was bedrock at common law. As Blackstone recorded, upon a not guilty plea “the sheriff of the county must return a panel of jurors * * * of the *visne* or neighbourhood; which is interpreted to be of the county where the fact is committed.” 4 William Blackstone, *Commentaries* *350. As the Court has recognized, the common-law vicinage right thus “imposed a venue requirement: Trials needed to be held at the location where ‘the matter of fact issuable’ allegedly occurred to allow the ‘Inhabitants whereof’ to

serve on the jury.” *Smith v. United States*, 599 U.S. 236, 246 (2023) (quoting E. Coke, 1 Institutes of the Laws of England § 193, at 125 (1628)).

Because of concrete abuses by the Crown, “[v]enue in criminal cases mattered more than might be supposed to the Nation’s Founders.” *Abouammo*, 146 S. Ct. at 1576; see also, e.g., William Wirt Blume, *Place of Trial of Criminal Cases: Constitutional Vicinage and Venue*, 43 Mich. L. Rev. 59, 63-65 (1944); *United States v. Palma-Ruedas*, 121 F.3d 841, 860-862 (3d Cir. 1997) (Alito, J., concurring in part) (cataloging some of these abuses). Specifically, “Parliament enacted measures to try allegedly treasonous colonists in England, rather than in their home colonies.” *Abouammo*, 146 S. Ct. at 1576. For example, Parliament’s Dockyards Act of 1772 authorized trial “in any shire or county within [the British] realm” for certain offenses committed in the Colonies—including anyone who would “aid, procure, abet, or assist.” 12 Geo. III, ch. 24. The Continental Congress condemned the statute by name for depriving Americans of “a constitutional trial by jury of the vicinage.” Declaration and Resolves of the First Continental Congress (Oct. 14, 1774).

Indeed, the Declaration of Independence itself listed as one of the “injuries and usurpations” of the King that “[h]e has * * * giv[en] his assent to [Parliament’s] acts of pretended legislation * * * [f]or transporting us beyond seas to be tried for pretended offenses.” Declaration of Independence, 1 Stat. 1, 1-2 (1776); see also *Abouammo*, 146 S. Ct. at 1576.

Though after the Revolution “the Founders no longer had to fear transportation overseas[,] * * * they retained strong feelings about ‘the unfairness and

hardship involved when an accused is prosecuted in a remote place.” *Abouammo*, 146 S. Ct. at 1576 (quoting *United States v. Cores*, 356 U.S. 405, 407 (1958)). All of the major plans at the Constitutional Convention thus protected a criminal defendant’s right to a proper venue, and the final language of Article III, § 2, cl. 3 was added to the draft Constitution without much debate, reflecting broad consensus. See 3 Max Farrand, *Records of the Federal Convention of 1787*, 600, 615-616, 626 (1911); Francis H. Heller, *The Sixth Amendment to the Constitution of the United States* 22-25 (1951).

If anything, the anti-federalists argued that the Venue Clause, which prescribes venue only at the state level, did not go far enough. See, e.g., 3 *The Debates in the Several State Conventions on the Adoption of the Federal Constitution* 446-447 (Jonathan Elliot, ed., 2d ed. 1891) (Patrick Henry, decrying that under the Venue Clause, the government still “may proceed in a manner extremely dangerous to liberty: a person accused may be carried from one extremity of the state to another, and be tried, not by an impartial jury of the vicinage, acquainted with his character and the circumstances of the fact, but by a jury unacquainted with both, and who may be biased against him. Is not this sufficient to alarm men?”). This opposition led to Madison’s inclusion of the Vicinage Clause in the draft Sixth Amendment, which, as ultimately adopted, further narrowed permissible venue by mandating a jury drawn not only from the State, but from the “district wherein the crime shall have been committed.” U.S. Const. amend. VI.

Reflecting on this history, Justice Story summarized that the Venue Clause exists “to secure the party

accused from being dragged to a trial in some distant state, away from his friends, and witnesses, and neighbourhood; and thus to be subjected to the verdict of mere strangers, who may feel no common sympathy, or who may even cherish animosities, or prejudices against him.” 3 Story, *supra* § 1775; see also *ibid.* (“Besides this; a trial in a distant state or territory might subject the party to the most oppressive expenses, or perhaps even to the inability of procuring the proper witnesses to establish his innocence.”). And the Vicinage Clause, Story opined, was likely unnecessary and the product of “an undue solicitude,” since “the established course of the common law” already provides that “[t]he trial is always * * * in the district of the offence.” *Id.* § 1785.

Story believed the Venue Clause, too, was perhaps unnecessary: “There is little danger, indeed, that congress would ever exert their power in such an oppressive, and unjustifiable a manner. But upon a subject, so vital to the security of the citizen, it was fit to leave as little as possible to mere discretion.” 3 Story, *supra* § 1775. But modern conspiracy law puts Story’s assumption—that Congress would not authorize criminal prosecution in a district far from where the defendant had acted—to the test.

B. Factual background

Petitioner, a middle-aged man with no prior criminal history, was charged with participation in a money laundering conspiracy. C.A. J.A. 28, 889. The alleged conspiracy involved gaining access to business email accounts and monitoring them for upcoming large wire transactions; once a party sent legitimate wire instructions, a member of the conspiracy would send an email from a spoofed address directing the

business to wire funds to a different account. App., *infra*, 3a; see C.A. J.A. 31. Petitioner's only role in this activity was to serve as a "money mule[]" (App., *infra*, 23a): He would receive funds in an account under his control and distribute them to other accounts. *Ibid.*; see C.A. J.A. 31.

