

No. _____

IN THE
Supreme Court of the United States

ZHENYU WANG,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether Congress, in failing to legislate in the wake of the executive branch's increasingly expansionist use of the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701, *et seq.* ("IEEPA"), has impermissibly delegated its legislative power in violation of the Constitution's mandate that "[a]ll legislative Powers herein granted shall be vested in a Congress of the United States." U.S. Const. art. I, § 1.

PARTIES TO THE PROCEEDING

Petitioner is Zhenyu “Bill” Wang, defendant-appellant below. An additional defendant in the district court who was a party in the court of appeals is Daniel Lane. Additional defendants in the district court who were not parties in the court of appeals are Nicholas Hovan and Robert Thwaites. None of the additional defendants are parties here.

Respondent is the United States of America, appellee below.

No party is a corporation.

STATEMENT OF RELATED PROCEEDINGS

This case directly relates to the following proceedings:

Zhenyu Wang v. United States, 2:20-cr-00254, U.S. District Court for the Eastern District of Pennsylvania. Judgment entered June 11, 2024.

United States v. Zhenyu Wang, 24-2111, U.S. Court of Appeals, Third Circuit. Judgment entered November 19, 2025.

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PETITION FOR A WRIT OF CERTIORARI

Zhenyu Wang petitions for a writ of certiorari to review the judgment of the Third Circuit in this case.

OPINION BELOW

The Third Circuit's opinion is unpublished and reproduced at Appx1a. The order of the Court of Appeals denying Wang's request for rehearing is unpublished and reproduced at Appx55a. The order and opinion of the District Court for the Eastern District of Pennsylvania denying Wang's motion for judgment of acquittal, new trial, and arrest of judgment under Rules 29(c), 33, and 34 of the Federal Rules of Criminal Procedure is unpublished and reproduced at Appx29a and Appx31a, respectively.

JURISDICTION

The Third Circuit entered the judgment against Wang on November 19, 2025. A timely filed petition for rehearing was denied on February 27, 2026.

On May 18, 2026, Wang filed an application to extend the time to file a petition for a writ of certiorari. On May 20, 2026, Justice Alito granted the application and extended the date by which to file to June 29, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

Article I of Section I of the U.S. Constitution provides that "[a]ll legislative Powers herein granted shall be

vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.” U.S. Const. art. I, § 1.

The relevant provisions of IEEPA, Title II of Pub. L. No. 95-223, 91 Stat. 1626 (1977) (codified at 50 U.S.C. §§ 1701 *et seq.*), are reproduced in the appendix to this petition at Appx57a.

STATEMENT

The modern-day president uses IEEPA to declare national emergencies on a global scale that are unchecked by temporal limitations or geographical boundaries. The executive branch’s increasingly expansionist use of IEEPA has eroded the intelligible principle that arguably once constrained the branch’s use of authority under the statute. It is this unconstrained use of statutory authority and the absence of Congressional action in response that renders the delegation unconstitutional.

This case presents an able and opportune vehicle for the Court to reestablish the test for determining whether Congress has impermissibly delegated authority and to determine that IEEPA, or at least its current use, constitutes such an impermissible delegation. The Court should grant certiorari and reverse.

A. Procedural Background

On or about August 25, 2020, the grand jury returned a multi-count indictment charging Wang and his co-defendants with conspiracy to violate IEEPA, in violation of 18 U.S.C. § 371, engaging and attempting to engage

in transactions prohibited by IEEPA, in violation of 50 U.S.C. §§ 1701-1707, and money laundering conspiracy in violation of 18 U.S.C. § 1956(h).

Per the Indictment, Executive Orders 12,957, 12,959, and 13,059 collectively prohibit in relevant part any transaction or dealing by a United States person, wherever located, to include purchasing, selling, brokering, financing, facilitating, or guaranteeing, in or related to, goods or services of Iranian origin or owned or controlled by the Government of Iran. Wang, along with his co-defendants, was charged with conspiring and agreeing to evade U.S. economic sanctions against Iran by facilitating and attempting to facilitate the purchase of petroleum directly from Iran, to mask the origins of the petroleum, and to sell the petroleum under masked origins to a company in the People's Republic of China.

Wang proceeded to trial on October 11, 2023. At the close of the government's case-in-chief, pursuant to Federal Rule of Criminal Procedure 29(a), Wang orally moved for judgment of acquittal on all counts but waived argument. The trial court orally denied Wang's Rule 29(a) motion. The defense case proceeded and, on November 15, 2023, the petit jury returned a verdict of guilty on all counts laid in the Indictment.

Thereafter, Wang timely moved for judgment of acquittal, new trial, and arrest of judgment under Federal Rules of Criminal Procedure 29(c), 33, and/or 34. *United States v. Wang*, 2:20-cr-254-HB, Nos. 477, 530 (E.D. Pa. Feb. 15, 2024) ("*Wang*"). On April 17, 2024, the district court denied Wang's post-verdict motion. *Id.* at Nos. 546, 547. Appx29a; Appx31a. On June 11, 2024, the district

court sentenced Wang to a prison term of 45 months and imposed a supervised release term of 3 years. Judgment entered the same day. *Wang* at Nos. 560, 562. Appx14a.

Wang filed a notice of his appeal of the conviction and sentence embodied in the Judgment. *Wang*, No. 565 (E.D. Pa. Jun. 13, 2024). On November 19, 2025, the Third Circuit affirmed the district court's judgment. Appx1a; Appx9a.

B. Factual Background

Before the time alleged in the Indictment, the government engineered a sting operation for the purpose of ensnaring certain financiers in a conspiracy to broker sanctioned oil in violation of IEEPA. Government agents teamed up with a private detective named Hal Mason, who had previously been the recipient of a large whistleblower award in an SEC action, and who enthusiastically participated in the ruse hoping for another collector's fee. Federal agents and the confidential informant Mason devised a plan to approach specific individuals in New York to propose an arrangement by which Mason would offer to source sanctioned oil and the targeted individuals would finance the transaction. At no point did Mason actually have access to sanctioned oil. When the financiers expressed their lack of interest, the government and Mason went looking for other victims. In July 2019, Mason met with two individuals named Nicholas Hovan and Jason Mumper. The three men discussed the specifics of the supply of oil Mason purportedly had access to and the type of buyer Hovan and Mumper had access to. Hovan stated he knew of potential buyers in Texas. Soon thereafter, Hovan initiated a phone call to introduce Mason to Nicholas Fuchs, Robert Thwaites, and Wang.

Wang is a Chinese national. Appx.S.9a.¹ He arrived in the United States as a high school exchange student. Appx.S.14a. He lived with a host family in a small town in Texas, graduated from high school, and attended college. Appx.S.14a-S.15a. Wang was infatuated with popular American culture. He learned to speak English, he played football, and he generally put forth his best effort to gain acceptance from his adopted American community. Part of this effort involved engaging in boastful, ostentatious behavior, which Wang believed made him appear as someone of great importance, someone other people would want to know. Appx.S.15a, Appx.S.17a.

Sometime in mid-2018, Wang met Thwaites, who sold oil leases, and they developed a purported business acquaintance. Appx.S.9a. Following the pattern of his youth, Wang presented himself as someone larger than life. He told Thwaites that he was the head of U.S. operations for a Chinese oil refinery and that he had significant ties to the petroleum industry in China. *Ibid.* As a result, when Fuchs told Thwaites in July 2019 that he had potential sellers of sanctioned oil, Thwaites contacted Wang, who in turn pretended he represented a potential Chinese buyer for the fictitious oil. *Ibid.* In September 2019, Mason and an undercover FBI agent named Shah travelled to Dallas to meet with Thwaites and Wang and then with Fuchs and his boss, Daniel Lane. Appx.S.9a-S.10a. During these meetings, the participants spoke about the complexities of the proposed venture, including how to fund the venture and how to disguise the origin of the Iranian oil. Wang was tasked with finding a Chinese buyer.

1. The Presentence Investigation Report prepared for the Eastern District of Pennsylvania is filed under seal as a supplemental appendix.

Wang, unfortunately, jumped at the chance to continue with the charade that he was a successful international businessman with important relationships in China. The men kept in touch via WhatsApp after the government's operatives left Dallas.

On February 10, 2020, Wang, Thwaites, Fuchs, and Hovan traveled to Philadelphia to meet with the government operatives. Appx.S.9a. They were arrested at that meeting. *Ibid.* Lane was arrested at approximately the same time at a restaurant in Dallas. Appx.S.10a.

REASONS FOR GRANTING THE WRIT

I. IEEPA represents an unconstitutional delegation of authority.

Article I of the Constitution provides that “[a]ll legislative Powers herein granted shall be vested in a Congress of the United States.” U.S. Const. art. I, § 1. The nondelegation doctrine is “rooted in the principle of separation of powers that underlies our tripartite system of Government,” the maintenance of which “mandate[s] that Congress generally cannot delegate its legislative power to another Branch.” *Mistretta v. United States*, 488 U.S. 361, 371–72 (1989). “Congress may not transfer to another branch ‘powers which are strictly and exclusively legislative.’” *Gundy v. United States*, 588 U.S. 128, 129 (2019) (citation omitted).

A statutory delegation of power is nonetheless constitutional if Congress “lay[s] down by legislative act an intelligible principle to which the person or body authorized to [exercise the delegated authority] is

directed to conform.” *Gundy*, 588 U.S. at 129 (quoting *J. W. Hampton, Jr., & Co. v. United States*, 276 U.S. 394, 409 (1928) (brackets in original)). In assessing whether a delegation is permissible, it is “constitutionally sufficient if Congress clearly delineates the general policy, the public agency which is to apply it, and the boundaries of this delegated authority.” *Mistretta*, 488 U.S. at 372-73.

In *Gundy*, the dissenting Justices explained they would revise the frame of the question to ask not whether an intelligible principle exists but whether the delegated authority empowers the President to set policy or merely fill up the details; whether it empowers the President to engage in lawmaking versus simple fact-finding; or whether it authorizes legislative functions as opposed to non-legislative functions. *Gundy*, 588 U.S. at 157-60 (Gorsuch, J., dissenting). *See id.* at 166 (asking “[d]oes the statute assign to the executive only the responsibility to make factual findings? Does it set forth the facts that the executive must consider and the criteria against which to measure them? And most importantly, did Congress, and not the Executive Branch, make the policy judgments?”). Under any of these articulations, the delegation of authority under IEEPA is impermissible.

