

No. 26-

IN THE
Supreme Court of the United States

CHRISTOPHER RYDBERG,

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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QUESTIONS PRESENTED

I.

Whether the Federal Employees’ Compensation Act (FECA), a federal workers’ compensation statute rather than a health insurance statute, qualifies as a “plan” or “contract” as those undefined operative terms appear in the definition of “health care benefit program” in 18 U.S.C. § 24(b).

II.

Whether this Court should disapprove *United States v. Anderson*, 980 F.3d 423, 428 (5th Cir. 2020), which the Fifth Circuit panel applied by rote in petitioner’s case by uncritically giving “a broad meaning” to “health care benefit program” in 18 U.S.C. § 24(b)—without even mentioning the undefined key terms “plan” or “contract.”

III.

Whether this Court should grant certiorari to clarify the proper application of the rule of lenity to ambiguous criminal statutes in view of the conflicting approaches in this Court’s precedent. *Compare, e.g., Wooden*, 595 U.S. 360, 376-78 (2022) (Kavanaugh, J., concurring) (arguing in favor of a narrow approach to the rule of lenity and contending that “the rule of lenity has appropriately played only a very limited role in this Court’s criminal case law”), *with id.* at 388-97 (Gorsuch, J., concurring, joined by Sotomayor, J.) (arguing in favor of a broad approach to the rule of lenity and noting its application dating from the early decades of this country’s history).

LIST OF ALL PARTIES

Pursuant to Supreme Court Rule 14.1(b), the following is a list of all parties to the proceeding in the court whose judgment is the subject of this petition: (1) Petitioner Christopher Rydberg, appellant in the Court of Appeals; (2) Dehshid Nourian, petitioner's co-appellant in the Court of Appeals; and (3) Respondent United States of America, Plaintiff-Appellee below.

RELATED CASES

United States v. Christopher Rydberg, Nos. 3:17-CR-155-3-L (N.D. Tex.). District Judge: Hon. Sam Lindsay. Judgment entered on March 19, 2025.

United States v. Christopher Rydberg, No. 25-10365 (5th Cir.), decided on June 10, 2026, rehearing denied on July 21, 2026.

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OPINIONS BELOW

The opinion of the United States Court of Appeals for the Fifth Circuit (App. 1a) is unreported but is available at 2026 WL 1683484. The order of the Fifth Circuit denying rehearing en banc (App. 19a) is unreported. The opinion of the district court denying petitioner's motion for judgment of acquittal (App. 8a) is unreported but available at 2025 WL 912441.

JURISDICTION

The United States Court of Appeals for the Fifth Circuit entered its judgment on June 10, 2026. Petitioner timely filed a petition for rehearing *en banc*, which the Fifth Circuit denied on July 21, 2026. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1). This petition is timely filed within 90 days of the denial of rehearing. *See* Sup. Ct. R. 13.3.

STATUTORY PROVISIONS INVOLVED

18 U.S.C. § 24(b) provides:

“Health care benefit program” means any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract.

18 U.S.C. § 1347 provides, in relevant part:

(a) Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice –

(1) to defraud any health care benefit program; or

(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 10 years, or both. . . .

42 U.S.C. § 1320a-7b(f)(1), part of the Anti-Kickback Statute, provides:

For purposes of this section, the term “Federal health care program” means—(1) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government. . . .

The Federal Employees’ Compensation Act (FECA) is codified at 5 U.S.C. § 8101 *et seq.*

STATEMENT OF THE CASE

A. Statutory Background

Congress enacted 18 U.S.C. §§ 24(b) and 1347, along with the Anti-Kickback Statute (AKS) at 42 U.S.C. § 1320a-7b(f)(1), in the same 1996 statute—the Health Insurance Portability and Accountability Act (HIPAA). Pub. L. No. 104-191, §§ 204, 241-42, 110 Stat. 1936 (Aug. 21, 1996). Section 24(b) defines “health care benefit program,” an element of the health-care-fraud offense in § 1347 and of the conspiracy offense in § 1349, as “any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual.” 18 U.S.C. § 24(b). Neither “plan” nor “contract” is defined in the statute. By contrast, the Anti-Kickback Statute definition enacted in HIPAA reaches any “plan or program that provides health benefits, whether directly, through insurance, *or otherwise*.” 42 U.S.C. § 1320a-7b(f)(1) (emphasis added). Section 24(b) contains no comparable “through insurance, or otherwise” language.

The Federal Employees’ Compensation Act (FECA), 5 U.S.C. § 8101 *et seq.*, is an entirely separate and much older federal statute (originally enacted in 1916) that creates a no-fault workers’-compensation system for federal employees injured on the job. Under FECA, “[t]he United States shall furnish” medical services to an injured federal employee that the Secretary of Labor “considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation.” 5 U.S.C. § 8103(a). The Secretary possesses “plenary authority . . . to administer, and decide all questions arising under” FECA, including

the discretion to grant or deny any claim. 5 U.S.C. § 8145; *see also* 5 U.S.C. § 8124(a). No federal employee has a contractual or insurance-based entitlement to FECA benefits; the benefit exists, and its scope is fixed, entirely by statute and by the Secretary’s administrative discretion.

B. Procedural Background

On September 11, 2019, the grand jury returned a superseding indictment charging petitioner, along with other codefendants, with conspiracy to commit health care fraud, in violation of 18 U.S.C. § 1349 (18 U.S.C. § 1347) (Count 1); conspiracy to launder money, in violation of 18 U.S.C. § 1956(h) (Count 10) and substantive money laundering charges, in violation of 18 U.S.C. § 1956(a)(1)(B)(i) (Counts 11-16); and conspiracy to defraud the United States (i.e., the Internal Revenue Service) in violation of 18 U.S.C. § 371 (Count 17). ROA.10946.¹

The superseding indictment alleged that two programs—FECA and Blue Cross Blue Shield (BCBS)—were “health care benefit programs” as defined in 18 U.S.C. § 24(b). ROA.10946.

After the first jury trial ended in a mistrial, a second jury, on November 16, 2023, convicted petitioner of Count 1 and Counts 10 through 17. ROA.1633, ROA.12403. On March 19, 2025, the district court (U.S. District Judge Sam Lindsay, presiding) sentenced petitioner to a total prison sentence of 180 months and three years of supervised release, as well as \$115,389,128.20 in restitution, jointly and severally with codefendant Dehshid Nourian and

1. “ROA” is the Fifth Circuit’s record on appeal.

partially jointly and severally with codefendants Michael Taba and Kevin Williams. ROA.13976-82. The court also ordered petitioner to forfeit various assets and property. ROA.13984.

C. Relevant Facts

Petitioner worked for compound pharmacies in Texas that allegedly submitted fraudulent reimbursement claims for compound medications to both the Department of Labor's Office of Workers' Compensation Programs (DOL-OWCP) and BCBS. For purposes of this petition, the only other relevant facts concern the two alleged "health care benefit programs" (§ 24(b)) charged in the health care fraud conspiracy and related charges in the superseding indictment: the FECA and BCBS. ROA.10958. At trial, witnesses for both the DOL-OWCP and BCBS testified about the reimbursement claims submitted by the pharmacies in this case. ROA.3591-3592 (testimony of Elliott Cook, chief pharmacist at DOL-OWCP); ROA.4486-4501 (testimony of Glory Chaw, analytical and reporting consultant for BCBS). On appeal to the Fifth Circuit, petitioner acknowledged that BCBS qualifies as a "health care benefit program" but contended that FECA does not qualify as such.