The conspiracy operated under a hub-and-spoke model. The hub consisted of at least two individuals using the pseudonyms Scott Johnson and Eizo Kobayishi, who conducted multiple discrete wire-transfer transactions using different co-conspirator money mules, or spokes.

"At trial, the Government provided evidence of two such scams." App., *infra*, 3a. The first involved an Illinois company; it transferred funds to a Florida bank account controlled by petitioner, who transferred them out of the country. *Ibid.*; see C.A. J.A. 31, 539-541, 686. In carrying out the plan, petitioner acted on instructions from Kobayishi and communicated with Johnson. C.A. J.A. 463-468. This transaction had no nexus to North Carolina.

The second transaction involved money flowing from a North Carolina law firm to a man named Ugo Ernest Uzomba. C.A. J.A. 32, 39-40. The only overlap between Uzomba's transaction and petitioner's was the general nature of the wire-transfer scheme and the involvement of Johnson at the hub. There is no evidence that petitioner took any part in the North Carolina transaction. Indeed, in his testimony, Uzomba vigorously denied knowing or communicating with petitioner, and he refused to sign initial drafts of his plea agreement which stated a connection to petitioner. C.A. J.A. 565-567.

The government’s closing argument admitted this lack of connection, affirmatively contending that “[i]t’s not surprising” that Uzomba and petitioner “didn’t know each other” because “[t]hey had similar roles”: “Maybe you don’t tell one guy you’re sending fraudulent proceeds to [about] the other guy you’re sending fraudulent proceeds to because” they are competing for a fixed pool of transactions. C.A. J.A. 692-693; see also App., *infra*, 22a-23a (government’s argument on renewed venue motion, contending that “[i]t is one conspiracy” because the two scams involved “[t]he same underlying specified unlawful activity of the business email compromise schemes, the same way it was carried out, Scott Johnson acting as the hub to the spokes.”).

C. Proceedings below

1. Petitioner and Uzomba were each charged in the Western District of North Carolina with money laundering conspiracy under 18 U.S.C. § 1956(h). App., *infra*, 2a; C.A. J.A. 28, 36. Uzomba pleaded guilty. C.A. J.A. 40. Petitioner went to trial, which was conducted in North Carolina.

Petitioner is a Florida resident. C.A. J.A. 889. He has always lived and worked in Florida. C.A. J.A. 85. His family—three children, his wife, and his parents—all live in Florida. *Ibid.* He had never conducted any business in or traveled to the Western District of North Carolina before his appearance in this case. *Ibid.* He therefore filed (and later renewed) a motion to dismiss for improper venue. C.A. J.A. 79-86, C.A. J.A. 557-558. The district court denied the motion on both occasions. App., *infra*, 17a-23a.

The jury found petitioner guilty on the conspiracy charge, and he was sentenced to 51 months of imprisonment. App., *infra*, 2a.

2. Petitioner appealed the trial court’s venue ruling. App., *infra*, 2a. He explained that under this Court’s precedents, he was not part of a single conspiracy but was one spoke of a “rimless ‘hub-and-spokes’ conspiracy.” Pet’r C.A. Br. 12-13. That is, a “pattern * * * of separate spokes meeting at a common center” is not itself sufficient to create one single conspiracy. *Id.* at 18 (quoting *Kotteakos*, 328 U.S. at 755). The lack of a “relationship” between spokes made the case one “not of a single conspiracy, but of several.” *Id.* at 18 (quoting *Kotteakos*, 328 U.S. at 755).

The Fourth Circuit affirmed. App., *infra*, 1a-15a. The panel recognized that, under *Kotteakos*, an improper “rimless wheel conspiracy consists of a central hub—the common defendant, who deals with other defendants—and the spokes—the other conspirators—nothing linking the other conspirators to one another; thus the wheel has no outer rim tying the spokes together” and it is a “case, not of a single conspiracy but of several.” App., *infra*, 5a (quoting *Kotteakos*, 328 U.S. at 755). Yet it held that a single conspiracy existed here, solely because “the conspiracy involved the overlap of the key actors and the same methods, goals, nature, and results in each of the business email schemes.” App, *infra*, 6a.

The Fourth Circuit also rejected petitioner’s contention that, even assuming a single conspiracy had been proven, a co-conspirator’s venue-creating actions in a jurisdiction must be “reasonably foreseeable by the defendant.” App., *infra*, 6a. The court acknowledged that “the Second Circuit has adopted such a

requirement,” but followed its own precedent in *United States v. Johnson*, 510 F.3d 521, 527 (4th Cir. 2007), in “declin[ing] to impose a reasonable foreseeability requirement to venue provisions that do not include such a requirement in their plain text.” App., *infra*, 6a.

Petitioner filed a timely petition for rehearing and rehearing en banc, raising both the circuit split over foreseeability and the incompatibility of the panel’s rimless-wheel analysis with *Kotteakos*; the Fourth Circuit denied the petition. App., *infra*, 24a.

REASONS FOR GRANTING THE PETITION

Further review is warranted: The first question presented is the subject of an acknowledged circuit split; it is recurring, important, and cleanly presented here; and the lower court’s approach below is contrary to founding-era constitutional principles.