Over the past twenty years, and specifically over the past decade, successive administrations have exploited undefined statutory terms to broaden the use of authority under IEEPA. Review of both the statute’s language and its history and purpose demonstrate that the modern-day President makes almost unfettered use of his powers under IEEPA—beyond the use that Congress intended and beyond what the Vesting Clause tolerates. The executive’s use of authority under IEEPA plainly

constitutes lawmaking because with each declaration of a national emergency, the President lays down rules of conduct governing future actions by private persons. As such, the executive branch does not engage in mere fact-finding or “fill[ing] up the details” within “the framework of the policy which the legislature has sufficiently defined”; the executive creates policy. *Gundy*, 588 U.S. at 161 (Gorsuch, J., dissenting) (citations omitted). IEEPA’s text, considered with its context, purpose, and history, makes clear that the executive branch has commandeered for its use more discretion than Congress intended to (or rightfully could) delegate. Congress’s failure to legislate in the face of the executive’s usurpation of authority amounts to an unconstitutional delegation of authority. Alternatively, IEEPA has represented an impermissible delegation of legislative power since its enactment in 1977.

A. Language, history, and purpose of IEEPA and the Court’s relevant precedent.

A nondelegation inquiry “always begins” with statutory interpretation: what task did Congress delegate and what instruction does the statute provide. *Gundy*, 588 U.S. at 135-36 (citation omitted).

1. IEEPA’s framework

IEEPA authorizes the President to exercise vast economic powers “to deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat.” 50 U.S.C. § 1701.

After declaring an emergency, the President may, through “regulations . . . instructions, licenses, or otherwise,”

(A) investigate, regulate, or prohibit—

(i) any transactions in foreign exchange,

(ii) transfers of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of any foreign country or a national thereof,

(iii) the importing or exporting of currency or securities,

by any person, or with respect to any property, subject to the jurisdiction of the United States;

(B) investigate, block during the pendency of an investigation, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest by any person, or with respect to any property, subject to the jurisdiction of the United States

50 U.S.C. § 1702(a)(1). Whenever the President acts pursuant to IEEPA, he shall report to Congress on the

circumstances and reasons for the executive action, as well as the methods employed to effectuate those goals. *Id.* at § 1703(b).

Congress did not define the terms “emergency” or “unusual and extraordinary.” When a term goes undefined in a statute, the Court usually gives the term its ordinary meaning at the time Congress enacted the statute. *Wis. Cent. Ltd. v. United States*, 585 U.S. 274, 277 (2018) (citation omitted). That a law’s ordinary meaning at the time of enactment “usually governs” does not foreclose the possibility that the meaning of a statutory term can change over time or depending on context. *Bostock v. Clayton County, Georgia*, 590 U.S. 644, 674-75 (2020). “To ferret out such shifts in linguistic usage or subtle distinctions between literal and ordinary meaning, this Court has sometimes consulted the understandings of the law’s drafters as some (not always conclusive) evidence.” *Id.* at 675. “Senate and House Reports are among the best evidence of what Congress sought to accomplish with its enactments.” *Learning Res., Inc. v. Trump*, 146 S. Ct. 628, 678 (2026) (Jackson, J., concurring in part).

In December 1977, when IEPA was enacted, the edition of Black’s Law Dictionary then in use contained the following relevant definitions:

Emergency. A sudden unexpected happening; an unforeseen occurrence or condition; specifically, perplexing contingency or complication of circumstances; a sudden or unexpected occasion for action; exigency; pressing necessity. A relatively permanent condition of insufficiency of service or of

facilities resulting in social disturbance or distress. *Kardasinski v. Koford*, 88 N.H. 444, 190 A. 702, 703, 111 A.L.R. 1017; *Contract Cartage Co. v. Morris*, D.C.Ill., 59 F.2d 437, 446; *Los Angeles Dredging Co. v. City of Long Beach*, 210 Cal. 348, 291 P. 839, 843, 71 A.L.R. 161."Emergency" in sense of constitutional provision respecting referendum does not mean expediency, convenience, or best interest. *State v. Hinkle*, 161 Wash. 652, 297 P. 1071, 1072.

Black's Law Dictionary 615 (4th rev. ed. 1968).

National Emergency. A state of national crisis; a situation demanding immediate and extraordinary national or federal action. Congress has made little or no distinction between a "state of national emergency" and a "state of war". *Brown v. Bernstein*, D.C. Pa., 49 F. Supp. 728, 732.

Id. at 1176.

Extraordinary. Out of the ordinary; exceeding the usual, average, or normal measure or degree; beyond or out of the common order or rule; not usual, regular, or of a customary kind; remarkable; uncommon; rare. *Puget Sound Traction, Light & Power Co. v. Reynolds*, D.C. Wash., 223 F. 371, 378; *Courtney v. Ocean Accident & Guaranty Corporation*, 346 Mo. 703, 142 S. W.2d 858, 861, 130 A.L.R. 234. The word is both comprehensive and flexible in meaning. *Zollman v. Baltimore & O. S.*

W. R. Co., 121 N.E. 135, 140, 70 Ind.App. 395. Beyond or out of the common order or method; exceeding the ordinary degree; not ordinary; unusual; employed for an exceptional purpose or on a special occasion; as a noun it is defined as, something extraordinary; especially, an extraordinary expense or allowance; specifically (Eng.) any allowance made to troops beyond the customary gross paid. *State v. Rogers*, 142 Kan. 841, 52 P.2d 1185, 1195.

Id. at 699.

Unusual Uncommon; not usual, rare. *Thompson v. Anderson*, 107 Utah 331, 153 P.2d 665, 666.

Id. at 1708.

Not two years later, Black's Law Dictionary published a new edition, containing the following revised definitions:

Emergency A sudden unexpected happening; an unforeseen occurrence or condition; perplexing contingency or complication of circumstances; a sudden or unexpected occasion for action; exigency; pressing necessity. Emergency is an unforeseen combination of circumstances that calls for immediate action. *State v. Perry*, 29 Ohio App.2d 33, 278 N.E.2d 50, 53.

Black's Law Dictionary 469 (5th ed. 1979).

National emergency A state of national crisis; a situation demanding immediate and extraordinary national or federal action. Congress has made little or no distinction between a “state of national emergency” and a “state of war”. *Brown v. Bernstein*, D. C. Pa., 49 F. Supp. 728, 732.

Id. at 923.

Extraordinary Out of the ordinary; exceeding the usual, average, or normal measure or degree; beyond or out of the common order or rule; not usual, regular, or of a customary kind; remarkable; uncommon; rare. *Courtney v. Ocean Accident & Guaranty Corporation*, 346 Mo. 703, 142 S.W.2d 858, 861. The word is both comprehensive and flexible in meaning. Beyond or out of the common order or method; exceeding the ordinary degree; not ordinary; unusual; employed for an exceptional purpose or on a special occasion. As a noun it is defined as something extraordinary, especially, an extraordinary expense or allowance. *State v. Rogers*, 142 Kan. 841, 52 P.2d 1185, 1195. Extraordinary designates an accident, casualty, occurrence or risk of a class or kind other than those which ordinary experience or prudence would foresee, anticipate or provide for. *Western & Atlantic Ry. Co. v. Hassler*, 92 Ga.App. 278, 88 S.E.2d 559, 562.

Id. at 527.

To the extent the language in the 4th revised edition of Black's Law Dictionary, "[a] relatively permanent condition of insufficiency of service or of facilities resulting in social disturbance or distress," could be construed as informing the meaning of the statutory term "emergency," that language was removed in the publication's 5th edition issued in 1979. Moreover, the notion that any degree of permanence is appropriately ascribed to an "emergency" is directly at odds with the legislators' intention, as reflected in the legislative history of the statute.

2. IEEPA's legislative history and purpose

IEEPA traces its origins to the Trading with the Enemy Act ("TWEA"), which originated during the First World War to enable President Wilson to take control of private property for public use. Pub. L. No. 65-91, § 2, 40 Stat. 411 (1917), codified as amended at 50 U.S.C. § 4305 (2018). Section 5(b) of the TWEA formed "one of the central bases of presidential emergency economic power in the twentieth century":

That the President may investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, export or earmarkings of gold or silver coin or bullion or currency, transfers of credit in any form (other than credits relating solely to transactions to be executed wholly within the United States), and transfers of evidences of indebtedness or of the ownership of property between the United States and any foreign country, whether enemy, ally of enemy or otherwise, or between residents of one or

more foreign countries, by any person within the United States; and he may require any such person engaged in any such transaction to furnish, under oath, complete information relative thereto, including the production of any books of account, contracts, letters or other papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed.

Congressional Research Service (CRS), C. Casey, J. Elsea, & L. Rosen, *The International Emergency Economic Powers Act: Origins, Evolution, and Use* 3 (2025) (quoting TWEA § 5b).

During the Great Depression, Congress expanded the scope of TWEA to authorize the President to declare a national emergency and assume control over the national economy, which power had previously been available only during a time of war. Emergency Banking Relief Act, Pub. L. No. 73-1, 48 Stat. 1 (1933). In response to the country's entry into the Second World War, Congress amended TWEA to allow the President to declare a national emergency and, "in doing so, to regulate foreign exchange, domestic banking, possession of precious metals, and property in which any foreign country or foreign national had an interest." CRS, *International Emergency Economic Powers Act*, at 5 (2025) (citing Pub. L. No. 77-354, 55 Stat. 838 (1941)). The executive's use of TWEA continued through the Cold War. *Ibid.* (citation omitted).

In the mid-1970s, however, amidst a growing interest in checking the executive branch's use of emergency powers, Congress began to reevaluate its delegations

of authority. CRS, International Emergency Economic Powers Act, at 7 (2025). To that end, the Senate formed a bipartisan special committee to conduct “a study and investigation with respect to the matter of terminating the national emergency proclaimed by the President of the United States on December 16, 1950.” S. Subcomm. on International Trade and Commerce of the Comm. on International Relations, 94th Cong., 2nd Sess., *Trading with the Enemy: Legislative and Executive Documents Concerning Regulation of International Transactions in Time of Declared National Emergency* iii (Comm. Print 1976). According to a report issued by the special committee, the United States had “on the books at least 470 significant emergency statutes without time limitations delegating to the Executive extensive discretionary powers, ordinarily exercised by the Legislature, which affect the lives of American citizens in a host of all-encompassing ways.” S. Spec. Comm. on National Emergencies and Delegated Emergency Powers, 93rd Cong., 2nd Sess., *A Brief History of Emergency Powers in the United States* v (Comm. Print 1974). The report prompted committee co-chair, Senator Frank Church, to ask “whether it is possible for a democratic government such as ours to exist under its present Constitution and system of three separate branches equal in power under a continued state of emergency.” CRS, Casey, International Emergency Economic Powers Act, at 7 (2025) (citing Qtd. in U.S. Congress, *Trading with the Enemy: Legislative and Executive Documents*, p. iii).