The alleged health care fraud against the DOL-OWCP (in relation to the FECA claims for reimbursement) resulted in an actual loss of \$90,938,838.00, ROA.3154, while the alleged health care fraud against BCBS resulted in an actual loss of only \$465,033.20. ROA.3154, ROA.13982.

D. The District Court's Ruling

The district court rejected petitioner's argument that FECA is not a "health care benefit program," reasoning

that Fifth Circuit precedent “directed courts to interpret broadly the term ‘health care benefit program.’” App. 3a (quoting *United States v. Anderson*, 980 F.3d 423, 428 (5th Cir. 2020)). Despite petitioner’s extensive briefing on the issue, the district court did not analyze whether FECA—as opposed to the very different insurance-like arrangements at issue in *Anderson* and the cases *Anderson* relied upon—qualifies under the ordinary meaning of the undefined terms “plan” or “contract” (the operative terms in § 24(b)).

E. The Fifth Circuit’s Decision

Petitioner’s opening and reply briefs in the Fifth Circuit—and his counsel’s oral argument—made the same detailed statutory interpretation arguments set forth in this petition (focusing on the key statutory terms “plan” and “contract”). Appellant’s Opening Brief (5th Cir. No. 25-10365), at 21-37; Appellant’s Reply Brief (5th Cir. No. 25-10365), at 2-11. Yet the Fifth Circuit issued an unpublished *per curiam* opinion affirming petitioner’s convictions and sentences that only addressed the statutory interpretation issues in a cursory manner. App. A.

On the central question whether FECA qualifies as a “health care benefit program” under 18 U.S.C. § 24(b), the panel’s analysis simply stated that “we interpret the term ‘healthcare benefit program’ broadly,” citing *United States v. Anderson*, 980 F.3d 423, 428 (5th Cir. 2020). Despite petitioner’s extensive briefing on the issue and his counsel’s oral argument that focused on the specific language in the statute and relevant statutory interpretation principles, *the panel entirely failed to analyze (or even mention) the undefined operative statutory terms “contract”*

and “plan” used in § 24(b). Nor did the panel address the critical textual comparison between § 24(b) and the Anti-Kickback Statute’s broader definition at 42 U.S.C. § 1320a-7b(f)(1). Finally, the panel did not engage in any manner with petitioner’s detailed arguments about the rule of lenity, legislative history, or the fundamental differences between workers’ compensation and health insurance.

Significantly, despite petitioner’s explicit argument in his briefs and at oral argument concerning the matter, the panel also erroneously relied on *United States v. Shah*, 95 F.4th 328, 349 (5th Cir. 2024), which applied the Anti-Kickback Statute (AKS)—not 18 U.S.C. § 24(b)—to FECA. The AKS employs a materially different and broader definition of “federal health care program” that expressly includes programs providing health benefits “whether directly, through insurance, or otherwise.” 42 U.S.C. § 1320a-7b(f)(1) (emphasis added). That *Shah* held FECA falls within the broader AKS definition of “federal health care program” says nothing about whether FECA falls within the narrower § 24(b) definition. To the contrary, as petitioner repeatedly argued in the courts below, § 1320a-7b(f)(1)—which was enacted the same day by the same Congress that enacted § 24(b)—indicates that Congress intended “federal health care program” and “health care benefit program” to have different meanings.

In its alternative harmless error analysis, the panel concluded that any error in treating FECA as a “health care benefit program” was harmless because the jury also found that petitioner conspired to defraud BCBS. App. 3a. But this analysis ignores the general-verdict problem: the jury was never asked to specify whether it found

fraud against FECA, BCBS, or both, and a rational jury could have wrongly convicted based solely on the FECA evidence while harboring reasonable doubt about the unrelated BCBS fraud.² Moreover, all money laundering counts were predicated solely on FECA fraud proceeds, the district court’s restitution and forfeiture orders and petitioner’s sentencing guideline range were all based primarily on the FECA loss amounts. ROA.10962-64, 12387, 13982, 13991, 14031, 14040, 14154. The district court’s erroneous treatment of FECA as a “health care benefit program” clearly harmed petitioner.

F. The Fifth Circuit’s Denial of Petition for Rehearing *En Banc*

Petitioner sought rehearing *en banc*, arguing that the panel had failed to apply well-established principles of statutory interpretation to the question whether FECA qualifies as a “contract” or “plan,” and that requiring a “broad” construction of an undefined term in a criminal statute—without regard to whether that term’s meaning is “plain”—conflicts with this Court’s repeated admonition that criminal statutes must be narrowly construed when their meaning is not plain. Petitioner specifically asked the *en banc* Fifth Circuit to overrule *Anderson, supra*.

Petitioner also argued that the panel’s alternative harmless-error analysis was erroneous because the jury returned a general verdict on Count One and there is no way to know whether it convicted based on the BCBS allegations alone, and because the sentencing

2. Significantly, in its Fifth Circuit brief, the government did not dispute this argument.

consequences—the guidelines loss calculation, restitution, and forfeiture—were driven by the FECA allegations.

The court of appeals denied rehearing *en banc* on July 21, 2026, without offering any reasons. App. 19a.

REASONS FOR GRANTING THE WRIT

I.

The Meaning of the Undefined Terms “Plan” and “Contract” Within the Definition of “Health Care Benefit Program” Under § 24(b), as it Relates to the Federal Employees’ Compensation Act, Is an Important Federal Question that This Court Should Resolve.

The term “health care benefit program,” as defined in 18 U.S.C. § 24(b), is an essential predicate for a vast array of federal criminal provisions. Its correct interpretation has enormous implications for federal health care fraud prosecutions nationwide. The Fifth Circuit’s erroneous interpretation conflicts with fundamental principles of statutory construction set forth in this Court’s longstanding precedent.

Section 24(b) defines “health care benefit program” as “any public or private *plan or contract*, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the *plan or contract*.” 18 U.S.C. § 24(b) (emphasis added). “Plan” and “contract” are clearly the operative terms. Neither is defined in the statute.

This definition of “health care benefit program” is the linchpin of federal health care fraud enforcement. It is the jurisdictional element of: (1) health care fraud statutes, 18 U.S.C. §§ 1347 and 1349; (2) multiple other offenses qualifying as “federal health care offenses,” 18 U.S.C. § 24(a); (3) money-laundering predicates, 18 U.S.C. § 1956(c)(7)(F); (4) criminal forfeiture authority, 18 U.S.C. § 982(a)(7); and (5) numerous additional provisions, including 18 U.S.C. §§ 220, 669, 1035, 1345, 1518, and 3486.

The question whether FECA falls within § 24(b)’s definition of “health care benefit program” thus affects the scope of federal criminal jurisdiction across the entirety of health care fraud enforcement. The billions of dollars in federal workers’ compensation expenditures each year and the significant number of individuals employed (or previously employed) by the federal government who receive FECA benefits make this an issue of enormous practical consequence.

Yet the Fifth Circuit addressed this consequential question in a single, cursory paragraph of an unpublished *per curiam* opinion, without mentioning petitioner’s detailed textual, structural, and contextual arguments and without even mentioning “plan” or “contract.” The panel’s entire analysis consisted of citing its own precedent for the proposition that “health care benefit program” is to be interpreted “broadly,” App. 3a (citing *Anderson*, 980 F.3d at 428), and noting that a different panel had previously “included FECA in a list describing federal healthcare programs,” App. 3a (citing *Shah*, 95 F.4th at 349). This perfunctory treatment of a highly significant federal question warrants this Court’s review.

II.

FECA Is Neither a “Plan” Nor a “Contract” Under 18 U.S.C. § 24(b).