Alternatively, the Court should summarily reverse the decision below, as the fact pattern here is indistinguishable in every relevant respect from the one this Court faced in *Kotteakos*, yet the lower court here reached the opposite result.

Finally, and further in the alternative, the Court should grant, vacate, and remand for reconsideration in light of its recent decision in *Abouammo*, which fortifies and reemphasizes the constitutional principles underpinning petitioner’s arguments.

I. THE COURT SHOULD GRANT CERTIORARI TO RESOLVE WHETHER FORESEEABILITY IS REQUIRED FOR CRIMINAL VENUE.

First, the Court should resolve whether, in order to lay criminal venue in a district, it must be—at a minimum—reasonably foreseeable to the defendant

that a co-conspirator’s act in furtherance of the conspiracy would occur in that district. The Second Circuit has adopted precisely this requirement; the Third, Fourth, Sixth, and Ninth Circuits have rejected it. The Court should grant certiorari to resolve this acknowledged conflict. And on the merits, it should reverse: The reasonable foreseeability requirement protects the values enshrined by the framers in the Venue and Vicinage Clauses, which otherwise would be rendered essentially a dead letter by modern conspiracy law.

A. The lower courts are divided over the question presented.

The courts of appeals are intractably divided over the question presented. This disagreement is well-acknowledged: The Fourth Circuit in the decision below followed circuit precedent in “declin[ing] to impose a reasonable foreseeability requirement,” but explicitly noted that “the Second Circuit *has* adopted such a requirement.” App., *infra*, 6a (emphasis added). And the other circuits recognize the split as well. See *United States v. Guerrero*, 76 F.4th 519, 529 (6th Cir. 2023) (While “the Second Circuit requires reasonable foreseeability for venue in conspiracy cases * * * [t]his circuit has no such requirement.”); *United States v. Kirk Tang Yuk*, 885 F.3d 57, 69 n.2 (2d Cir. 2018) (applying reasonable foreseeability but noting that “[o]ther Circuits have not adopted such a requirement”); *United States v. Renteria*, 903 F.3d 326, 329–330 (3d Cir. 2018) (similarly acknowledging split). This Court should resolve the disagreement among the circuits.

1. The Second Circuit has long applied a reasonable foreseeability requirement for criminal venue in

conspiracy cases. As the court recently explained, “it must have been ‘reasonably foreseeable’ to each defendant charged with the conspiracy that a qualifying overt act would occur in the district where the prosecution is brought.” *United States v. Kirk Tang Yuk*, 885 F.3d 57, 69 (2d Cir. 2018). That is because “[w]e have interpreted the venue requirement to demand ‘some sense of venue having been freely chosen by the defendant.’” *Ibid.* (quoting *United States v. Davis*, 689 F.3d 179, 186 (2d Cir. 2012)); cf., e.g., *Cores*, 356 U.S. at 407 (The Constitution’s “provision for trial in the vicinity of the crime is a safeguard against the unfairness and hardship involved when an accused is prosecuted in a remote place.”).

Recognizing that “[a] defendant’s right to be tried in the state and district in which the charged crime ‘shall have been committed’ is grounded in two provisions of the Constitution,” the Second Circuit’s reasonable foreseeability analysis is not tied to any particular venue statute. *Davis*, 689 F.3d at 184-185; see also *ibid.* (noting venue’s “constitutional pedigree”); *Kirk Tang Yuk*, 885 F.3d at 68 (venue “[e]mbod[ies] a constitutional principle.”). And that court has repeatedly applied the reasonable foreseeability requirement for at least the past twenty-three years—though its roots are even deeper. See *Davis*, 689 F.3d at 184-185; *Kirk Tang Yuk*, 885 F.3d at 68; *United States v. Rommy*, 506 F.3d 108, 123 (2d Cir. 2007) (analyzing whether “the overt act’s occurrence in the district of venue [would] have been reasonably foreseeable to a conspirator”); *United States v. Svoboda*, 347 F.3d 471, 483 (2d Cir. 2003) (venue is improper where “the defendant neither intended nor could have foreseen the acts that occurred in the district of venue”); cf. *United*

States v. Reed, 773 F.2d 477, 481 (2d Cir. 1985) (observing that “the site of the defendant’s acts” is “a proper venue” in part because “this site [is] fair to defendants at least in the perverse sense of having been freely chosen by them as the place at which the acts were committed.”).

2. By contrast, four circuits—the **Third, Fourth, Sixth, and Ninth**—have expressly rejected a reasonable foreseeability requirement with respect to either general or crime-specific conspiracy venue statutes. See *United States v. Renteria*, 903 F.3d 326, 330 (3d Cir. 2018) (“[W]e conclude that we need not adopt a reasonable foreseeability test because neither the text of the Constitution nor of § 3237(a) requires it.”); *United States v. Johnson*, 510 F.3d 521, 526-527 (4th Cir. 2007) (“[W]e decline the invitation to judicially engraft a mens rea requirement”—that is, “a foreseeability requirement”—“onto a venue provision that clearly does not have one.”); App., *infra*, 6a (following *Johnson*); *United States v. Guerrero*, 76 F.4th 519, 528-529 (6th Cir. 2023) (“In this circuit, a co-conspirator’s acts need not be foreseeable to a defendant for venue to properly lie in the district where such acts took place.” (quotation marks omitted); *United States v. Gonzalez*, 683 F.3d 1221, 1226 (9th Cir. 2012) (“Simply put, section 3237(a) does not require foreseeability to establish venue for a continuous offense.”).