In discussing reform legislation, Representative Jonathan Bingham, Chairperson of the House International Relations Committee’s Subcommittee on Economic Policy, referred to TWEA as conferring “on the President what

could have been dictatorial powers that he could have used without any restraint by Congress.” H. Comm. on International Relations, 95th Cong., 1st Sess., Revision of the Trading with the Enemy Act: Markup before the Committee on International Relations 5 (Comm. Print 1977). Reform legislation thus focused on dialing back what Congress considered to be “an unlimited grant of authority for the President to exercise, at his discretion, broad powers in both the domestic and international economic arena, without congressional review.” H.R. Rep. No. 95-459 at 2 (1977). Specifically, criticisms of TWEA focused on the following areas:

- (a) It required no consultation or reports to Congress with regard to the use of powers or the declaration of a national emergency.
- (b) It set no time limits on a state of emergency, no mechanism for congressional review, and no way for Congress to terminate it.
- (c) It stated no limits on the scope of TWEA’s economic powers and the circumstances under which such authority could be used.
- (d) The actions taken under the authority of TWEA were rarely related to the circumstances in which the national emergency was declared.

CRS, Casey, International Emergency Economic Powers Act, at 8 (2025) (citing H.R. Rep. No. 95-459 at 9 (1977)).

Congress acted to curb the executive’s emergency powers by (1) enacting the National Emergencies Act of

1976 (“NEA”) and (2) reforming TWEA. CRS, Casey, International Emergency Economic Powers Act, at 9 (2025). The NEA “provided for the termination of all existing declared emergencies in 1978, except those making use of Section 5(b) of TWEA,” and it “placed new restrictions on the manner of declaring and the duration of new states of emergency.” *Ibid.* The amendments to TWEA (1) rendered the statute applicable only during a time of war; (2) expanded the Export Administration Act; and (3) created IEEPA.

With IEEPA, Congress intended to confer “upon the President a new set of authorities for use in time of national emergency which are both more limited in scope than those of section 5(b) and subject to procedural limitations, including those of the [NEA].” CRS, Casey, International Emergency Economic Powers Act, at 10 (citing Pub. L. No. 95-223, Title II (1977); H.R. Rep. No. 95-459 at 2).

Critical to this petition, the Report of the House Committee on International Relations summarized the nature of an “emergency” in its “new approach” to international emergency economic powers:

[G]iven the breadth of the authorities, and their availability at the President’s discretion upon a declaration of a national emergency, their exercise should be subject to various substantive restrictions. The main one stems from a recognition that emergencies are by their nature rare and brief, and are not to be equated with normal ongoing problems. A national emergency should be declared and

emergency authorities employed only with respect to a specific set of circumstances which constitute a real emergency, and for no other purpose. The emergency should be terminated in a timely manner when the factual state of emergency is over and not continued in effect for use in other circumstances. A state of national emergency should not be a normal state of affairs.

H.R. Rep. No. 95-459 at 11. Fifty years on, a state of national emergency is in fact this country's normal state of affairs. *See Felciano v. Department of Transportation*, 605 U.S. 38, 51 (2025) (recognizing “there are dozens of declared emergencies today, some have been on the books for years, and it is ‘unlikely that there will ever be a time when no national emergency exists’”) (citation omitted).

3. How this Court has interpreted IEEPA

Not long after the reform legislation was enacted, this Court addressed a challenge to President Carter's authority, executed under IEEPA and expressed through executive orders, to revoke certain licenses concerning Iranian funds, nullify non-Iranian interests in assets acquired after a previous blocking order, and require banks holding Iranian assets to transfer them to the Federal Reserve Bank of New York. *Dames & Moore v. Regan* 453 U.S. 654, 654-55 (1981). The petitioner in *Dames & Moore* asserted that IEEPA “was not intended to give the President such extensive power over the assets of a foreign state during times of national emergency.” *Id.* at 671-72. The Court disagreed. Addressing the initial question of whether IEEPA constitutes specific

congressional authorization to the President to nullify the subject attachments and order the transfer of Iranian assets, then-Justice Rehnquist, writing for the majority, opined, “we think both the legislative history and cases interpreting the TWEA fully sustain the broad authority of the Executive when acting under this congressional grant of power.” *Id.* at 672. The holding turned on the interpretation of “transfer,” “compel,” and “nullify” as presented in 50 U.S.C. § 1702. *Ibid.*

In addressing the second question before it, the Court determined that IEPA’s grant of authority was not so broad as “to authorize the suspension” of claims pending in American courts. In reaching this conclusion regarding IEPA’s limits, the Court noted that “IEPA delegates broad authority to the President to act in times of national emergency with respect to property of a foreign country.” *Id.* at 675, 677. The Court explained that Congress “cannot anticipate and legislate with regard to every possible action the President may find it necessary to take or every possible situation in which he might act,” and “failure of Congress specifically to delegate authority does not, ‘especially . . . in the areas of foreign policy and national security,’ imply ‘congressional disapproval’ of action taken by the Executive.” *Dames & Moore*, 453 U.S. at 678.

Fair enough. But the *Dames & Moore* Court was not confronted with reviewing use of delegated authority to effect a deprivation or restraint of personal liberty. Nor had the executive developed as of yet the practice of declaring never ending national emergencies unbounded by geographic boundaries. To the extent *Dames & Moore* relied on a combination of the President’s inherent Article II powers and the “broad authority” Congress had delegated,

the Court’s holding remains “exceedingly narrow” and, more than anything, likely “highlights the importance of close attention to IEEPA’s text.” *Learning Res.*, 146 S. Ct. at 646. In short, *Dames & Moore* represents “only one more episode in the never-ending tension between the President exercising the executive authority in a world that presents each day some new challenge with which he must deal and the Constitution under which we all live and which no one disputes embodies some sort of system of checks and balances.” *Id.* at 662.

Recently, the Court reviewed the President’s authority under IEEPA in a very different context. At issue in *Learning Resources, Inc. v. Trump* was whether the statutory words “regulate” and “importation” grant the President independent power to impose tariffs “on imports from any country, of any product, at any rate, for any amount of time.” *Id.* at 637. A plurality of this Court answered in the negative, concluding that the statutory terms “cannot bear such weight.” *Ibid.* Consistent with its long-held reluctance “‘to read into ambiguous statutory text’ extraordinary delegations of Congress’s powers,” the Court reviewed its “major questions” cases and reasoned:

In each, the Government claimed broad, expansive power on an uncertain statutory basis. And in each, the statutory text might “[a]s a matter of definitional possibilities” have been read to delegate the asserted power. But “context” counseled “skepticism.” That context included not just other language within the statute, but “constitutional structure” and “common sense.” “[B]oth separation of powers principles and a practical understanding of

legislative intent” suggested Congress would not have delegated “highly consequential power” through ambiguous language.

Id. at 638-39 (citations omitted). Because the President asserted “the extraordinary power to unilaterally impose tariffs of unlimited amount, duration, and scope,” the Court explained, “he must identify clear congressional authorization to exercise it,” which he could not do. *Id.* at 646. Given that the plurality reached its conclusion under the major questions doctrine, it was not necessary to consider whether IEEPA represented an unconstitutional delegation of power. And, as with *Dames & Moore*, the Court was not tasked with reviewing IEEPA’s delegation of power within the context of enabling the executive to effect a deprivation of personal liberty.

B. IEEPA’s vulnerability to exploitation and the executive’s increasingly expansionist use of authority.

As noted above, IEEPA does not define “emergency” or “unusual and extraordinary.” Legislative history reflects, however, Congress’s expectation for how the President should construe the words. This expectation and the ordinary definitions of the terms notwithstanding, administrations spanning the past twenty years have taken advantage of the lack of limiting language in IEEPA to incrementally grow the executive’s power under the statute.

Initially, Presidents targeted foreign states or their governments. In 1979, in response to the seizure of the American Embassy in Tehran, President Carter

invoked IEEPA to block the removal or transfer of property and interests in property belonging to the Iranian Government. *See, e.g.*, Exec. Order No. 12170, 44 Fed. Reg. 65729 (Nov. 14, 1979). By contrast, in 1990, President George H. W. Bush used IEEPA to address the crisis caused by the proliferation of chemical and biological weapons. Exec. Order No. 12735, 55 Fed. Reg. 48587 (Nov. 16, 1990). Although gravely concerning, the development of such weapons, if it even constitutes an event, qualifies as neither sudden nor unexpected and is rather a matter that by its very nature requires ongoing attention. Four years later, President Clinton revoked President Bush’s order and executed his own Executive Order addressing proliferation of such weapons, *see* Exec. Order No. 12938, 59 Fed. Reg. 58099 (Nov. 14, 1994); this order “has been extended by every succeeding president.” Nonproliferation Sanctions, U.S. Dept. of State, <https://www.state.gov/bureau-of-arms-control-and-nonproliferation/nonproliferation-sanctions> (June 8, 2026).

Over the years, administrations “have increasingly used IEEPA to target non-state individuals and groups, such as terrorists, persons who engage in malicious cyber-enabled activities, and certain persons associated with the International Criminal Court.” CRS, C. Casey, D. Rennack & J. Elsea, *The International Emergency Economic Powers Act: Origins, Evolution, and Use 1* (2022). In 2001, President George W. Bush signed an Executive Order in response to the terrorist attacks of September 11, 2001. Exec. Order No. 13224, 66 Fed. Reg. 49079 (Sept. 23, 2001). This order authorizes the U.S. government to block the property and prohibit transactions with foreign individuals and entities that commit, threaten to commit,

or support acts of terrorism. *Ibid.* “In general terms, the Order provides a means by which to disrupt the financial support network for terrorists and terrorist organizations by authorizing the U.S. government to designate and block the assets of foreign individuals and entities that commit, or pose a significant risk of committing, acts of terrorism.” U.S. Dept. of State, Terrorist Designations and State Sponsors of Terrorism, Executive Order 13224, <https://www.state.gov/executive-order-13224/> (June 8, 2026). No President (or Congress) has yet terminated this emergency.