A. FECA Is Not a “Contract.”

It is self-evident that FECA, a statute, is not a “contract.” *Cf. Bell v. United States*, 366 U.S. 393, 401 (1961) (distinguishing between entitlements created under a statute from those created under a contract); *see also* Black’s Law Dictionary 341 (8th ed. 2004) (defining “contract” as “[a]n agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law”). Nor does FECA provide benefits pursuant to any “contract.” Instead, FECA is a statutory entitlement program administered by the Secretary of Labor. Benefits under FECA are within the Secretary’s sole discretion, and no contractual obligation runs between the government and federal employees to provide specific healthcare benefits. *See Collins v. United States*, 35 Fed. Cl. 620, 624-25 (1996) (holding that FECA “vests plenary authority in the Secretary of Labor to determine the allowance or denial of claims for compensation”). This is the hallmark of a statutory entitlement—not a contract. *See also Harrison v. Digital Health Plan*, 183 F.3d 1235, 1241 (11th Cir. 1999) (stating that workers’ compensation is not “a contract implied by law between the employer and the employee”). Nor is there any statutory support for the proposition that FECA creates a “contract” between the Department of Labor’s Office of Workers’ Compensation and health care providers (such as the pharmacies in petitioner’s case).

At petitioner’s trial, the government offered no evidence whatsoever that any federal employee who received workers’ compensation benefits from pharmacies owned by petitioner’s stepfather entered into a contract—express or implied—with the federal government for the provision of FECA medical benefits. Similarly, the government offered no evidence whatsoever that any healthcare provider (including the pharmacies) entered into a contract with the government to provide health care benefits to the federal employees.

B. When Considered in Proper Statutory Context, FECA Is Not a “Plan.”

In interpreting an undefined term in a statute, a court must divine meaning of the term “in context.” *See, e.g., Southwest Airlines Co. v. Saxon*, 596 U.S. 450, 455 (2022); *see also Roberts v. Sea-Land Servs., Inc.*, 566 U.S. 93, 101 (2012) (“It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.”).

When one speaks of a “plan” in the medical or health care contexts, clearly the most common understanding of that term is public or private *health care insurance* (such as BCBS or Medicare).³ A health care “plan” is an

3. If people are asked, “what is your health care plan,” they surely would respond by mentioning private health care insurance like BCBS or governmental health care insurance like Medicare. People carry their “health care plan” cards in their wallets to cover *future* treatment for illness or injury. It seems highly improbable that anyone would answer, “the Federal Employees’ Compensation Act,” if asked what their “health care plan” was. There is no such

arrangement between a person and a private entity (such as an insurance company) or a governmental entity (such as the Centers for Medicare and Medicaid Services) to cover the *future* costs of treating a covered illness or injury. Under that common meaning of health care “plan” in “the medical context,”⁴ FECA thus does not qualify.

Workers’ compensation has long been recognized as “qualitatively different” from health care insurance. *Howard Delivery Service, Inc. v. Zurich American Ins. Co.*, 547 U.S. 651, 652-53 (2006). Workers’ compensation serves a fundamentally different purpose than health care insurance: it is a no-fault statutory scheme that compensates workers for work-related injuries (in lieu of tort litigation), rather than a plan that provides health care coverage. *See also LeBlanc v. Cooper/T. Smith Stevedoring, Inc.*, 130 F.3d 157, 160 (5th Cir. 1997) (“Compensation under [a workers’ compensation program] is not the equivalent of health . . . insurance.”); *Kachanis v. United States*, 844 F. Supp. 877, 883 (D. R.I. 1994) (“[T]here is no insurance policy at issue in a FECA situation.”).

thing as a “FECA card” that people carry in their wallets in the event that they are injured in the future. It is not a health care “plan” as that term is commonly understood.

4. *Cf. United States v. Cooper*, 38 F.4th 428, 432-33 (5th Cir. 2022) (“While the [Anti-Kickback] statute does not define the word ‘refer,’ ‘[w]hen interpreting statutes, [w]ords are to be understood in their everyday meanings—unless the context indicates that they bear a technical sense. . . . Given the medical context of the applicable anti-kickback provisions, the word ‘refer’ should be given a technical meaning.”). In the district court, the government cited the non-technical, broader dictionary definition of “plan.” ROA.13031. That position is untenable because “plan” in the health care context must be given its meaning in that specific context.

FECA operates as a comprehensive workers' compensation scheme for federal employees. It covers not only medical treatment but also wage-loss compensation, vocational rehabilitation, and survivor benefits. *See* 5 U.S.C. §§ 8101-8193. FECA's provision of medical benefits is incidental to its broader compensatory purpose. Therefore, it is not a "plan" designed to provide health care coverage in the manner that Congress intended when it enacted § 24(b).

C. The AKS's Definition of "Federal Health Care Program" Confirms That § 24(b)'s Narrower Definition of "Health Care Benefit Program" Does Not Encompass Workers' Compensation.

Further evidence that § 24(b) does not encompass FECA comes from the Anti-Kickback Statute ("AKS"), 42 U.S.C. § 1320a-7b. Both § 24(b) and the AKS were enacted simultaneously—on the same day—as part of HIPAA in 1996.⁵ Yet Congress used materially different language in each in defining superficially similar statutory phrases—"health care benefit program" (§ 24(b)) and "federal health care program" (§ 1320a-7b(f)(1)).

The AKS defines "federal health care program" as:

[A]ny plan or program that provides health benefits, *whether directly, through insurance, or otherwise*, which is funded directly, in whole or in part, by the United States Government.

5. Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, §§ 204, 241-42, 110 Stat 1936 (Aug. 21, 1996).

42 U.S.C. § 1320a-7b(f)(1) (emphasis added). Section 24(b), by contrast, is limited to a “public or private plan or contract.” It does not include the capacious phrase “whether directly, through insurance, *or otherwise*.”

This difference is significant. This Court repeatedly has held that “[w]e usually presume differences in language like this convey differences in meaning.” *Wisconsin Central Ltd. v. United States*, 585 U.S. 274, 279 (2018). When Congress enacts two provisions in the same statute, using different language to describe similar concepts, the difference in language must be given effect. *See id.* Congress knew how to write a broad definition that would capture any federal program providing medical benefits; it did so in the AKS. Thus, its choice of narrower language in § 24(b) must be presumed to have been deliberate.

The AKS’s phrase “whether directly, through insurance, or otherwise” is what makes that definition broad enough to encompass programs like FECA that provide medical benefits directly (i.e., not through an insurance arrangement). Section 24(b)’s omission of the “through insurance, or otherwise” language means it is limited to “plans” that operate as health care insurance arrangements—which FECA clearly is not.

Despite petitioner’s extensive briefing of the issue and his counsel’s oral argument that likewise focused on this difference in the two statutes, the Fifth Circuit’s opinion below entirely failed to address this critical textual comparison. Instead, the panel below cited *Shah*—a case applying the AKS to FECA—as if it supported treating FECA as a “health care benefit program” under § 24(b).

But *Shah* actually underscores the distinction: the AKS’s broader language (“whether directly, through insurance, or otherwise”) is precisely what makes FECA a “federal health care program” under the AKS. Section 24(b) lacks that language and thus does not reach FECA.

D. The Legislative History Confirms Congress’s Intent.

Finally, if there were any doubt regarding Congress’s intent after using statutory interpretation tools, the legislative history of the health care fraud statute (which necessarily includes § 24(b)) reinforces the above textual analysis. The House report (H.R. Rep. 104-747, 2nd Sess. 1996, 1996 WL 440279 (1996)), which accompanied HIPAA, repeatedly references “health care plans” solely in the context of health insurance.⁶ The report discusses fraud against “public and private health care plans”—referring 13 times to health care *insurers* such as Medicare, Medicaid, and private insurance companies. It makes no mention whatsoever of workers’ compensation.