The Court should grant review to address this acknowledged split among the circuits.

B. This case is an ideal vehicle to resolve the important and recurring question of criminal venue for conspiracy.

The breadth of criminal venue in conspiracy cases is an important question that the Court should

resolve. There is no question that the venue “right was highly prized by the founding generation.” *Smith v. United States*, 599 U.S. 236, 248 (2023); see also *Abouammo*, 146 S. Ct. at 1576 (“Venue in criminal cases mattered more than might be supposed to the Nation’s Founders.”); *Cabrales*, 524 U.S. at 6; pages 5-8, *supra*. The right to be tried in a particular locality was one of the specific grievances listed in the Declaration of Independence as justifying revolution (1 Stat. at 1-2), and not one but two constitutional provisions were ultimately adopted to protect that right. *Abouammo*, 146 S. Ct. at 1576.

The Court’s cases have reinforced the importance of the venue right to protect defendants from unfair hardship. Expanding venue exposes defendants to “needless hardship * * * by prosecution remote from home and from appropriate facilities for defense.” *United States v. Johnson*, 323 U.S. 273, 275 (1944); accord *Cores*, 356 U.S. at 407 (“The provision for trial in the vicinity of the crime is a safeguard against the unfairness and hardship involved when an accused is prosecuted in a remote place.”).¹ Indeed, trial in a remote location can make it “more difficult to maintain employment, marshal exculpatory evidence and key witnesses, and mount an effective defense.” Melvin L.

¹ As the Court recently explained, the Clauses are not exclusively concerned with providing “the most convenient trial venue for a defendant,” and focus as well on where the crime was committed. *Smith*, 599 U.S. at 243-244. But the two justifications largely merge when distant venue is based solely on a co-conspirator’s acts: Not only is that venue potentially burdensome for the far-away defendant, but other policy bases for venue at the situs of the crime—the location of evidence and witnesses, and the local interest in adjudicating local offenses—also militate against distant venue with respect to *this* defendant.

Otey, *The Vexing Case of Venue for Violent Crimes in Aid of Racketeering*, 125 Penn St. L. Rev. 737, 744-745 (2021); see also *ibid.* (“[T]he financial and logistical hardships might be so significant that employment of one’s preferred counsel becomes impractical,” and “the financial burden will only be exacerbated if additional expenses are required for key witnesses.”).

Moreover, broad venue options can “also lead[] to the appearance of abuses, if not to abuses, in the selection of what may be deemed a tribunal favorable to the prosecution.” *Johnson*, 323 U.S. at 275. As a result, “[q]uestions of venue in criminal cases * * * are not merely matters of formal legal procedure,” but “raise deep issues of public policy” and “touch closely the fair administration of criminal justice and public confidence in it.” *Id.* at 276.

The intersection of broad venue with modern conspiracy law only raises the stakes. As Justice Robert Jackson put it, given its “sprawling” liability, the “loose practice” of conspiracy prosecution “constitutes a serious threat to fairness in our administration of justice.” *Krulewitch v. United States*, 336 U.S. 440, 446 (1949) (Jackson, J., concurring). And that is in no small part because of what it does to the Venue and Vicinage Clauses’ protections: “The leverage of a conspiracy charge lifts this limitation from the prosecution and reduces its protection to a phantom, for the crime is considered so vagrant as to have been committed in any district where any one of the conspirators did any one of the acts, however innocent, intended to accomplish its object.” *Id.* at 452; see also *id.* at 452-453 (“The Government may, and often does, compel one to defend at a great distance from any place he ever did any act because some accused

confederate did some trivial and by itself innocent act in the chosen district.”).

Given the ubiquity of federal conspiracy prosecutions, these issues are of paramount importance. Studies have found that nearly 30 percent of federal prosecutions involve a conspiracy charge. See Beth Allison Davis & Josh Vitullo, *Federal Criminal Conspiracy*, 38 Am. Crim. L. Rev. 777, 778 n.9 (2001). Conspiracy is “th[e] darling of the modern prosecutor’s nursery” (*Harrison v. United States*, 7 F.2d 259, 263 (2d Cir. 1925) (Hand, J.)), and “prosecutors seem to have conspiracy on their word processors as Count I; rare is the case omitting such a charge” (*United States v. Reynolds*, 919 F.2d 435, 439 (7th Cir. 1990) (Easterbrook, J.)). Indeed, “prosecutors frequently bring conspiracy charges without adding a substantive offense.” Robert L. Ullmann, *One Hundred Years After Hyde: Time to Expand Venue Safeguards in Federal Criminal Conspiracy Cases?*, 52 Santa Clara L. Rev. 1003, 1018 (2012).

Modern technology threatens to erode the Venue and Vicinage Clauses even further. As crimes are charged for actions involving internet transactions or transfers, the location of a defendant’s trial can become increasingly broad and present greater hardship to marshalling an adequate defense. See, e.g., *United States v. Johnson*, 510 F.3d 521, 526 (4th Cir. 2007) (finding venue based on the location of an internet server); cf. *Abouammo*, 146 S. Ct. at 1575-1576. If venue can also be based on actions of a co-conspirator that the defendant never even knew existed, whose actions the defendant had no inkling would occur in a particular district, then the “protection” of the Venue and Vicinage Clauses truly is “reduce[d] * * * to a

phantom.” *Krulewitch*, 336 U.S. at 446 (Jackson, J., concurring).