In 2011, in a continuation of using IEEPA to address perpetual threats as opposed to emergencies, President Obama signed an Executive Order to block property belonging to significant transnational criminal organizations. Exec. Order No. 13581, 76 Fed. Reg. 44757 (July 24, 2011). As with terrorist organizations, the menacing work of transnational criminal organizations transcends state lines and geographical boundaries; these people operate from all corners of the globe. In 2015, President Obama declared a national emergency to deal with the threat caused by malicious cyber-enabled activities originating outside the United States, Exec. Order No. 13694, 80 Fed. Reg. 18077 (Apr. 1, 2015), which President Trump amended ten years later in June 2025, Exec. Order No. 14306, 90 Fed. Reg. 24723 (June 6, 2025). More so than even terrorists or members of transnational criminal organizations, instigators of malicious cyber-enabled activities could be found quite literally anywhere in the world.

On February 28, 2024, President Biden issued an Executive Order on Preventing Access to Americans’ Bulk Sensitive Personal Data and United States

Government-Related Data by Countries of Concern aimed at addressing national security risks associated with artificial intelligence. Exec. Order No. 14117, 89 Fed. Reg. 15421 (Feb. 28, 2024). The Executive Order substantially expanded the scope of the national emergency declared in Executive Order No. 13873, 84 Fed. Reg. 22689 (May 15, 2019) (Securing the Information and Communications Technology and Services Supply Chain), and further addressed in Executive Order No. 14034, 86 Fed. Reg. 31423 (June 9, 2021) (Protecting Americans’ Sensitive Data from Foreign Adversaries). *See id.*

As of September 1, 2025, Presidents invoking IEEPA had declared 77 national emergencies, 46 of which are ongoing. CRS, Casey, International Emergency Economic Powers Act, summary page (2025). The first emergency declared pursuant to authority under IEEPA—the November 1979 emergency with Iran—is in its fifth decade. *Ibid.* To date, no emergency invoking IEEPA has been terminated without presidential assent. *Id.* at 15-16. And, although the initial use of IEEPA was geographically specific, i.e., to address the “situation in Iran,” that trend was short lived.

Most recently, President Trump declared a national emergency caused by the influx of illegal drugs from Canada, Mexico, and China, which he deemed an “unusual and extraordinary” threat. Exec. Order No. 14193, 90 Fed. Reg. 9113 (Feb. 1, 2025); Exec. Order No. 14194, 90 Fed. Reg. 9117 (Feb. 1, 2025); Exec. Order No. 14195, 90 Fed. Reg. 9121 (Feb. 1, 2025). And he declared a national emergency caused by “large and persistent” trade deficits, which he deemed an “unusual and extraordinary” threat. Exec. Order No. 14257, 90 Fed. Reg. 15041 (Apr.

2, 2025). President Trump imposed tariffs to deal with each threat, resulting in petitions for certiorari and this Court’s decision that IEEPA does not grant the President independent power to “impose tariffs on imports from any country, of any product, at any rate, for any amount of time.” *Learning Res.*, 146 S. Ct. at 637.

Plainly, the executive is steadily broadening the scope of its authority under IEEPA. Modern times present modern crises, and unprecedented threats arise with heightened globalization. But to address and appropriately manage these *threats* (as opposed to emergencies) as they develop, Congress must legislate. This is particularly true considering the expansive resources made available to the executive once he declares a national emergency. For instance, the President holds the power to prohibit all financial transactions with individuals designated by executive order, which power permits the President to block all assets belonging to a United States citizen or permanent resident. *See* Patrick A. Thronson, Toward Comprehensive Reform of America’s Emergency Law Regime, 46 U. Mich. J.L. Reform 737, 740, 759 (2013) (assessing “the scope and legal effects” of the thirty national emergencies then in effect in the United States and proposing “specific statutory reforms to halt the unchecked growth of these emergencies” and “political reforms that would subject the vast executive powers granted by the U.S. emergency law regime to the democratic process”).

Finally, “the structure of the U.S. sanctions regime and its reliance on IEEPA has created emergencies that do not end.” CRS, Casey, International Emergency Economic Powers Act, at 50, 51. Emergencies by their

very nature are “rare and brief, and are not to be equated with normal, ongoing problems.” House, *Trading with the Enemy Act Reform Legislation*, p. 11. Yet, on average, emergencies invoking IEEPA last more than nine years. CRS, Casey, International Emergency Economic Powers Act, at 17 (2025). That Congress has never terminated an emergency declaration invoking IEEPA may signal approval of the executive’s use of IEEPA, but it may also reflect that IEEPA is “an effective tool for carrying out the will of Congress.” *Id.* at 51.

The executive’s unchecked use of power under IEEPA long ago rendered obsolete whatever guardrails once existed to guide the executive’s use of delegated authority. The President’s ability to declare a national “emergency” occasioned by an “unusual and extraordinary” threat knows no bounds. As such, there no longer exists (to the extent it ever did) sufficient instruction “to guide the delegatee’s exercise of authority.” *Gundy*, 588 U.S. at 145 (citation omitted). This matters because the Constitution vests legislative powers in Congress alone. U.S. Const. art. I, § 1.

C. The executive’s use of authority under IEEPA is incompatible with the Vesting Clause.

It is generally understood that the President “enjoys some ‘independent constitutional power[s]’ over foreign affairs ‘even without congressional authorization.’” *Learning Res.*, 146 S. Ct. at 642 (citation omitted). See *Clinton v. City of New York*, 524 U.S. 417, 445 (1998) (recognizing “that in the foreign affairs arena, the President has ‘a degree of discretion and freedom from statutory restriction which would not be admissible were

domestic affairs alone involved”) (quoting *United States v. Curtiss–Wright Export Corp.*, 299 U.S. 304, 320 (1936)). IEEPA is not an embodiment of those constitutional powers. *See Learning Res.*, 146 S. Ct. at 663 (citing C. Bradley & J. Goldsmith, *Foreign Affairs, Nondelegation, and the Major Questions Doctrine*, 172 U. Pa. L. Rev. 1743, 1796 (2024)) (“IEEPA [is] not [an] authorizatio[n] that obviously connect[s] to independent presidential power in ways that would warrant the independent powers qualification”). And to the extent IEEPA represents overlapping Article I and Article II powers, the executive’s use of IEEPA to criminalize conduct implicates a constitutionally vested legislative power.

“In Article I, the Constitution entrusted all of the federal government’s legislative power to Congress.” *Gundy*, 588 U.S. 152-53 (Gorsuch, J., dissenting). “[T]he framers understood [legislative power] to mean the power to adopt generally applicable rules of conduct governing future actions by private persons—the power to ‘prescrib[e] the rules by which the duties and rights of every citizen are to be regulated,’ or the power to ‘prescribe general rules for the government of society.’” *Id.* at 153 (citations omitted). *See Learning Res.*, 146 S. Ct. at 681 (explaining that “[c]ore legislative power includes only the power to make ‘law’ in the ‘Blackstonian sense of generally applicable rules of private conduct,’ the violation of which results in the deprivation of ‘core private rights,’” which are known as “the natural rights to life, liberty, and property”) (Thomas, J., dissenting) (citing 1 W. Blackstone, *Commentaries on the Laws of England* 123–136 (1765) (other citations omitted)).

“The Constitution’s separation of powers forbids Congress from delegating core legislative power to the

President.” *Learning Res.*, 146 S. Ct. at 680 (Thomas, J., dissenting). And for good reason. As Justice Gorsuch detailed in his dissenting opinion in *Gundy*:

Without the involvement of representatives from across the country or the demands of bicameralism and presentment, legislation would risk becoming nothing more than the will of the current President. And if laws could be simply declared by a single person, they would not be few in number, the product of widespread social consensus, likely to protect minority interests, or apt to provide stability and fair notice.

....

. . . [e]nforcing the separation of powers isn’t about protecting institutional prerogatives or governmental turf. It’s about respecting the people’s sovereign choice to vest the legislative power in Congress alone. And it’s about safeguarding a structure designed to protect their liberties, minority rights, fair notice, and the rule of law.

Gundy, 588 U.S. at 155-56 (Gorsuch, J., dissenting) (noting James Madison’s explanation that “[t]here can be no liberty where the legislative and executive powers are united in the same person, or body of magistrates”) (citations omitted).

IEEPA criminalizes certain conduct. The statute makes it “unlawful for a person to violate, attempt to violate, conspire to violate, or cause a violation of any

license, order, regulation, or prohibition issued under this chapter.” 50 U.S.C. § 1705(a). Under § 1705(c):

A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of, an unlawful act described in subsection (a) shall, upon conviction, be fined not more than \$1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

Id. at § 1705(c). The executive order declaring the national emergency is the triggering event that turns otherwise lawful conduct into a criminal offense. 50 U.S.C. §§ 1701, 1702. IEPPA therefore places in one person, the President, “the power to prescrib[e] the rules by which the duties and rights of every citizen are to be regulated.” *Gundy*, 588 U.S. at 153 (Gorsuch, J., dissenting) (citation and quotation marks omitted).

Here, Wang was charged with and convicted of attempting to participate in the sale of Iranian oil. Such conduct was made unlawful under Executive Order 12,957, which President Clinton executed in 1995 to address “the actions and policies of the Government of Iran [which] constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.” *See also* Exec. Orders 12,959, and 13,059. Notably, this national emergency is now in its thirty-first year.

“The Constitution promises that only the people’s elected representatives may adopt new federal laws restricting liberty.” *Gundy*, 588 U.S. at 149 (Gorsuch, J.,

dissenting). The executive’s use of authority under IEEPA is incompatible with this tenet. In declaring emergencies under IEEPA, Presidents do not merely “fill up the details” of legislative policy or engage in benign fact-finding subsequent to the legislators’ lawmaking. *Id.* at 157-58, 162. Nor can it be said that Presidents are simply acting in “the areas of foreign policy and national security.” *Dames & Moore*, 453 U.S. at 678. The declaration of a national emergency is a predicate for the deprivation of personal liberties for those found in violation of prohibited conduct, and, therefore, the President’s exercise of authority under IEEPA constitutes the exercise of legislative power.