Congress’s concern in enacting the health care fraud statute was with the integrity of the health insurance system. Its criminal fraud provisions were designed to protect health *insurance* plans and contracts—not government workers’ compensation programs that incidentally provide medical benefits to injured workers as a substitute for money damages in a traditional tort lawsuit.

6. *United States v. Lauersen*, No. 98 CR. 1134 (WHP), 1999 WL 637237, at *6 (S.D.N.Y. Aug. 20, 1999) (noting that the 1996 House report is the relevant legislative history concerning the health care fraud statute, including § 24(b)).

E. The Fifth Circuit’s Alternative Harmless Error Analysis Was Flawed.

If this Court agrees that FECA does not qualify as a “health care benefit program” under § 24(b), the question of remedy remains. The Fifth Circuit implicitly suggested that any error was harmless because petitioner was also convicted of defrauding BCBS. App. 3a. That suggestion clearly was wrong for several reasons.

First, the jury returned a general verdict on Count One, the healthcare fraud conspiracy count, which alleged fraud against *both* FECA and BCBS. Under *Neder v. United States*, 527 U.S. 1, 19 (1999), when a general verdict rests on multiple theories of guilt and one theory is legally invalid, the error is not harmless if the record contains evidence that could rationally lead a jury to acquit on the alternative (valid) theory. *See also Hedgpeth v. Pulido*, 555 U.S. 57, 61 (2008) (per curiam); *United States v. Skilling*, 638 F.3d 480, 482 (5th Cir. 2011).

At trial, the FECA fraud was the central and overwhelming focus of the government’s case. The government presented extensive evidence of FECA fraud at trial—compared to a dramatically weaker case concerning petitioner’s role in the BCBS fraud. *See* Brief for Appellant, at 13-14, 37-38; Reply Brief of Appellant, 11-12. A rational jury could have acquitted petitioner of the BCBS fraud.

Second, petitioner’s money-laundering convictions (Counts 10-16) were based solely on transactions involving DOL/FECA funds, not BCBS funds. ROA.10962-64, 12387. If FECA is not a “health care benefit program,”

the predicate for these money-laundering convictions collapses entirely, and any error on the healthcare fraud conspiracy count cannot be deemed harmless as to the money-laundering counts.

Third, the loss amounts that drove sentencing, restitution, and forfeiture were overwhelmingly based on the FECA allegations in Count One. If the FECA fraud cannot support petitioner's healthcare fraud conspiracy conviction, the sentencing guideline loss calculations under USSG § 2B1.1(b)(1), the restitution order, and forfeiture order all would need to be entirely recalculated.⁷

In short, the FECA question is not merely academic. It goes to the heart of petitioner's convictions,⁸ sentence, and the enormous financial penalties imposed on him.

III.

The Fifth Circuit's Approach to Interpreting 18 U.S.C. § 24(b) Clearly Conflicts with this Court's Precedent on Statutory Interpretation of Criminal Statutes.

The Fifth Circuit's directive in *United States v. Anderson*, 980 F.3d 423, 428 (5th Cir. 2020), to interpret

7. The FECA-based portion of the alleged health-care-fraud scheme—\$90,938,838.00 in alleged loss—dwarfs the \$465,033.20 attributed to the separately charged BCBS allegations, and the presentence report's guidelines loss figure of over \$146 million, which drove the district court's sentencing calculation under USSG § 2B1.1(b)(1).

8. The sole conviction not affected by the error is petitioner's conviction for conspiracy to defraud the Internal Revenue Service, for which he received a 60-month prison sentence. He does not challenge that conviction and sentence here.

the undefined terms in “health care benefit program” “*broadly*”—which the panel below followed—conflicts with this Court’s longstanding and frequently reiterated principles governing the interpretation of criminal statutes. The Fifth Circuit’s approach to statutory interpretation flies in the face of the cardinal rule that “penal laws are to be construed *strictly*,” *United States v. Wiltberger*, 18 U.S. 76, 95 (1820) (emphasis added); *see also McNally v. United States*, 483 U.S. 350, 360 (1987) (holding that “before one can be [criminally] punished, it must be shown that his case is plainly within the statute”). The Fifth Circuit’s approach also conflicts with *Dubin v. United States*, 599 U.S. 110 (2023), which held that “a [criminal] statute’s meaning does not always turn solely on the broadest imaginable definitions of its component words.” *Id.* at 120. To the extent that “plan” and “contract” in 18 U.S.C. § 24(b) are ambiguous, the venerable rule of lenity requires that those terms be interpreted in petitioner’s favor. *See, e.g., United States v. Santos*, 553 U.S. 507, 514 (2008) (“The rule of lenity requires ambiguous criminal laws to be interpreted in favor of the defendants subjected to them.”).

This Court’s decisions establish a settled methodology: when a term defining the scope of a federal crime is undefined, and its application to the conduct at issue is not plain from text and statutory structure, a court must adopt the narrower available construction, not the broader one. The methodology does not depend on which particular statute is at issue; it is a general interpretive rule that this Court has applied across mail and wire fraud, false statements, money laundering, aggravated identity theft, and civil penalty statutes alike.

The Fifth Circuit’s approach runs in precisely the opposite direction. In *United States v. Anderson, supra*, the controlling precedent followed by the panel below, the Fifth Circuit declared—without engaging in any textual or structural analysis and without acknowledging the narrow-construction principle at all—that “[t]he definition in [§] 24(b) of a ‘health care benefit program’ begins with categorizing the term *broadly* as a ‘public or private plan or contract, affecting commerce.’” 980 F.3d at 428 (emphasis added).

Anderson derived this purported “broad meaning” directive from a single prior decision, *United States v. Collins*, 774 F.3d 256 (5th Cir. 2014), in which the court held that automobile insurers that pay for medical treatment are “health care benefit programs” because they pay for medical treatment pursuant to insurance contracts. 774 F.3d at 260. *Collins* itself said nothing about construing the *undefined term* “plan” broadly. *Anderson* nonetheless extracted from that narrow holding a freestanding interpretive command—that “health care benefit program” must always be read expansively. The panel below mechanically applied that command here without even discussing “plan” or “contract.” App. 3a (“[W]e interpret the term ‘healthcare benefit program’ broadly.”) (citing *Anderson*).

The Fifth Circuit’s interpretive default rule cannot be reconciled with this Court’s statutory interpretation precedents, particularly in criminal cases. A court may not adopt a categorical presumption in favor of the *broadest* permissible reading of an undefined term that defines federal criminal liability; it must instead ask whether the government’s proposed application is *plainly* within the

statute’s ordinary meaning and resolve any genuine doubt in the defendant’s favor. *McNally*, 483 U.S. at 360; *see also* *Dubin*, 599 U.S. at 120. The Fifth Circuit’s rule inverts that inquiry, treating breadth itself as the touchstone and placing the burden on the defendant to show why an undefined term should *not* be stretched to its outer limit.

At a minimum, this Court should disapprove *United States v. Anderson*, 980 F.3d 423 (5th Cir. 2020)—which the panel in petitioner’s case followed in “apply[ing] a broad meaning” to “health care benefit program” under 18 U.S.C. § 24(b), *id.* at 428—and vacate the Fifth Circuit’s judgment and remand with instructions to reconsider petitioner’s substantial statutory interpretation arguments without such a blatantly erroneous interpretative presumption. But it is also appropriate for the Court to grant certiorari to fully consider the merits of the first question presented, at which time the Court can repudiate the erroneous “apply a broad meaning” presumption used in the decision below.

IV.