Finally, this important question is cleanly presented here: Petitioner raised his venue challenge in a pre-trial motion (C.A. J.A. 79-86; see App., *infra*, 17a-20a); renewed the issue at trial (*id.* at 21a-23a); and even specifically argued to the Fourth Circuit that it should adopt the Second Circuit’s reasonable foreseeability test (see App, *infra*, 6a). The Court should take this opportunity to address the disharmony among the circuits.

**C. Original constitutional understanding
counsels in favor of reasonable
foreseeability for criminal venue.**

On the merits, the Court should hold, as the Second Circuit has, that prosecution based on a co-conspirator’s acts in an unforeseeable district violates the Venue and Vicinage Clauses.

1. As discussed above, the common-law vicinage right enshrined in the Venue and Vicinage Clauses was “highly prized by the founding generation.” *Smith*, 599 U.S. at 248; see pages 5-8, *supra*. Violations of that right formed an important part of the impetus for our Nation’s separation from the British Empire (Declaration of Independence, 1 Stat. at 1-2), and a single constitutional provision was insufficient to secure its protection to the satisfaction of the Framers (see, *e.g.*, *Abouammo*, 146 S. Ct. at 1576).

While not exclusive (see page 16 n.1, *supra*), at least one driving purpose of the Clauses was to safeguard against “the unfairness and hardship involved when an accused is prosecuted in a remote place.” *Abouammo*, 146 S. Ct. at 1576 (quoting *Cores*, 356

U.S. at 407); accord 3 Story, *supra* § 1775 (Venue Clause exists “to secure the party accused from being dragged to a trial in some distant state, away from his friends, and witnesses, and neighbourhood; * * * Besides this; a trial in a distant state or territory might subject the party to the most oppressive expenses, or perhaps even to the inability of procuring the proper witnesses to establish his innocence.”). Another was a view that facts are best determined locally. Cf., e.g., Md. Const. of 1776, Decl. of Rights, art. XVIII (“[T]he trial of facts where they arise, is one of the greatest securities of the lives, liberties and estates of the people.”).

What is clear is that the founding generation viewed the venue and vicinage rights not as procedural technicalities; rather, “[t]he constitutional venue provisions were meant to put in place important *substantive* protections against government abuse.” *Palma-Ruedas*, 121 F.3d at 862 (Alito, J., concurring in part); see also *Johnson*, 323 U.S. at 250, 251 (“Questions of venue in criminal cases, therefore, are not merely matters of formal legal procedure”; “[t]hese are matters that touch closely the fair administration of criminal justice and public confidence in it.”).

2. The celebrated treason trial of Aaron Burr, and the decision therein of Chief Justice Marshall, riding circuit, provides contemporaneous confirmation that the Framers viewed these rights as important substantive restrictions not easily overcome by legal fictions. See generally *Burr*, 25 F. Cas. 55.

In 1805 and 1806, Burr, the former Vice President, traveled the American frontier raising support for potential military action against Spanish territory. See R. Kent Newmyer, *The Treason Trial of Aaron*

Burr 8 (2012). He was eventually apprehended and tried in Virginia federal court on charges of treason; the charges focused on a gathering of armed men in Virginia, allegedly in preparation for besieging the newly American city of New Orleans. See Peter C. Hoffer, *The Treason Trials of Aaron Burr* 44-57 (2008). Burr, however, was undisputedly not present at that gathering in Virginia; rather, he was hundreds of miles away in Kentucky at the time. *Ibid.*

The prosecution's case therefore hinged on the concept of "constructive presence," a common-law doctrine under which a defendant could be deemed present at a crime—and therefore liable as a principal—for example, by "keep[ing] watch or guard at some convenient distance" rather than being actually present at the crime's commission. 4 William Blackstone, *Commentaries* *34. The prosecution argued that Burr was constructively present at the treasonous assembly of men in Virginia; Chief Justice Marshall disagreed, memorably invoking the Venue and Vicinage Clauses:

If a rebellion should be so extensive as to spread through every state in the Union, * * * [i]t would be a very violent presumption indeed, too violent to be made without clear authority, to presume that even the chief of the rebel army was legally present at every such overt act. If the main rebel army, with the chief at its head, should be prosecuting war at one extremity of our territory, say in New Hampshire; if this chief should be there captured and sent to the other extremity for the purpose of trial; if his indictment, instead of alleging an overt act which was true in point

of fact, should allege that he had assembled some small party which in truth he had not seen, and had levied war by engaging in a skirmish in Georgia at a time when, in reality, he was fighting a battle in New Hampshire; if such evidence would support such an indictment by the fiction that he was legally present, though really absent, all would ask *to what purpose are those provisions in the constitution, which direct the place of trial*[?]

Burr, 25 F. Cas. at 170 (emphasis added); see also *id.* at 173 (“If a person levying war in Kentucky may be said to be constructively present and assembled with a party carrying on war in Virginia at a great distance from him, then he is present at every overt act performed anywhere. He may be tried in any state on the continent, where any overt act has been committed. * * * This is, perhaps, too extravagant to be in terms maintained.”).

3. For Marshall, the idea that the Constitution’s explicit protections for venue and vicinage could be overcome by a legal fiction like constructive presence was “a violent presumption,” “too extravagant to be in terms maintained.” *Burr*, 25 F. Cas. at 170, 173. But that is *precisely* the effect of modern conspiracy law.