As a group of dissenting members of this Court observed relatively recently, it would be easy enough to let this case go. *Gundy*, 588 U.S. at 172 (Gorsuch, J., dissenting). After all, this country’s troubles with Iran span multiple generations. A mere four months ago, the United States joined with Israel to launch military strikes against Iran, resulting in the death of that country’s leader; and 13 United States service members were recently killed as part of this ongoing military effort. The case of a Chinese national who attempted to participate in the sale of sanctioned Iranian oil while living on American soil is not one that readily evokes sympathy. But that is precisely why this case matters. “[T]he rule that prevents Congress from giving the executive *carte blanche* to write laws for [] offenders is the same rule that protects everyone else.” *Ibid.* See *id.* at 156-57 (“enforcing the separation of powers . . . [is] about respecting the people’s sovereign choice to vest the legislative power in Congress alone. And it’s about safeguarding a structure designed to protect their liberties, minority rights, fair notice, and the rule of law. So when a case or controversy comes within

the judicial competence, the Constitution does not permit judges to look the other way; we must call foul when the constitutional lines are crossed”).

II. The decision below is wrong.

Certiorari is also warranted because the Third Circuit erroneously relied on *United States v. Amirnazmi*, 645 F.3d 564 (3d Cir. 2011) to hold that IEEPA does not represent an unconstitutional delegation of authority. The Circuit stated simply, “even if Wang is correct that the executive branch has broadened its use of IEEPA since *Amirnazmi*, that would not affect our prior conclusion that the statute satisfies the constitutional requirement of setting out an intelligible principle constraining delegated authority.” Appx.3a.

In *Amirnazmi*, the Third Circuit determined that IEEPA “meaningfully constrains” the President’s discretion because, first, “the President must find that an ‘unusual and extraordinary threat . . . to the national security, foreign policy, or economy of the United States’ originating on foreign soil has reached ‘national emergency’ proportions.” *Amirnazmi*, 645 F.3d at 576 (citing 50 U.S.C. § 1701). Second, “IEEPA prohibits the President from regulating certain exempt transactions, from prosecuting unwitting violators or holding liable those who act in good faith reliance on the statute and regulations, and from obviating Congress’s role as ultimate arbiter of emergency trade policy.” *Ibid.* (citing 50 U.S.C. §§ 1622(b), 1702(a)(3), 1702(b), 1705(c), 1706)).

Amirnazmi was decided fifteen years ago, before Presidents started declaring national emergencies to deal

with perpetual threats caused by cybersecurity breaches and risks associated with artificial intelligence, and well before the most recent use of IEEPA to levy tariffs in response to drug trafficking and the national trade deficit. And while the Third Circuit conducted its analysis within the context of IEEPA's delegation of authority to criminalize conduct, the Circuit was not presented with and did not consider the implications associated with Congress's failure to define "emergency" and "unusual and extraordinary."

III. This case presents an excellent vehicle for clarifying the principles used to police the separation of powers.

As Justice Gorsuch recounted in his *Gundy* dissent:

The legislative cannot transfer the power of making laws to any other hands; for it being but a delegated power from the people, they who have it cannot pass it over to others. The people alone can appoint the form of the commonwealth, which is by constituting the legislative, and appointing in whose hands that shall be. And when the people have said we will submit to rules, and be governed by laws made by such men, and in such forms, nobody else can say other men shall make laws for them; nor can the people be bound by any laws but such as are enacted by those whom they have chosen and authorised to make laws for them.

Gundy, 588 U.S. at 153-54 (citing Locke, Second Treatise § 141, at 71). If Congress can "pass off its legislative power

to the executive branch, the ‘[v]esting [c]lauses, and indeed the entire structure of the Constitution,’ would ‘make no sense.’” *Id.* at 155 (citation omitted).

This is what Congress has done with IEEPA—either by failing in the first instance to define “emergency” and “unusual and extraordinary,” or in failing to legislate in the face of the executive’s ever-broadening use of statutory authority. In either event, it is evident today that the statute provides insufficient instruction.

This case presents an able vehicle for reestablishing that Congress crosses the constitutional line when it delegates to the executive the power to make policy decisions, make laws, and engage in legislative functions.

CONCLUSION

The Court should grant the petition for a writ of certiorari.

Respectfully submitted,

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APPENDIX

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**APPENDIX A — OPINION OF THE UNITED STATES
COURT OF APPEALS FOR THE THIRD CIRCUIT,
FILED NOVEMBER 19, 2025**

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 24-2109 & 24-2111

UNITED STATES OF AMERICA

v.

DANIEL RAY LANE,

Appellant in No. 24-2109

UNITED STATES OF AMERICA

v.

ZHENYU WANG, a/k/a BILL WANG,

Appellant in No. 24-2111

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Nos. 2:20-cr-00254-002 & 2:20-cr-00254-004)
District Judge: Hon. Harvey Bartle, III

Submitted under Third Circuit L.A.R. 34.1(a)
September 9, 2025

Before: HARDIMAN, KRAUSE, and FREEMAN,
Circuit Judges

Appendix A

(Filed: November 19, 2025)

OPINION*KRAUSE, *Circuit Judge*.

Appellants Zhenyu Wang and Daniel Ray Lane challenge their convictions for conspiring and attempting to engage in and engaging in transactions regarding sanctioned Iranian oil, in violation of 50 U.S.C. §§ 1701-1707 (the International Emergency Economic Powers Act (IEEPA)) and 18 U.S.C. § 371, and for money laundering conspiracy, in violation of 18 U.S.C. § 1956(h). Because none of their arguments on appeal are persuasive, we will affirm the District Court's judgments.

*This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

I. DISCUSSION¹

We consider Wang's claims before turning to Lane's.

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

1. The District Court had jurisdiction pursuant to 18 U.S.C. § 3231. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review the District Court's evidentiary rulings for abuse of discretion. *United States v. Gonzalez*, 905 F.3d 165, 195 (3d Cir. 2018). We review issues raised for the first time on appeal for plain error. *Id.* at 205 n.17. We review Wang's challenge to the constitutionality of IEEPA *de novo*, under *United States v. Rodia*, 194 F.3d 465, 469 (3d Cir. 1999). *See also United States v. Bishop*, 66 F.3d 569, 572 n.1 (3d Cir. 1995).

*Appendix A***A. Wang's Claims**

Wang raises three primary arguments on appeal. First, he contends that IEEPA is an unconstitutional delegation of authority by Congress to the President. The District Court did not err in denying Wang's post-trial motion challenging the constitutionality of the statute. We previously rejected a nondelegation challenge to IEEPA. *See United States v. Amirnazmi*, 645 F.3d 564, 576 (3d Cir. 2011). And even if Wang is correct that the executive branch has broadened its use of IEEPA since *Amirnazmi*, that would not affect our prior conclusion that the statute satisfies the constitutional requirement of setting out an intelligible principle constraining delegated authority. *See id.* at 575-77.

Wang's second argument, that the District Court abused its discretion in limiting expert testimony from Dr. Barber on the relationship between Wang's mental illness and *mens rea*, fares no better. Evidence of mental illness can be introduced to negate *mens rea*, *United States v. Pohlot*, 827 F.2d 889, 897-98, 905-06 (3d Cir. 1987), but Dr. Barber's proposed testimony was simply that Wang's social anxiety and PTSD led him to pretend to have experience in illegal oil transactions and to participate in the criminal scheme in order not to lose "face" before his co-conspirators, Wang Br. 56-57. That testimony, in other words, would not have shown Wang lacked the requisite intent to commit his offenses.

Third, Wang asserts that the District Court abused its discretion by excluding portions of Dr. Barber's testimony

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that amounted to recitations of Wang’s own statements during his interview with Dr. Barber, who evaluated Wang before trial at his counsel’s request. The excluded statements—offered to show that Wang did not intend to violate the law, or was less blameworthy, because his mental illness led him to participate in the oil deal—were impermissible hearsay unless they fell within an exception in the Federal Rules of Evidence. But the only exception Wang invoked is for statements made for and pertaining to medical treatment, Fed. R. Evid. 803(4), and the District Court reasonably concluded that Wang’s statements to Dr. Barber, most of which concerned his upbringing in China, were not made primarily for the purpose of medical diagnosis or treatment, but rather to help his criminal defense. Thus, Rule 803(4)’s hearsay exception is inapplicable. *Cf., e.g., United States v. Gonzalez*, 905 F.3d 165, 199-201 (3d Cir. 2018) (holding that Rule 803(4) covered statements the victim made to a therapist she had long consulted for treatment, about her emotional state and symptoms); *United States v. Iron Shell*, 633 F.2d 77, 84 (8th Cir. 1980) (holding that the victim’s statements to a doctor were permissible hearsay because she made them for no “reason other than promoting treatment”); *see also id.* at 83-85.

Nor were Wang’s statements admissible under Federal Rule of Evidence 703 as evidence on which his expert relied to form her opinion. The District Court implicitly concluded that the probative value of Wang’s statements did not “substantially outweigh[] their prejudicial effect,” Fed. R. Evid. 703, when it ruled that Dr. Barber could testify to her methods and conclusions but could not relay

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Wang’s “self-serving” statements, Wang App. 2357. And that determination was not an abuse of discretion, as Rule 703 is not a “conduit” for the testifying expert to transmit hearsay to the jury “under the guise that the testifying expert used the hearsay as the basis of his testimony.” *Marvel Characters, Inc. v. Kirby*, 726 F.3d 119, 136 (2d Cir. 2013) (quoting *Malletier v. Dooney & Bourke, Inc.*, 525 F. Supp. 2d 558, 666 (S.D.N.Y. 2007)).

Fourth, Wang contends that the District Court abused its discretion in declining to give his proposed jury instruction on mistake of law. Wang would be entitled to his proposed instruction only if (1) it accurately stated the law; (2) the theory of defense was “supported by the evidence”; (3) it was not already part of the charge; and (4) the failure to include an instruction on his theory “den[ied] him a fair trial.” *United States v. Hoffecker*, 530 F.3d 137, 176 (3d Cir. 2008) (citation omitted). But here the second and third criteria are not satisfied: Wang’s mistake-of-law instruction was not supported by the evidence, which showed he repeatedly demonstrated knowledge that transacting in sanctioned Iranian oil was illegal and his participation could have legal consequences, even if he lacked the means to carry out his role, and the instruction given by the District Court substantially covered Wang’s requested instruction, in that it explained a mistake could negate *mens rea* if it meant a defendant did not act knowingly. See *United States v. Petersen*, 622 F.3d 196, 208-09, 54 V.I. 929 (3d Cir. 2010).