This Court Should Grant Certiorari and Address the Proper Application of the Rule of Lenity—an Issue that Has Caused Dissension Among this Court’s Current Members and Left Doubt About the Proper Application of the Rule of Lenity.

As Justice Gorsuch’s concurring opinion in *Wooden v. United States*, 595 U.S. 360 (2022), noted, “[c]ertain controversies and misunderstandings about the rule have crept into our law in recent years.” *Id.* 595 U.S. at 392 (Gorsuch, J., concurring, joined by Sotomayor, J.). The

most important point of disagreement appears to be “the degree of ambiguity required to trigger the rule of lenity.” *Id.* This Court’s cases have varied with respect to that issue. *Id.* at 392-95.⁹ In addition to this lack of coherence in the application of the rule of lenity, there are other cases in which this Court has effectively applied the rule of lenity without acknowledging it. *See Snyder v. United States*, 603 U.S. 1, 20-21 (2024) (Gorsuch, J., concurring) (“Lenity may sometimes, as it does today, go unnamed. It may be deployed under other guises, too. ‘Fair notice’ or ‘fair warning’ are especially familiar masks. . . . Whatever the label, lenity is what’s at work behind today’s decision, just as it is in so many others.”).

9. Compare, e.g., *Brown v. United States*, 602 U.S. 101, 122 (2024) (“Finally, both petitioners contend that the rule of lenity counsels us to adopt their interpretations. It does not. Lenity applies only if a statute remains *grievously ambiguous* after we have consulted everything from which aid can be derived.”) (citations and internal quotation marks omitted) (emphasis added), *with United States v. Davis*, 588 U.S. 445, 464-65 & n.8 (2019) (majority op.) (noting “the rule of lenity’s teaching that ambiguities about the breadth of a criminal statute should be resolved in the defendant’s favor”), *id.* at 496-97 (Kavanaugh, J., dissenting, joined by Thomas & Alito but not joined by Roberts, C.J., who joined the remainder of the dissenting opinion) (holding that the rule of lenity was not applicable because there was no “grievous ambiguity”); *Smith v. United States*, 508 U.S. 223, 239 (1993) (“[The] venerable rule is reserved for cases where, [a]fter seiz[ing] everything from which aid can be derived, the Court is left with an ambiguous statute.”) (citations and internal quotation marks omitted); *United States v. Wiltberger*, 18 U.S. 76, 95 (1820) (holding that “penal laws are to be construed strictly” because of “the tenderness of the law for the rights of individuals” and also “on the plain principle that the power of punishment is vested in the legislative, not in the judicial department” and that “[i]t is the legislature, not the Court, which is to define a crime”).

Without a clear and consistently followed approach to the “venerable” rule of lenity,¹⁰ there have been noticeable differences among the Members of this Court in its cases decided in recent years:

- *Compare Wooden*, 595 U.S. at 376-78 (Kavanaugh, J., concurring) (arguing in favor of a narrow approach to the rule of lenity and contending that “the rule of lenity has appropriately played only a very limited role in this Court’s criminal case law”), *with id.* at 388-97 (Gorsuch, J., concurring, joined by Sotomayor, J.) (arguing in favor of a broad approach to the rule of lenity and noting its long history from the early decades of this country’s history).
- *Compare Bondi v. VanDerStok*, 604 U.S. 458, 484 (2025) (refusing to apply the rule of lenity where traditional tools of statutory interpretation resolved meaning of the statute), *with id.* 511 (2025) (Thomas, J., dissenting) (“[T]he Government would—at most—demonstrate statutory ambiguity. And, when a statute with criminal applications is ambiguous, the rule of lenity applies.”).
- *Compare Delligatti v. United States*, 604 U.S. 423, 434-39 (2025) (applying traditional canons of statutory interpretation to resolve meaning of statute), *with id.* at 457 (Gorsuch, J., dissenting,

10. *Smith*, 508 U.S. at 239; *United States v. R.L.C.*, 503 U.S. 291, 305 (1992) (plurality op. of Souter, J., joined by Rehnquist, C.J., and White & Stevens, JJ.); *Moskal v. United States*, 498 U.S. 103, 131 (1990) (Scalia, J., dissenting, joined by O’Connor & Kennedy, JJ.).

joined by Jackson, J.) (disagreeing with the majority’s position about the ordinary meaning of the statutory language but alternatively contending that, at the very least, applying the rule of lenity required an interpretation for the criminal defendant).

- *See Bittner v. United States*, 598 U.S. 85, 101-104 (2023) (plurality op. of Gorsuch, J., joined by Jackson, J., which applied the rule of lenity—not joined by other three justices who joined the rest of Justice Gorsuch’s opinion for the five justices). The other justices’ opinions did not discuss the rule of lenity.

Commentators have noted this confusion and uncertainty in this Court’s approach to the rule of lenity. *See, e.g.,* William N. Eskridge, Jr., *et al., Textualism’s Defining Moment*, 123 Colum. L. Rev. 1611, 1686 (2023) (noting the “state of uncertainty in criminal cases” and asking, “[i]s the rule of lenity now irrelevant . . . ?”).

This Court should grant certiorari in petitioner’s case to provide clarification and needed guidance to the lower courts about the proper application of the rule of lenity.

V.

Petitioner’s Case Provides an Excellent Vehicle to Address the Questions Presented.

This case cleanly presents the FECA question, and its resolution would be outcome-determinative for petitioner.

The question was preserved in, and addressed by, the district court; was squarely presented to and decided by the Fifth Circuit panel; and was the central focus of the petition for rehearing *en banc*. No jurisdictional, procedural, or fact-bound obstacle stands between this Court and a clean resolution of the interpretive question presented. Likewise, petitioner's case cleanly raises the issue of whether the Fifth Circuit's decision in *United States v. Anderson, supra*, conflicts with this Court's precedent.

This is precisely the kind of case in which "a United States court of appeals has decided an important question of federal law . . . in a way that conflicts with relevant decisions of this Court," warranting this Court's review. SUP. CT. R. 10(c). Finally, in the event that this Court determines that the operative statutory terms are ambiguous, this case affords this Court the opportunity to clarify the important issue of how the rule of lenity should apply.

CONCLUSION

For the foregoing reasons, this Court should grant the petition for a writ of certiorari and reverse the judgment of the Fifth Circuit. At a minimum, this Court should disapprove *United States v. Anderson*, 980 F.3d 423 (5th Cir. 2020), vacate the Fifth Circuit's judgment, and remand with instructions to reconsider petitioner's substantial statutory interpretation arguments without *Anderson's* erroneous interpretative presumption.

September 2026

Respectfully submitted,

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APPENDIX

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**APPENDIX A — OPINION OF THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT,
FILED JUNE 10, 2026**

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 25-10365

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

DEHSHID NOURIAN; CHRISTOPHER RYDBERG,

Defendants-Appellants.

Filed June 10, 2026

Appeal from the United States District Court
for the Northern District of Texas
USDC Nos. 3:17-CR-155-2, 3:17-CR-155-3

Before HAYNES, HIGGINSON, and Ho, *Circuit Judges.*

PER CURIAM:*

A jury convicted Dehshid Nourian and Christopher Rydberg of their involvement in a healthcare fraud

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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scheme. The scheme involved recruiting doctors to prescribe drugs to patients in return for a portion of the insurance proceeds. The doctors largely targeted federal employees receiving worker's compensation and sought to prescribe these patients compound drugs because the government was known to pay large amounts for this type of drug—up to two to three times more than the amount paid by commercial businesses and far more than it cost pharmacies to manufacture. Nourian managed multiple pharmacies participating in the scheme. Rydberg directed finances for some of the pharmacies, including preparing taxes and managing account transfers.