This Court held in *Hyde v. United States* that “the Venue Clause permits a defendant charged with conspiracy to be tried in any State in which any co-conspirator took any overt act in furtherance of the endeavor.” *Smith*, 599 U.S. at 244 (citing *Hyde v. United States*, 225 U.S. 347, 365-367 (1912)). And *Hyde* rested on none other than a theory of “constructive presence”: Because the conspiracy was being executed in the district of trial through the co-conspirators’

acts, each member could be treated as present even though most had never set foot there. *Hyde*, 225 U.S. at 362-363 (“This court has recognized, therefore, that there may be a *constructive presence* in a state, distinct from a personal presence, by which a crime may be consummated. * * * We have held that a conspiracy is not necessarily the conception and purpose of the moment, but may be continuing. If so in time, it may be in place—carrying to the whole area of its operations the guilt of its conception and that which follows guilt—trial and punishment.”) (emphasis added); *id.* at 363-364 (“We see no reason why a *constructive presence* should not be assigned to conspirators as well as to other criminals.”) (emphasis added).

Modern conspiracy law, then, raises the *exact* sort of problem with which Chief Justice Marshall was concerned in *Burr*: Under *Hyde*, each co-conspirator “may be tried in any state on the continent, where any * * * act has been committed,” even if the particular defendant took no action with any nexus to that state. *Burr*, 25 F. Cas. at 173. In Marshall’s view, this result is “too extravagant to be in terms maintained.” *Ibid.*; see also *Hyde*, 225 U.S. at 390 (Holmes, J., dissenting for four Justices) (“[I]t is said that we should feign that [the co-conspirators] were here in order to warrant their being taken across the continent and tried in this place. The Constitution is not to be satisfied with a fiction.”).

Indeed, as a result of *Hyde*, the protection of Venue and Vicinage Clauses—a protection so “highly prized by the founding generation” that it appears twice in the Constitution (*Smith*, 599 U.S. at 248)—is “reduce[d] * * * to a phantom” in conspiracy cases. *Krulewitch*, 336 U.S. at 452 (Jackson, J., concurring);

see also *Hyde*, 225 U.S. at 387 (Holmes, J., dissenting) (the “opening to oppression” permitted by the *Hyde* rule “is very wide indeed,” and “is one of the wrongs that our forefathers meant to prevent”); Ullmann, *supra*, at 1005-1006 (Venue and Vicinage Clauses are “essentially meaningless in conspiracy cases.”).

If, as the court below held, one spoke of a hub-and-spoke conspiracy can be prosecuted in any district where any other unknown spoke took any overt act, no matter how unforeseeable to the defendant, the Clauses provide that defendant no meaningful guardrails against “the unfairness and hardship involved when an accused is prosecuted in a remote place.” *Abouammo*, 146 S. Ct. at 1576 (quoting *Cores*, 356 U.S. at 407).

4. Action is therefore needed to restore these constitutional guarantees in the context of conspiracy prosecutions. And while the *Hyde* rule is an acknowledged anomaly in constitutional venue doctrine (*Abouammo*, 146 S. Ct. at 1576 (explaining that, unlike for other crimes, where venue is proper “only” in the district where “the offense’s ‘essential conduct elements’” took place, under *Hyde* conspiracy venue can be based on a co-conspirator’s overt act “even when only a criminal agreement—and not those overt acts—is required to prove the conspiracy”)),² the Court need not overrule *Hyde* to provide at least some relief.

² The money-laundering conspiracy statute under which petitioner was convicted, 18 U.S.C. § 1956(h), is one such offense; the crime is complete upon an unlawful agreement, without any overt act required. See *Whitfield v. United States*, 543 U.S. 209, 211 (2005).

Instead, a reasonable foreseeability requirement would mitigate the dangers perceived by Chief Justice Marshall and Justices Holmes and Robert Jackson, supporting the values that underlie the Venue and Vicinage Clauses. While far-away venue may still be burdensome, requiring that venue to be reasonably foreseeable ensures that “[t]he venue of [the defendant’s] trial is * * * made by the criminal himself, not determined by reasons or interests which may be adverse to him and used to his injury.” *Brown v. Elliott*, 225 U.S. 392, 402 (1912); see also *Kirk Tang Yuk*, 885 F.3d at 69 (interpreting “the venue requirement to demand ‘some sense of venue having been freely chosen by the defendant’”) (quoting *Davis*, 689 F.3d at 186); *Rommy*, 506 F.3d at 123 n.8 (“[F]oreseeability[] of where an overt act will occur can mitigate fairness concerns as to venue.”).

Hyde does not foreclose—because it had no occasion to address—a reasonable foreseeability requirement for venue. There, it *was* reasonably foreseeable to defendants engaged in a single scheme to defraud the government that acts in furtherance of the conspiracy would take place in the District of Columbia because the offense targeted the General Land Office, which was located there. *Id.* at 351–352, 360. The *Hyde* Court thus explicitly left unaddressed the “extent of the agency between conspirators” necessary to lay venue. *Id.* at 359.³

³ The relevant venue also would have been reasonably foreseeable to defendants in the Court’s other conspiracy-venue cases. See *United States v. Trenton Potteries Co.*, 273 U.S. 392, 402–404 (1927) (venue proper in Southern District of New York in anti-trust case against otherwise legitimate businesses, where that district was “an important market for [the conspiracy’s]

Finally, reasonable foreseeability is a familiar standard in conspiracy law. Under the *Pinkerton* doctrine, a defendant may be liable for substantive acts of co-conspirators only if they are “reasonably foreseen as a necessary or natural consequence of the unlawful agreement.” *Pinkerton v. United States*, 328 U.S. 640, 648 (1946). This fundamental principle of conspiracy law places limits on liability in the interest of general fairness to defendants.