*Appendix A***B. Lane's Claims**

Lane's claims on appeal also do not withstand scrutiny. First, he argues that we should overturn the jury's rejection of his entrapment defense, which we will do only if no reasonable jury could have reached the jury's conclusion. *United States v. Davis*, 985 F.3d 298, 306-07 (3d Cir. 2021). That is not the case here: Lane failed to establish either element of entrapment—that the government induced him to commit his offenses and that he was not predisposed to join the oil deal. *Id.* at 307.

To prove inducement, Lane had to show that government officials did more than “afford opportunities or facilities for the commission of the offense,” *United States v. Russell*, 411 U.S. 423, 435, 93 S. Ct. 1637, 36 L. Ed. 2d 366 (1973), and that they used coercive tactics such as intimidation or threats, *United States v. Marino*, 868 F.2d 549, 553-54 (3d Cir. 1989). But Lane was simply given the opportunity to commit the offenses—not even by a government official, but by one of his own employees, Nicholas Fuchs; the undercover government operatives repeatedly assured Lane and his co-conspirators that they could back out of the deal at any time; and contrary to Lane's assertion, the amount of money he would receive for laundering the proceeds of the illegal sales was not inducement. *See United States v. Spentz*, 653 F.3d 815, 819 (9th Cir. 2011) (citing *Sherman v. United States*, 356 U.S. 369, 372, 78 S. Ct. 819, 2 L. Ed. 2d 848 (1958)).

As to predisposition, a particularly significant factor “is whether the defendant evidenced reluctance to engage

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in criminal activity which was overcome by repeated Government inducement.” *United States v. Fedroff*, 874 F.2d 178, 183 (3d Cir. 1989) (quoting *United States v. Reynoso-Ulloa*, 548 F.2d 1329 (9th Cir. 1977)). Yet far from showing such reluctance, Lane repeatedly indicated his willingness to participate in the criminal scheme, despite being told multiple times that he could back out.²

Next, Lane takes issue with the District Court’s decision to preclude Lane from questioning Fuchs about Samuel Gonzalez—a money launderer and drug dealer whom Fuchs contacted as part of the scheme—to undermine Fuchs’s credibility and attribute knowledge of money laundering to Gonzalez, in lieu of Lane. Here, the District Court acted well within its “wide discretion in limiting cross-examination.” *United States v. Casoni*, 950 F.2d 893, 918 (3d Cir. 1991). Cross-examination about Gonzalez would have produced evidence of limited probative value, given there was already ample impeachment evidence in the record, and asking Gonzalez about money laundering would not have shown that Lane was ignorant about it.

Finally, we reject Lane’s argument, raised for the first time on appeal, that the District Court erred in its entrapment jury instruction, because it did not give jurors sufficient guidance on entrapment, and his proposed

2. Similarly, contrary to Lane’s argument, it is not apparent how the District Court erred in excluding testimony on the legality of transacting in Russian oil, which would not have helped the jury decide whether Lane was predisposed to commit his actual offenses involving sanctioned *Iranian* oil.

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instruction would have led the jury to a “different verdict.” Lane Br. 55.³ The District Court did sufficiently define the elements of entrapment and the Government’s burden in its jury instruction and in its response to the jury’s request for clarification. And Lane does not show the instruction prejudiced him. *See Hoffecker*, 530 F.3d at 176. Indeed, many of the so-called facts he insists the jury would have considered had they heard the alternative instruction are unsupported assertions (for instance, that Lane was reluctant to join the scheme), or, even if true, would not have established entrapment (for example, that Lane was induced by the size of the expected profits).

II. CONCLUSION

For the foregoing reasons, we will affirm the District Court’s judgment.

3. Given Lane raised this claim for the first time on appeal, we review it for plain error. Fed. R. Crim. P. 52(b); *United States v. Marcus*, 560 U.S. 258, 262, 130 S. Ct. 2159, 176 L. Ed. 2d 1012 (2010).

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**APPENDIX B — JUDGMENT OF THE
UNITED STATES COURT OF APPEALS FOR THE
THIRD CIRCUIT, FILED NOVEMBER 19, 2025**

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-2111

UNITED STATES OF AMERICA

v.

ZHENYU WANG, a/k/a BILL WANG,

Appellant.

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. No. 2:20-cr-00254-002)
District Judge: Hon. Harvey Bartle, III

Submitted under Third Circuit L.A.R. 34.1(a)
September 9, 2025

Before: HARDIMAN, KRAUSE, and FREEMAN,
Circuit Judges

Filed November 19, 2025

JUDGMENT

This cause came on to be considered on the record
from the United States District Court for the Eastern

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District of Pennsylvania and was submitted pursuant to Third Circuit L.A.R. 34.1(a) on September 9, 2025. On consideration whereof, it is now hereby

ORDERED and **ADJUDGED** by this Court that the order of the District Court entered April 17, 2024, and the judgment of the District Court entered June 11, 2024, are hereby **AFFIRMED**. All in accordance with the Opinion of this Court.

Costs shall not be taxed.

ATTEST:

s/ Patricia S. Dodszuweit
Clerk

Dated: November 19, 2025

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OFFICE OF THE CLERK

**UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

21400 UNITED STATES COURTHOUSE

601 MARKET STREET

PHILADELPHIA, PA 19106-1790

Website: www.ca3.uscourts.gov

PATRICIA S. DODSZUWEIT

TELEPHONE

CLERK

215-597-2995

November 19, 2025

Mark E. Cedrone
Aubrey C. Emrich
Saxton & Stump
123 S Broad Street, Suite 2800
Philadelphia, PA 19109

Mary E. Crawley
Patrick J. Murray
Office of United States Attorney
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106

Isabelle Young
Saxton & Stump
151 Meeting Street, Suite 400
Charleston, SC 29401

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RE: USA v. Zhenyu Wang

Case Number: 24-2111

District Court Case Number: 2:20-cr-00254-002

ENTRY OF JUDGMENT

Today, **November 19, 2025**, the Court entered its judgment in the above-captioned matter pursuant to Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:

14 days after entry of judgment.

45 days after entry of judgment in a civil case if the United States is a party.

Form Limits:

3900 words if produced by a computer, with a certificate of compliance pursuant to Fed. R. App. P. 32(g).

15 pages if hand or type written.

Attachments:

A copy of the panel's opinion and judgment only.

Certificate of service, unless the petition is filed and served through the Court's electronic-filing system.

Certificate of compliance if petition is produced by a computer.

No other attachments are permitted without first obtaining leave from the Court.

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Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. A party seeking both forms of rehearing must file the petitions as a single document. Fed. R. App. P. 40(a).

A party who is entitled to costs pursuant to Fed.R.App.P. 39 must file an itemized and verified bill of costs within 14 days from the entry of judgment. The bill of costs must be submitted on the proper form which is available on the court's website.

A mandate will be issued at the appropriate time in accordance with the Fed. R. App. P. 41.

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very truly yours,
Patricia S. Dodszeit, Clerk

By: /s/ Caitlyn
Case Manager
267-299-4956

**APPENDIX C — JUDGMENT OF
THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
PENNSYLVANIA, FILED JUNE 11, 2024**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

Case Number: DPAE2:20CR000254-002
USM Number: 77710-066

UNITED STATES OF AMERICA

v.

ZHENYU WANG a/k/a “BILL” WANG

Mark Cedrone, Esquire
Defendant’s Attorney

Filed June 11, 2024

JUDGMENT IN A CRIMINAL CASE

THE DEFENDANT:

- ☐ pleaded guilty to count(s) _____
after a plea of not guilty.
- ☐ pleaded nolo contendere to count(s) _____
which was accepted by the court,
- ☒ was found guilty on count(s) 1, 2 and 3 of the
after a plea of not guilty. Indictment.

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The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature & Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 371	Conspiracy to Violate IEEPA	2/29/2020	1
50 U.S.C. §§ 1701-1707	Engaging and attempting to engage in transactions prohibited by IEEPA	2/29/2020	2
18 U.S.C. § 1956(h) and 18 U.S.C. § 1	Money laundering conspiracy and aiding and abetting	2/29/2020	3

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☐ Count(s) _____ ☐ is ☐ are dismissed on
the motion of the United States.

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic

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circumstances.

6/11/2024

Date of Imposition of Judgment

Harvey Bartle III

Signature of Judge

Harvey Bartle III, U. S. District Court Judge

Name and Title of Judge

June 11, 2024

Date

Emailed on 6/11/2024:

Patrick Murray, AUSA

Mary Crawley, AUSA

Mark Cedrone, Esquire

U.S. Probation

J. Minni (FLU)

U.S. Marshal

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ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature & Offense</u>	<u>Offense Ended</u>	<u>Count</u>
---------------------------------------	------------------------------------	---------------------------------	---------------------

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:
45 months on each of Counts 1, 2, and 3 of the Indictment.
The sentences are to run concurrently.

- ☒ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends the Bureau of Prisons designate the defendant to the Federal Correctional Institution in Allenwood, Pennsylvania. The Court also recommends that Defendant receive mental health treatment.

- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____.

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- ☐ as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- ☐ before 2 pm on _____.
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows: _____

Defendant delivered on _____ to
_____ at _____, with a
certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

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SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:

3 years on each of Counts 1, 2, and 3, of the Indictment such terms to be served concurrently.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed 72 drug tests per year of supervision.
 - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. (*check if applicable*)
4. ☐ You must make restitution in accordance with 18 U.S.C. § 3663 and 3663A or any other statute authorizing a sentence of restitution. (*check if applicable*)

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5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to

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a different probation office or within a different time frame.

2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.

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7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).

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11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____ Date _____

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall provide the U.S. Probation Office with full disclosure of his financial records to include yearly income tax returns upon the request of the U.S. Probation Office. The defendant shall cooperate with the probation officer in the investigation of his financial dealings and shall provide truthful monthly statements of his income.

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The defendant is prohibited from incurring any new credit charges or opening additional lines of credit without the approval of the probation officer unless the defendant is in compliance with a payment schedule for any fine or restitution obligation. The defendant shall not encumber or liquidate interest in any assets unless it is in direct service of the fine or restitution obligation or otherwise has the express approval of the Court.

The defendant shall cooperate with Immigration and Customs Enforcement to resolve any problems with the defendant's status in the United States. The defendant shall provide truthful information and abide by the rules and regulations of the Bureau of Immigration and Customs Enforcement. If deported, the defendant shall not re-enter the United States without the written permission of the Attorney General. If the defendant re-enters the United States, the defendant shall report in person to the nearest U.S. Probation Office within 48 hours.