Following a jury trial, Nourian was convicted of sixteen counts stemming from his involvement in the scheme, including conspiring to commit healthcare fraud, committing healthcare fraud, conspiring to commit money laundering, committing money laundering, and conspiring to defraud the United States. Rydberg was convicted of nine counts, including conspiring to commit healthcare fraud, conspiring to commit money laundering, committing money laundering, and conspiring to defraud the United States. Nourian and Rydberg now appeal their convictions, challenging various aspects of both the trial and sentencing. For the following reasons, we affirm.

Nourian and Rydberg first argue that the jury lacked sufficient evidence to convict them on any count. We review this challenge de novo. *United States v. Scott*, 892 F.3d 791, 796 (5th Cir. 2018). As part of their challenge to their conviction for conspiring to commit healthcare fraud, Nourian and Rydberg argue that the jury lacked

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sufficient evidence to convict them of this count because the Federal Employees' Compensation Act (FECA) is not a healthcare benefit program within the meaning of 18 U.S.C. §§ 24(b), 1347, and 1349. But we interpret the term "healthcare benefit program" broadly. *United States v. Anderson*, 980 F.3d 423, 428 (5th Cir. 2020). And we have previously included FECA in a list describing federal healthcare programs. *See United States v. Shah*, 95 F.4th 328, 349 (5th Cir. 2024). Furthermore, Nourian and Rydberg weren't just convicted of defrauding FECA. They were also convicted of defrauding Blue Cross Blue Shield (BCBS). Defendants do not contest that BCBS is a federal healthcare benefit program. And having reviewed the evidence in the light most favorable to the prosecution, we hold that a reasonable jury could have found beyond a reasonable doubt that Nourian and Rydberg conspired to defraud both FECA and BCBS. *See Jackson v. Virginia*, 443 U.S. 307, 319 (1979).

As to the sufficiency of the evidence underpinning Nourian's convictions for substantive healthcare fraud, we have held that "[t]ypically, the same evidence will support both a conspiracy and an aiding and abetting conviction." *United States v. Sanders*, 952 F.3d 263, 278 (5th Cir. 2020) (internal citation omitted). And here, the government presented more than enough evidence of Nourian's involvement for a reasonable jury to have found that Nourian committed healthcare fraud: Nourian managed multiple pharmacies participating in the scheme, he recruited Nicolas Aguilar to fill fraudulent prescriptions, and Nourian received at least \$20 million in profits throughout the time he was involved in the scheme.

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As to the money laundering counts, Nourian and Rydberg argue that—because there is insufficient evidence that they knew about the underlying healthcare fraud—their money laundering convictions must likewise fail because they had no knowledge that their financial transactions involved unlawful proceeds. But the government presented sufficient evidence that Nourian and Rydberg committed the underlying healthcare fraud, including evidence that both Nourian and Rydberg provided pre-filled prescription pads to doctors participating in the scheme. Furthermore, the government presented extensive evidence that Nourian and Rydberg knew that the millions of dollars the pharmacies received were proceeds of fraud and that these proceeds weren’t processed for legitimate business purposes. Thus, based on the evidence presented at trial, a jury could reasonably determine that Nourian and Rydberg committed money laundering.

Finally, as to Nourian and Rydberg’s conviction for conspiring to defraud the United States, they again argue that the government presented insufficient evidence of knowledge. But the government presented detailed evidence that both men were intimately involved in the scheme’s fraudulent financial transactions. And having reviewed this evidence in the light most favorable to the prosecution, we hold that a reasonable jury could have “found the essential elements of the crime beyond a reasonable doubt.” *Jackson*, 443 U.S. at 319.

Next, Nourian and Rydberg contend that a portion of the government’s closing argument was inappropriate

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and warranted a new trial. The parties disagree about the applicable standard of review. But we need not decide this issue here because—regardless of the standard of review—their challenge fails. The government’s closing argument did not affect Nourian and Rydberg’s substantial rights. *See United States v. Barnes*, 979 F.3d 283, 299 (5th Cir. 2020). Even if a portion of the government’s closing argument was inappropriate, the district court provided a curative instruction to the jury. It also explicitly instructed the jury that it must find that Nourian and Rydberg had knowledge of the crime in order to return a guilty verdict. And “juries are presumed to follow [the court’s] instructions.” *Zafiro v. United States*, 506 U.S. 534, 540 (1993). So Nourian and Rydberg cannot show that the government’s closing argument affected their substantial rights such that a new trial is warranted.

As to sentencing, Nourian and Rydberg both challenge the district court’s application of a two-level sentencing enhancement for an offense that involved “10 or more victims.” USSG § 2B1.1(b)(2)(A)(i). Specifically, they challenge the district court’s reliance on the definition of “victim” provided in Application Note 4(E) of the Guidelines commentary. We “review the district court’s interpretation and application of the Sentencing Guidelines de novo and its factual findings for clear error.” *United States v. Bourrage*, 138 F.4th 327, 352-53 (5th Cir. 2025) (cleaned up). The Guidelines commentary is “authoritative unless it violates the Constitution or a federal statute, or is inconsistent with, or a plainly erroneous reading of, that guideline.” *United States v. Stinson*, 508 U.S. 36, 38 (1993). Here, the district court correctly relied on

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Application Note 4(E) in determining that the two-level enhancement applied.

Nourian brings three additional challenges to his sentencing. First, he argues that the district court erred in considering his lack of remorse at sentencing. In reviewing this challenge, we consider whether the district court abused its discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). After Nourian allocuted, the district court observed that Nourian showed no remorse. However, there is no indication that the district court considered Nourian’s lack of remorse in weighing the § 3553(a) factors. Furthermore, the district court varied downward and sentenced Nourian below the guidelines range. And this court “presume[s] sentences within or below the calculated guidelines range are reasonable.” *United States v. Simpson*, 796 F.3d 548, 557 (5th Cir. 2015). Nourian has not shown that the district court abused its discretion in sentencing him to a below-Guidelines sentence.

Next, Nourian argues that the district court erred in ordering that his entire TD Ameritrade account be forfeited. “We review the district court’s legal conclusions as to the propriety of a forfeiture order *de novo*, the district court’s findings of facts under the clearly erroneous standard, and the question of whether those facts constitute legally proper forfeiture *de novo*.” *United States v. Dennis*, 41 F.4th 732, 745-46 (5th Cir. 2022) (cleaned up). “[M]erely pooling tainted and untainted funds in an account does not, without more, render that account subject to forfeiture.” *United States v. Real Prop. Located at 1407 N. Collins St., Arlington, Tex.*, 901 F.3d

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268, 274 (5th Cir. 2018) (cleaned up). But “untainted funds are forfeitable if a defendant commingled them with tainted funds to disguise the nature and source of his scheme.” *Id.* The government presented evidence that most of the funds in the Ameritrade account were the direct proceeds of the fraud. It also presented evidence that, to conceal the illegal source of the funds, Nourian moved the tainted funds through multiple accounts before ultimately commingling the fraud proceeds with other funds in the Ameritrade account. Based on these facts, the district court did not clearly err in determining that Nourian’s bank account was used to facilitate money laundering and was thus subject to forfeiture in its entirety.

Finally, Nourian argues that the district court’s restitution order is unconstitutional because the question of restitution was not first submitted to a jury. But—as Nourian admits—this challenge is squarely foreclosed by our precedent. *See United States v. Luna Caudillo*, 110 F.4th 808, 811 (5th Cir. 2024).

The judgment of the district court is affirmed.