As in *Pinkerton*, where substantive liability is limited by the reasonable foreseeability of a co-conspirator’s actions, the Court should similarly limit venue to districts where it is reasonably foreseeable to the defendant that a co-conspirator’s overt act would occur. That outcome will ensure at least a partial reinvigoration of the Venue and Vicinage Clauses in the conspiracy context, protecting against “one of the wrongs that our forefathers meant to prevent.” *Hyde*, 225 U.S. at 387 (Holmes, J., dissenting).⁴

manufactured product” and “[t]he record is replete with the evidence” of members’ “course of business” there); *United States v. Socony-Vacuum Oil Co.*, 310 U.S. 150, 250-254 (1940) (in another antitrust conspiracy among public businesses, venue proper in Western District of Wisconsin because “the chief end and objective were the raising and maintenance of Mid-Western prices at higher levels,” and “the Mid-Western area” included that district).

⁴ Alternatively, the Court may consider whether to overrule *Hyde* as inconsistent with both the original meaning of the Venue and Vicinage Clauses and the elements-based venue rule that applies to non-conspiracy crimes. See *Abouammo*, 146 S. Ct. at 1576-1578.

II. ALTERNATIVELY, THE PANEL’S DECISION IS IRRECONCILABLE WITH *KOTTEAKOS*.

In the alternative, the Court should grant certiorari—or should summarily reverse—because this case presents materially identical factual circumstances to those confronted by this Court in *Kotteakos*, yet the Fourth Circuit reached the exact opposite result. See, e.g., *Klein v. Martin*, 607 U.S. 213, 215 (2026) (summarily reversing Fourth Circuit because its “reasoning * * * departed from what [controlling law] prescribes”); *Salazar-Limon v. City of Houston*, 581 U.S. 946, 947 (2017) (Alito, J., concurring in denial of certiorari) (summary reversal appropriate where “the lower court conspicuously failed to apply a governing legal rule”); *Presley v. Georgia*, 558 U.S. 209, 217 (2010) (Thomas, J., dissenting) (“[T]he Court should reserve [summary reversal] for cases that our precedents govern squarely and directly.”).

That is, the Fourth Circuit’s conclusion that a hub-and-spoke arrangement constitutes a single conspiracy so long as it “involve[s] the overlap of the key actors and the same methods, goals, nature, and results in each of the [individual] schemes” (*App., infra*, 6a) is precisely what this Court rejected in *Kotteakos*.

a. In *Kotteakos*, a common broker submitted fraudulent loan applications to the Federal Housing Administration for “eight * * * separate and independent groups, none of which had any connection with any other,” other than their common involvement with the broker. 328 U.S. at 754-755. There was overlap in methods (fraudulent FHA applications), actors (the same broker at the hub), and goals (obtaining fraudulent government-backed loans) in each individual scheme.

But as the Court explained, that was not enough to connect the spokes in a single conspiracy: The district court's contrary view "obviously confuses the common purpose of a single enterprise with the several, though similar, purposes of numerous separate adventures of like character." *Kotteakos*, 328 U.S. at 769.

Or, as the Court put it shortly thereafter, there was no single conspiracy in *Kotteakos* because the spokes were not "directed to achieving a single unlawful end or result. On the contrary *each separate agreement had its own distinct, illegal end* * * * although all were alike in having similar illegal objects." *Blumenthal v. United States*, 332 U.S. 539, 558 (1947) (emphasis added). Moreover, no conspirator "aided in any way, by agreement or otherwise, in procuring another's loan." *Ibid.* And, "[e]xcept for Brown, the common figure, no conspirator was interested in whether any loan except his own went through." *Ibid.* "The conspiracies therefore were distinct and disconnected, not parts of a larger general scheme." *Ibid.*

Kotteakos thus stands for the proposition that when a common hub conducts multiple illegal schemes with unrelated individuals as spokes—even if those schemes are cut-and-paste identical in their methods and respective individual goals—that alone does not constitute a single conspiracy. Rather, the schemes of each spoke must be "directed to achieving a *single* unlawful end or result"; or one spoke must "aid[] * * * by agreement or otherwise" the actions of another; or the spokes must be "interested in" each other's success. *Blumenthal*, 332 U.S. at 558 (emphasis added).

Stated differently, the Court’s key holding was that “the *similarity* of purpose by the various spokes was not the same as a *common* purpose,” and conspiracy requires a common purpose. 2 Wayne R. LeFave, *Substantive Criminal Law* § 12.3(b)(2) (3d ed. Oct. 2025 update) (emphases added) (discussing *Kotteakos* and *Blumenthal*).

b. All the factors that made the *Kotteakos* arrangement a rimless wheel, rather than a single hub-and-spoke conspiracy, are duplicated precisely here. Each email scam here “was an end in itself, separate from all others,” notwithstanding that they “were alike in having similar illegal objects” (*Blumenthal*, 332 U.S. at 558); petitioner’s transaction and Uzomba’s were “separate adventures of like character,” not “a single enterprise” with a “common purpose” (*Kotteakos*, 328 U.S. at 769). And, “[e]xcept for [Johnson and Kobayishi], the common figure[s], no conspirator was interested in whether any [transaction] except his own went through.” *Blumenthal*, 332 U.S. at 558.