CRIMINAL MONETARY PENALTIES ***

The defendant must pay the following total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Restitution ***</u>	<u>Fine</u>
TOTALS	\$ 300.00	\$ 0.0	\$0.0
	<u>AVAA</u>		<u>JVTA</u>
	<u>Assessment*</u>		<u>Assessment**</u>
	\$ 0.0		\$0.0

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- ☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.
- ☐ The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid

before the United States is paid.

<u>Name of</u> <u>Payee</u>	<u>Total Loss***</u>	<u>Restitution</u> <u>Ordered</u>	<u>Priority or</u> <u>Percentage</u>
--------------------------------	----------------------	--------------------------------------	---

TOTALS	\$ _____ 0.00	\$ _____ 0.0	
---------------	---------------	--------------	--

- ☐ Restitution amount ordered pursuant to plea agreement \$ _____
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to

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penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

- ☐ The court determined that the defendant does not have the ability to pay interest, and it is ordered that:
- ☐ the interest requirement is waived for ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims or Trafficking Act of 2015, Pub. L. No. 114-22.

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☒ Lump sum payment of \$ 300.00 due immediately., balance due
- ☐ not later than _____, or
- ☐ in accordance with ☐ C, ☐ D, or ☒ F below; or

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- B** ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C** ☐ Payment in equal _____ (*e.g., weekly, monthly, quarterly*) installments of \$ _____ over a period of _____ (*e.g., months or years*), to commence _____ (*e.g., 30 or 60 days*) after the date of this judgment; or
- D** ☐ Payment in equal _____ (*e.g., weekly, monthly, quarterly*) installments of \$ _____ over a period of _____ (*e.g., months or years*), to commence _____ (*e.g., 30 or 60 days*) after release from imprisonment to a term of supervision; or
- E** ☐ Payment during the term of supervised release will commence within _____ (*e.g., 30 or 60 days*) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F** ☒ Special instructions regarding the payment of criminal monetary penalties:

The Defendant shall pay to the United States a special assessment of \$300 which is due immediately. The Court finds the defendant does not have the ability to pay a fine.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except

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those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk, U.S. District Court, 55 Pleasant Street, Room 110, Concord, N.H. 03301. Personal checks are not accepted.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Case Number	
Defendant and Co-Defendant Names	
<i>(including defendant number)</i>	Total Amount
Joint and Several Amount	Corresponding Payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVRTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

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**APPENDIX D — ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE EASTERN DISTRICT
OF PENNSYLVANIA, FILED APRIL 17, 2024**

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CRIMINAL ACTION

NO. 20-254-2-4

UNITED STATES OF AMERICA

v.

ZHENYU WANG
DANIEL RAY LANE

ORDER

AND NOW, this 17th day of April, 2024, for the reasons set forth in the accompanying Memorandum, it is hereby

ORDERED that:

(1) The motion of defendant Zhenyu Wang for judgment of acquittal, new trial and arrest of judgment under Rules 29(c), 33 and 34 of the Federal Rules of Criminal Procedure (Doc. # 477) is DENIED; and

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(2) The motion and supplemental motion of defendant Daniel Ray Lane for judgment of acquittal and new trial under Rules 29(c) and 33 (Docs. # 476, 533)¹ are DENIED.

BY THE COURT:

/s/ Harvey Bartle III
J.

1. On November 30, 2023, the court permitted defendants to file supplemental motions along with supporting briefs to their motions for acquittal or new trial (Doc. # 479) .

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**APPENDIX E — MEMORANDUM OF THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
PENNSYLVANIA, FILED APRIL 17, 2024**

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CRIMINAL ACTION

NO. 20-254-2-4

UNITED STATES OF AMERICA

v.

ZHENYU WANG
DANIEL RAY LANE

MEMORANDUM

Bartle, J.

April 17, 2024

Before the court are the motion of defendant Zhenyu Wang for judgment of acquittal, new trial, and arrest of judgment under Rules 29(c), 33, and 34 of the Federal Rules of Criminal Procedure (Doc. # 477) and the motion and supplemental motion of defendant Daniel Ray Lane for acquittal and new trial under Rules 29(c) and 33 (Docs. # 476, 533).

*Appendix E***I**

On or about August 25, 2020, a grand jury indicted Wang, Lane, and their co-defendants for conspiracy under 18 U.S.C. § 371 to violate the International Emergency Economic Powers Act (“IEEPA”), 50 U.S.C. § 1701, *et seq.*, engaging and attempting to engage in transactions prohibited by IEEPA, and conspiring to commit money laundering in violation of 18 U.S.C. § 1956(h). These two defendants were convicted by a jury on all counts. The evidence is now viewed in the light most favorable to the Government as the verdict winner. *United States v. Wolfe*, 245 F.3d 257, 261 (3d Cir. 2001).

The events in this case involved a sting operation.¹ The defendants, along with Nicholas Hovan, Robert Thwaites, and Nicholas Fuchs, participated in what they thought was a transaction to purchase oil from the Islamic Republic of Iran without a license, mask its origins, evade the economic sanctions imposed by the United States against Iran, and sell the oil to a purchaser in the People’s Republic of China.² Hovan was introduced to this sting through a confidential informant, Hal Mason, who represented he had connections with Iranian oil

1. A “sting” is an “undercover operation in which law-enforcement agents pose as criminals to catch actual criminals engaging in illegal acts.” *Sting*, *Black’s Law Dictionary* (11th ed. 2019).

2. Hovan pleaded guilty to a separate information, while Fuchs and Thwaites, who were indicted in this case along with Wang and Lane, pleaded guilty before trial. Fuchs and Thwaites testified at the trial as Government witnesses.

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suppliers. Despite characterizations by Mason and various undercover FBI agents, there was never any sanctioned oil for the defendants to purchase. The numerous relevant conversations between the defendants and Mason or undercover FBI agents were recorded.

The relevant events began when Hal Mason, the confidential FBI informant, approached Hovan and Jason Mumper, an unindicted co-conspirator, with the opportunity to purchase or deal in sanctioned Iranian oil. He met with them in New York, where Hovan and Mumper expressed interest in introducing Mason to potential buyers for the sanctioned oil. To discuss the matter in greater detail, the three met at a restaurant in Philadelphia on July 31, 2019. At that meeting, Hovan and Mumper stated that they did not have the capital for this venture and would need to find funding elsewhere. They agreed to reach out to potential purchasers in Dallas, Texas, who they believed would be able to identify purchasers. During the meeting, Hovan called Fuchs, whose brother was an acquaintance of Hovan's brother, to inquire about his interest. Fuchs worked at Stack Royalties, Inc., a company in the business of selling mineral rights in Texas and Oklahoma.

Upon hearing about the scheme involving sanctioned Iranian oil, Fuchs expressed interest and promptly reached out to his co-worker, Thwaites, and his boss, Lane, who owned Stack Royalties. Thwaites in turn reached out to Wang, an acquaintance, to participate as well. Wang is a Chinese citizen and lawful permanent resident of the United States.

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Shortly after his meeting with Hovan and Mumper, Mason called Fuchs, Thwaites, and Wang. Mason told them that the sanctioned oil was only available due to his close, personal connections with Iranian oil suppliers. They understood the scheme to be lucrative because they would be able to purchase the oil at lower prices due to the sanctions and then sell to another country for a significant profit. During the call, Wang was eager to participate. He touted his experience in the oil business, professed that he was familiar with Iranian crude oil and that he “loves sanctions, . . . and [that] the sanctions make everybody money[.]”

In or about September 2019, Mason flew to Dallas for a set of meetings related to this scheme. He was accompanied by an undercover FBI agent known to the defendants as Ravi Shah. All of these meetings were recorded. First, the two met with Fuchs to discuss financing. Because Fuchs himself did not have sufficient capital to contribute, Shah suggested that substitute assets may be utilized. Fuchs proposed mineral rights.

Thereafter, Mason and Shah met with Wang and Thwaites. During that meeting, they discussed in detail a variety of issues relating to the venture. They talked about the complexities of a ship-to-ship transfer of oil, how such a transfer could be funded, and how to disguise the oil’s origin. They even settled on the size of the initial shipment: 500,000 barrels of oil. The group contemplated that they could make additional shipments of one to two million barrels per trip over a year or more. Mason and

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Shah repeatedly emphasized to Fuchs, Thwaites, and Wang that they could walk away from the deal at any time.

After the conversations with Thwaites and Wang, Mason, Shah, and Fuchs met with Lane, who, as noted, was the owner of Stack Royalties and Fuchs' boss. Lane was relaxed and even joked that nobody should be recording the conversation. These four discussed the possibility that Lane would solicit Panamanian purchasers for the Iranian oil. While Lane expressed concern about Iranian sanctions, he said sanctions "can always be massaged. There's always, you know, a way around it." Shah then initiated the discussion as to how they would launder the profits of the Iranian oil deal. Lane recommended mineral rights as a vehicle through which the profits could be laundered. Mason and Shah stated that Lane and Fuchs would be free to walk away from the deal at any time and did not pressure them. The following day, September 20, 2019, Fuchs called Mason to let him know that Lane was not interested in putting up mineral rights as collateral. On November 1, 2019, Lane let Shah know, via Fuchs, that his Panamanian buyers were not interested in purchasing the Iranian oil.

Throughout the interactions in the summer and fall, there was no pressure on Fuchs, Thwaites, Wang, or Lane to participate in the scheme. All had been told that they could pull out at any time. Thwaites, Wang, and Fuchs continued to finalize plans over WhatsApp for the purchase and sale of sanctioned Iranian oil. Wang, who was tasked with finding a Chinese buyer, drafted

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contracts and communicated with potential buyers in China over WeChat, a common messaging application in China. He continually emphasized to the group that he had connections to the oil industry in China. He intimated that he was related to the Chinese Minister of Energy and worked as the U.S. representative for a Chinese refinery.

By December 2019, Wang represented to the group over WhatsApp that he had identified a buyer. He told “Boss Tang,” his Chinese buyer, that he would not get into trouble purchasing this sanctioned oil as long as he did not “come to the United States or have any association with Americans, it won’t be much of a problem even if they find out.” Upon receiving an acceptance letter from a purchaser, Wang circulated it to Mason, Shah, Thwaites, and Fuchs. He encouraged everyone to close the deal as soon as possible.