**APPENDIX B — MEMORANDUM OPINION AND
ORDER OF THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF
TEXAS, DALLAS DIVISION, FILED MARCH 18, 2025**

UNITED STATES DISTRICT COURT,
N.D. TEXAS, DALLAS DIVISION

Criminal Case 3:17-CR-155-L

UNITED STATES OF AMERICA

v.

CHRISTOPHER RYDBERG (03)

Signed March 18, 2025

MEMORANDUM OPINION AND ORDER

Sam A. Lindsay, United States District Judge

Before the court is Defendant Christopher Rydberg’s Motion for Judgment of Acquittal or, in the Alternative, for a New Trial (“Motion”) (Doc. 862), filed July 8, 2024. After considering Defendant Rydberg’s Motion, the parties’ briefs, the record, and applicable law, the court **denies** the Motion (Doc. 862).

I. Factual and Procedural Background

In 2017, a two-count Indictment (Doc. 3) charged Jamshid Noryian, a/k/a James Noryian; Dehshid

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Nourian a/k/a David Nourian; Christopher Rydberg; Ashraf Mofid, a/k/a Sherri Mofid; Leyla Nourian; Leslie Benson; Michael Taba; and Kevin Williams with crimes arising from a fraudulent health care and related money laundering scheme. In September 2019, a seventeen-count Superseding Indictment (Doc. 162) was filed, alleging that:

Defendants and others unlawfully submitted and caused to be submitted false and fraudulent claims to Federal and commercial health care programs for prescriptions for compound drugs. Health care benefit programs paid millions of dollars on these false and fraudulent claims. These prescriptions, as defendants knew and intended, were among other things, not legitimately prescribed, not needed, not used, and induced through the payment and receipt of kickbacks and bribes.

Doc. 162 ¶ 30. The Superseding Indictment further alleged that certain Defendants, including Defendant Rydberg, engaged in a money laundering and tax evasion scheme to conceal the source and nature of the fraudulent health care proceeds. Except for Defendant Williams, all other persons previously named as Defendants in the original Indictment were named in the Superseding Indictment in addition to Ali Khavarmanesh. There has been little activity in this case, however, with respect to Defendant Khavarmanesh since that time.

Defendant Williams was not named as a Defendant in the Superseding Indictment because he pleaded guilty

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in August 2019, pursuant to a plea agreement, to Count 1 of the original Indictment (Conspiracy to Commit Healthcare Fraud). Prior to the charges in this case being brought, Defendant Williams was a licensed physician with a primary practice in orthopedic surgery in the State of Texas and the owner of Ennis Orthopedics PA.

In June 2022, the charges against Defendant Benson were dismissed after his death. The charges against Defendants Leyla Nourian and Ashraf Mofid were also dismissed in October 2022. The remaining four Defendants—James Noryian, the owner and operator of Ability Pharmacy, Inc. (“Ability Pharmacy”); David Nourian, the pharmacist-in-charge at Ability Pharmacy; Christopher Rydberg, the Chief Financial Officer at Ability; and Michael Taba, a licensed physician and member of Advanced Orthopedics—elected to proceed to trial. The court refers to these four Defendants collectively as the “Trial Defendants.”

The Superseding Indictment charged the Trial Defendants with the following offenses in connection with the elaborate health care fraud scheme:

- Count 1: Conspiracy to Commit Healthcare Fraud, in violation of 18 U.S.C. § 1349 (18 U.S.C. § 1347) (all Trial Defendants)
- Counts 2 through 9: Healthcare Fraud, in violation of 18 U.S.C. §§ 1347 and 2 (Jamshid Noryian, Dehshid Nourian, and Michael Taba)

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- Count 10: Conspiracy to Launder Money and Engage in Monetary Transactions in Criminally Derived Property, in violation of 18 U.S. C. § 1956(h) (Jamshid Noryian, Dehshid Nourian, and Christopher Rydberg)
- Counts 11 through 16: Money Laundering, in violation of 18 U.S.C. § 1956 (a)(1)(B)(i) (Jamshid Noryian, Dehshid Nourian, and Christopher Rydberg)
- Count 17: Conspiracy to Defraud the United States, in violation of 18 U.S.C. § 371 (Jamshid Noryian, Dehshid Nourian, and Christopher Rydberg)

The first trial against the four Trial Defendants resulted in the court granting the Trial Defendants' request for a mistrial on November 21, 2022, after one of the defense attorneys underwent a medical procedure that resulted in a prolonged delay in trial proceedings. The second trial against the four Trial Defendants commenced on September 11, 2023. During the second trial, the Government admitted over 260 exhibits and called twenty-eight witnesses to testify. Defendant Williams was a key trial witness for the Government, and he testified at length regarding his and the Trial Defendants' involvement in the health care fraud scheme, including Defendant Rydberg's involvement.

Defendant James Noryian was severed from the trial on November 3, 2023. A determination as to when

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Defendant Noryian will be tried separately has not been made. On November 16, 2023, a jury found the remaining three Trial Defendants guilty on all counts charged against them in the Superseding Indictment. Doc. 725. Following that verdict, the three remaining Trial Defendants—Defendants David Nourian, Rydberg, and Taba—filed their respective postjudgment motions pursuant to the orders entered by the undersigned. Briefing on the motions was complete on August 12, 2024.

In his Rule 29 Motion, Defendant Rydberg contends that the Government’s evidence is insufficient to support his convictions for: (1) charges related to the Federal Employees’ Compensation Act (“FECA”) because FECA is not a health care benefit program within the meaning of 18 U.S.C. §§ 1347 and 24; (2) money laundering; and (3) the conspiracies to commit health care fraud, money laundering, and fraud against the United States (tax evasion). In his Rule 33 Motion, Defendant Rydberg argues that he is entitled to a new trial because: (1) Defendant Williams provided false testimony during the trial, which he contends was elicited by the Government and should not have been credited by the jury; and (2) the Government made improper remarks during closing arguments.

For the reasons herein explained, the court determines that Defendant Rydberg is not entitled to the relief sought under Federal Rules of Criminal Procedure 29 or 33.

II. Motion for New Trial

[discussion of issues raised in motion for a new trial omitted]

*Appendix B***III. Motion for Judgment of Acquittal****A. Rule 29 Legal Standard**

A motion for judgment of acquittal under Federal Rule of Criminal Procedure 29 challenges “the sufficiency of the evidence to sustain a conviction.” *United States v. Uvalle-Patricio*, 478 F.3d 699, 701 (5th Cir. 2007). “[A] defendant seeking reversal on the basis of insufficient evidence swims upstream.” *United States v. Mulderig*, 120 F.3d 534, 546 (5th Cir. 1997). In reviewing a defendant’s challenge to the sufficiency of the evidence, “it is not the reviewing court’s role to ‘ask itself whether it believes that the evidence at the trial established guilt beyond a reasonable doubt.’” *Terry v. Hooper*, 85 F.4th 750, 754 (5th Cir. 2023) (quoting *Jackson v. Virginia*, 443 U.S. 307, 318-19, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979)), *cert. denied*, __ U.S. __, 144 S. Ct. 1074, 218 L.Ed.2d 250 (2024). Instead, the reviewing court’s role is to determine “whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Jackson*, 443 U.S. at 318-19, 99 S.Ct. 2781 (internal quotation marks omitted). “In evaluating the sufficiency of the evidence, the court views all evidence, draws all reasonable inferences, and makes all credibility determinations in the light most favorable to the verdict.” *United States v. Drouin*, 470 F. App’x 379, 488 (5th Cir. 2012) (citing *United States v. Mendoza*, 522 F.3d 482, 488 (5th Cir. 2008)). The court determines “only whether the jury made a rational decision, not whether its verdict was correct on the issue of guilt or innocence.” *United*

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States v. Dean, 59 F.3d 1479, 1484 (5th Cir. 1995) (citations omitted). “[I]f the fact finder was presented with sufficient evidence to support the verdict reached, that verdict must be upheld,” *United States v. Lucio*, 428 F.3d 519, 522 (5th Cir. 2005), and “[a]ll reasonable inferences [that] tend to support the Government’s case must be accepted” with “[a]ny conflicts in the evidence [being] resolved in the Government’s favor.” *United States v. Burns*, 597 F.2d 939, 940-41 (5th Cir. 1979) (citations omitted).