Indeed, the government admitted that petitioner and Uzomba “didn’t know each other” and in fact were competing for the same transactions (C.A. J.A. 692-693), meaning that each man’s success was to the other’s *detriment*. Just like the borrowers in *Kotteakos*, there has been no suggestion here that petitioner was in any way “interested in whether” Uzomba succeeded; only “the common figure[s]”—that is, the hub individuals—had an interest in both schemes. *Blumenthal*, 332 U.S. at 558; see Gov’t C.A. Br. 32-39 (arguing for single conspiracy based solely on “the overlap in actors, methods, and goals,” and never pointing to any evidence suggesting that petitioner had any

actual interest or involvement in Uzomba’s North Carolina transaction, or any interdependence with Uzomba’s spoke).

The Fourth Circuit held that a single conspiracy nevertheless existed, due to “the overlap of the key actors and the same methods, goals, nature, and results in each of the business email schemes.” App., *infra*, 6a; see also *id.* at 5a (“Whether there is a single conspiracy or multiple conspiracies depends upon the overlap of key actors, methods, and goals.”) (quoting *United States v. Strickland*, 245 F.3d 368, 385 (4th Cir. 2001)).

But a hub-and-spoke arrangement will *always* involve “overlap of the key actors” (i.e., the hub), and will frequently, as in *Kotteakos* itself, involve “the same methods, * * * nature, and results in each of the [individual] schemes.” App., *infra*, 6a. That leaves only “goals” to do the work (*ibid.*)—and as to that consideration, the court of appeals made precisely the same mistake as the district court in *Kotteakos*: Its analysis “obviously confuses the common purpose of a single enterprise with the several, though similar, purposes of numerous separate adventures of like character.” *Kotteakos*, 328 U.S. at 769. The former—of which there is no evidence here—is sufficient to demonstrate a single conspiracy; the latter is not. See also 2 LeFave, *supra*, § 12.3(b)(2) (*Kotteakos* held that “the *similarity* of purpose by the various spokes was not the same as a *common* purpose,” and was insufficient for a single conspiracy) (emphases added).

The court of appeals’ decision here is therefore flatly irreconcilable with *Kotteakos* and *Blumenthal*. And because those “precedents govern squarely and

directly” here (*Presley*, 558 U.S. at 217 (Thomas, J., dissenting)), the Court should summarily reverse.

III. THE COURT MAY WISH TO GRANT, VACATE, AND REMAND IN LIGHT OF *ABOUAMMO*.

Finally, if the Court neither issues a plenary grant nor summarily reverses, it should grant, vacate, and remand for reconsideration in light of *Abouammo*, which was decided after the Fourth Circuit’s judgment here.

In *Abouammo*, a unanimous Court strongly reiterated the importance of the venue and vicinage rights and rejected an effort to expand criminal venue beyond what the Constitution tolerates. Specifically, the Court reversed the Ninth Circuit for permitting a prosecution to proceed somewhere other than “the place of the crime’s conduct elements”—even though the defendant’s conduct there *had* had foreseeable effects in the district of prosecution. *Abouammo*, 146 S. Ct. at 1577. The Court explained that the proper inquiry is “only” into “where the defendant” executed the “conduct proscribed by the statute,” to the exclusion of the locus of “the ‘contemplated effects’” of those acts. *Id.* at 1576; see also *id.* at 1578 (“It [is] immaterial * * * that Abouammo’s false invoice reached California,” since “Abouammo’s crime was complete in Washington” based on its elements, “so that is where he had to be tried.”) (quotation marks omitted; alteration incorporated).⁵

This strict adherence to an elements-based approach is in substantial tension with the rule in

⁵ *Abouammo* also reaffirmed that “the venue rule is constitutional, and Congress lacks the power to finally decide what it means or when it is violated.” 146 S. Ct. at 1577 n.3.

conspiracy cases, which (according to the decision below) permits an unknown co-conspirator’s unforeseen and unforeseeable overt acts to form a basis for venue, “even when only a criminal agreement—and not those overt acts—is required to prove the conspiracy charged.” *Abouammo*, 146 S. Ct. at 1578. And while the Court acknowledged that that rule currently governs in conspiracy cases (*ibid.*), it declined to extend it any further, seemingly recognizing its incompatibility with the Constitution’s textual requirement that a defendant be tried “where the said Crimes shall have been committed.” U.S. Const. art. III, § 2, cl. 3; see *Abouammo*, 146 S. Ct. at 1576 (“To implement that constitutional rule—meaning, to decide where the crime was committed—courts generally must determine the location of the offense’s ‘essential conduct elements.’”).

The Court’s reluctance to extend the *Myers* conspiracy venue rule at the government’s urging (*Abouammo*, 146 S. Ct. at 1578) counsels caution in applying that rule to its logical end—to an unknown co-conspirator’s overt acts that are unforeseeable to the defendant—as the court below did here. That court may well reconsider its decision with the benefit of *Abouammo*. Should this Court not grant the petition or summarily reverse for the reasons described above, it should therefore grant, vacate, and remand in light of *Abouammo*.

CONCLUSION

The Court should grant the petition.

Respectfully submitted.

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JULY 2026