B. Discussion**1. FECA**

Defendant Rydberg first contends that FECA is not a health care benefit program under 18 U.S.C. § 24. Defendant Rydberg argues that, while the Superseding Indictment accused him and his Codefendants of conspiring to defraud FECA and Blue Cross Blue Shield (“BCBS”) and characterized these programs as “health care benefit programs,” the Superseding Indictment incorrectly assumed “with minimal discussion or analysis” that “FECA was a health care benefit program as defined by 18 U.S.C. § 24 that affected interstate commerce.” Doc. 862 at 11-12 (quoting Doc. 162 ¶¶ 13-17). He argues that, while § 24(b):

defines a “health care benefit program” as “**any public or private plan or contract**, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is

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providing a medical benefit, item, or service for which payment may be made ***under the plan or contract*** . . . , the assumption that FECA satisfies this definition is incorrect.

Doc. 862 at 12 (quoting § 24(b)).

According to Defendant Rydberg, FECA is not a “public or private plan or contract” and thus not a “health care benefit program” as defined by section § 24(b) because, unlike the Medicare, Medicaid, and Tricare statutes, FECA is a workers’ compensation statute, not a governmental health insurance statute, as it provides health care benefits to federal workers injured on the job in lieu of money damages in a lawsuit. Thus, Defendant Rydberg argues that FECA is not a “contract” or “plan” within the meaning of § 24(b), and the legislative history of the health care fraud statute supports the conclusion that the term “plan” does not include workers’ compensation statutes such as FECA. Alternatively, he contends that the undefined term “plan” in § 24(b) is ambiguous and vague as to whether it applies to workers’ compensation schemes. Defendant Rydberg, therefore, contends that, under the rule of lenity and the due process clause of the United States Constitution, the court should conclude that § 24(b) does not include FECA, which would result in there being no evidence linking him to any of the health care fraud claims in this case concerning BCBS.

The Government disagrees and contends that this argument is foreclosed by Fifth Circuit authority, including cases in which the Fifth Circuit has directed

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courts to interpret broadly the term “health care benefit program” as used in § 24(b). Doc. 875 at 9 (quoting *United States v. Anderson*, 980 F.3d 423, 428 (5th Cir. 2020)). The Government notes that, as recently as October 2023, the Fifth Circuit described FECA as a federal health care program on par with Medicare. Doc. 875 at 9-10 (citing *United States v. Shah*, 84 F.4th 190, 211 (5th Cir. 2023) (explaining that some patients within the case were covered by “a federal health care program including Medicare, TRICARE, or DOL/FECA.”), *cert. denied sub nom. Henry v. United States*, ___ U.S. ___, 144 S. Ct. 821, 218 L.Ed.2d 31 (Feb. 20, 2024)). In addition, the Government contends that Defendant Rydberg’s argument is contrary to the plain language of the statute, which is deliberately broad and unambiguous such that the court should decline his invitation to consider the statute’s legislative history.

Even if ambiguous, the Government argues that no amount of contortion by Defendant Rydberg would allow the court to read § 24(b) as excluding FECA from its definition. The Government also notes that Defendant Rydberg concedes that FECA “provides **health care benefits** to federal workers injured on the job,” which it contends fits squarely within § 24(b)’s definition. Doc. 875 at 10-11 (quoting Doc. 862 at 19)² (emphasis added by the

2. The reference in the Government’s Response to page 19 of Defendant Rydberg’s Motion refers to the electronic filing number or ECF page designation that appears at the top of each page of the Motion, not the page number that appears at the bottom of each page of the Motion. On the other hand, the court’s citations herein to the parties’ arguments are to the page numbers at the bottom of each page of the parties’ respective briefs.

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Government). The Government, therefore, argues that FECA clearly qualifies as a “health care benefit program” under § 24(b) and Fifth Circuit authority, and the court should deny Defendant Rydberg’s Motion on this ground.

Defendant Rydberg attempts to distinguish the Fifth Circuit cases cited by the Government. The court, however, determines that the Government has the better argument, particularly in light of the guidance provided by the Fifth Circuit in *Anderson* in interpreting “broadly” the term “health care benefit program” consistent with section 24(b)’s broad categorization of the term as “any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract.” *Anderson*, 980 F.3d at 428 (5th Cir. 2020) (quoting 18 U.S.C. § 24(b)). The court in *Anderson* also explained that applying a “broad meaning” to the term “health care benefit program” was consistent with its prior directive in *United States v. Collins*. In *Collins*, the court rejected the defendant’s argument that automobile insurance companies did not qualify as health care benefit programs under section 24(b), reasoning that, “[t]o the extent automobile insurers pay for medical treatment, they are health care benefit programs under the statute.” *See id.* (discussing *Collins*, 774 F.3d 256, 260 (5th Cir. 2014)). Moreover, Defendant Rydberg acknowledges in his Motion that FECA “provides health care benefits to federal workers injured on the job” Doc. 862 at 12. The court, therefore, agrees with the Government that FECA

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falls within section 24(b)'s definition of a "health care benefit program" such that Defendant Rydberg is not entitled to an acquittal on this ground.

[discussion of unrelated sufficiency-of-the-evidence issues omitted]

IV. Conclusion

The evidence of Defendant Rydberg's guilt with respect to each offense for which he was convicted was significant. That he may disagree with the Government's portrayal of evidence, the jurors' assessment of that evidence, the inferences drawn by them from the evidence in deliberating, or the jurors' weighing and deciding the credibility of witnesses is of no moment given the Court's Instructions to the Jury. Further, he has not shown the type of exceptional circumstances or miscarriage of justice necessary to warrant a new trial. Simply put, this is not a situation in which the jury's guilty verdict or Defendant Rydberg's conviction for the charged offenses is only "tangentially" supported by the evidence; rather, as indicated, the evidence of his guilt was overwhelming in the court's view and apparently the jury similarly concluded. Accordingly, for these reasons and the other reasons explained, the court **denies** Defendant Christopher Rydberg's Motion for Judgment of Acquittal or, in the Alternative, for a New Trial (Doc. 862).

It is so ordered this 18th day of March, 2025.

**APPENDIX C — ORDER DENYING REHEARING
EN BANC OF THE UNITED STATES COURT
OF APPEALS FOR THE FIFTH CIRCUIT,
FILED JULY 21, 2026**

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 25-10365

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

DEHSHID NOURIAN; CHRISTOPHER RYDBERG,

Defendants-Appellants.

Filed July 21, 2026

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:17-CR-155-2
USDC No. 3:17-CR-155-3

ON PETITION FOR REHEARING EN BANC

Before HAYNES, HIGGINSON, and Ho, *Circuit Judges.*

PER CURIAM:*

* Judge Irma Carrillo Ramirez, did not participate in the consideration of the rehearing en banc.

Appendix C

Treating the petition for rehearing en banc as a petition for panel rehearing (5TH CIR. R.40 I.O.P.), the petition for panel rehearing is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R. APP. P.40 and 5TH CIR. R.40), the petition for rehearing en banc is DENIED.