To launder the proceeds from the sale of the sanctioned Iranian oil to the Chinese buyer, the participants planned on requesting payment from the buyer via a Polish shell company, which would have no assets or operations, with the use of Swiss bank accounts. The defendants took steps to set up a Polish company and open Swiss bank accounts. Wang, along with other defendants, applied for an Antiguan passport to facilitate the use of the offshore bank accounts without any United States identification. In this way, they hoped to shelter the proceeds of the oil sale from taxation by the United States. Wang sought to arrange for the Chinese buyers to pay the Polish shell company for the purchase of Iranian oil and even booked a flight to China to close the deal.

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In January 2020, Shah reached out to Lane to discuss the laundering of the money to be paid for the sanctioned Iranian oil with mineral rights. Lane agreed to launder \$4 million in profit in connection with this scheme. He would receive a commission for facilitating this transaction. Lane continued to participate and even purchased a bulk money counter for approximately \$4,000. Again, he was advised he could withdraw without consequence.

On February 10, 2020, Wang, Thwaites, Fuchs, and Hovan traveled to Philadelphia to finalize the plan to purchase the sanctioned Iranian oil and sell it to China. In a room at a hotel where they met with Mason, Shah, and other undercover FBI agents, they signed falsified contracts to disguise their profits from Iranian oil as consulting payments. After these four individuals reaffirmed their commitments to the scheme, FBI agents entered the room and arrested them.

In the meantime, on the same day, Lane was meeting with undercover agents for lunch at a restaurant in Dallas so that they all could become acquainted before the undercover agents were scheduled to fund the purchase of the Iranian oil by delivering \$4 million in cash to Stack Royalties that night. The conversation was relaxed and jovial. During the lunch, Lane required all the participants sign non-disclosure agreements. Upon leaving the meeting, Lane was arrested.

*Appendix E***II**

Under Rule 29, the court must “enter judgment of acquittal of any offense for which the evidence is insufficient to sustain a conviction.” The court must review the evidence in the light most favorable to the Government to determine whether a rational jury could have found a defendant guilty beyond a reasonable doubt. *See Wolfe*, 245 F.3d at 261. All reasonable inferences are drawn in favor of the jury’s verdict. A defendant carries a heavy burden when challenging the sufficiency of the evidence. *See United States v. Lore*, 430 F.3d 190, 203-04 (3d. Cir. 2005).

Defendants raised the defense of their entrapment in this sting operation. Both Lane and Wang seek judgment of acquittal on the ground that the Government failed to meet its burden that entrapment was absent. It is of course legitimate for the Government to engage in such an undercover operation if no entrapment occurred. *United States v. Martino*, 825 F.2d 754, 763 (3d Cir. 1987). Our Court of Appeals has explained:

The affirmative defense of entrapment has two elements: (1) government inducement of the crime, and (2) lack of predisposition on the part of the defendant to engage in the criminal conduct. If a defendant makes a prima facie showing of both elements, the burden shifts to the government to disprove the entire defense by disproving one of the elements of the defense beyond a reasonable doubt.

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United States v. Davis, 985 F.3d 298, 307 (3d Cir. 2021) (citations omitted). Both Wang and Lane satisfied the burden of production to be entitled to a jury instruction on entrapment. The court gave the following instruction to the jury:

A defendant may not be convicted of a crime if he or she was entrapped by the Government to do the acts charged. The Government is permitted to use undercover agents, deception, or other means of providing opportunities for an unwary criminally minded person to commit a crime.

But the law does not permit the Government to induce an unwary innocent person into committing a criminal offense. The defense of entrapment includes two inquiries, and you must make these inquiries about each defendant separately.

First, did the Government induce the defendant to commit the offense? Second, was the defendant predisposed, that is, ready and willing to commit the offense before he was first approached by the Government?

It's the Government's burden to prove beyond a reasonable doubt that one person was not entrapped. Thus, you may find the defendant guilty of the offenses charged . . . only if . . . you find that, in addition to proving the elements

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of [each] offense, the Government also proved beyond a reasonable doubt either, (1) that the Government did not induce the commission of the offense, or (2) that the defendant was predisposed, meaning that the defendant was ready and willing to commit the offense before the Government agents first approached him about the crime.

...

If you find the Government proved beyond a reasonable doubt that it did not induce the defendant to commit the offense, then you should find that there was no entrapment in that defendant's case.

However, if you do have a reasonable doubt about whether the Government proved that it did not induce the defendant, then you must decide whether the Government proved beyond a reasonable doubt that the defendant was predisposed - that is, that the defendant was ready and willing to commit the offense before the Government first approached him about it.

...

In summary, the Government must prove beyond a reasonable doubt that it did not induce [defendant] to commit the offenses charged, or that [defendant] was predisposed to commit the

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offenses charged before he was approached by the government.

The Government does not have to prove both. The Government must only meet its burden as to one of these elements. If [the Government] fails to meet that burden, you should find [defendant] not guilty.

First, Wang and Lane claim that the Government failed to carry its burden of proof as to the absence of inducement. Mere solicitation or an offer to participate in criminal activity by a government agent is insufficient to constitute inducement. *United States v. Dennis*, 826 F.3d 683, 690 (3d Cir. 2016). Instead, the government actor must have engaged in conduct such as threats, coercive tactics, promises of reward, or harassment. *United States v. Wright*, 921 F.2d 42, 45 (3d Cir. 1990). The court instructed the jury on the meaning of inducement:

Inducement means that the Government implanted the criminal design in the mind of the defendant. The Government's actions that could amount to inducement include persuasion, fraudulent representations, threats, coercive tactics, harassment, promises of reward, or pleas based on need, sympathy, or friendship.

The Government does not induce a person to commit an offense if the Government merely approaches that person, or solicits, requests, or suggests that he or she commit the offense,

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or affords an opportunity to facilitate - or facilitates to commit the crime.

Lane argues he was induced to commit these crimes. While he ultimately rejected the possibility of selling Iranian oil to his Panamanian contacts, he did not do so immediately. Rather, he took over a month to consider the option. In January 2020, Shah approached Lane and asked if he would use mineral rights to launder money as Lane had originally suggested. Lane readily agreed to sell \$5 million in mineral rights to the front men for the Iranians in exchange for a \$1 million official payment and an unrecorded \$4 million cash payment.

Lane contends that he was induced because the undercover agents acting as the front men at the February 10, 2020 luncheon meeting in Dallas appeared to him that they might be members of a dangerous drug cartel. During the lunch, Alfredo Lopez, one of the undercover FBI agents, exhibited knowledge of Mexican drug cartels. He stated that despite the danger of drug trafficking, the Mexican government did not crack down on drug cartels because of the money that could be made. To another undercover agent, Lopez stated that he could provide protection from cartel violence while the two of them visited Mexico. According to Lane, this signaled to him that Lopez was connected to the cartel. Finally, this agent stated that MS-13, a gang active in Mexico and Texas, kills people on behalf of the Mexican cartel. Lane avers that these statements constituted threats of violence to coerce him to continue his participation.

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A reasonable jury could find this conversation was insufficient to constitute inducement as Mason and the undercover FBI agents had regularly reminded Lane that he could exit the scheme. Lane is a sophisticated party who ran his own mineral rights company, had previously traded in oil, and participated willingly in the scheme out of a desire to make a significant profit. Moreover, the conversation with Lopez was recorded and Lane appeared relaxed, jovial, and eager to be involved, rather than hesitant, concerned, or in fear. Merely affording Lane the opportunity to commit the offenses does not rise to the level of inducement.

Wang argues that the Government did not establish that he was not induced because, in his view, the evidence showed that Shah and Mason solicited Wang's participation. These confidential informants acknowledged that they kept Wang "warm" by continuing to discuss plans over WhatsApp and bringing new ideas to him. However, a reasonable jury could find that Wang was not induced. Wang is college-educated and claimed knowledge about the oil trade. In the July 31, 2019 call, he was relaxed and talked at length about his interest in brokering the oil sale and his business connections in China. He went so far as to say he "loved sanctions" and discussed how the increased risk of criminal prosecution could increase their profits. He made these representations throughout the course of the scheme. When Mason and Shah reminded him that he could cease any involvement, Wang reiterated that he had experience in dealing with sanctioned oil. Wang was interested and responded readily to these opportunities to

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commit the offenses. The Government carried its burden in showing that defendants were not induced.

Next, Wang and Lane maintain that the Government was unable to prove their predisposition to commit the offenses beyond a reasonable doubt. As our Court of Appeals has written:

The government may prove predisposition by showing “(1) an existing course of criminal conduct similar to the crime for which the defendant is charged, (2) an already formed design on the part of the accused to commit the crime for which he is charged, or (3) a willingness to commit the crime for which he is charged as evidenced by the accused’s ready response to the inducement.”

Davis, 985 F.3d at 307 (quoting *United States v. Lakhani*, 480 F.3d 171, 179 (3d Cir. 2007)). Other factors relevant to the question of predisposition include whether defendant had any prior criminal record, whether the Government initially suggested the criminal activity, whether there was a profit motive, whether the defendant demonstrated reluctance, and the nature of the inducement. *United States v. Fedroff*, 874 F.2d 178, 183 (3d Cir. 1989). The court instructed the jury as follows:

[T]he Government must prove [] the defendants’ inclination by establishing (a) an existing course of criminal conduct similar to the crime for which defendant is charged; (b) an already

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formed design on the part of the accused to commit the crime for which he's charged; or (c) a willingness to commit the crime for which he's charged as evidenced by the accused's ready response to the . . . inducement.

In deciding this question, you should consider all the evidence, including any evidence about whether the Government initially suggested the criminal activity, whether the defendant was reluctant after being approached about the criminal activity, the nature of the Government's inducement or persuasion, whether the defendant had already formed an intent or design to commit the offense charged, whether the defendant was engaged in an existing course of criminal conduct similar to the offenses charged, whether the defendant was engaged in criminal activity for profit, and evidence of the defendant's character or reputation.

Lane, who had no criminal record, asserts that he was not predisposed because at one point he rejected the offer to engage in criminal conduct. This is not what the evidence demonstrates. Though he did not broker a sale of Iranian oil to his Panamanian contacts, Lane took over a month to reject the opportunity and later readily participated. Lane asserts that the Government added additional pressure both by suggesting that the money was coming from a dangerous criminal organization and by increasing his potential profits. Even if this is so, Lane

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exhibited not just a willingness but an eagerness to commit the crime. He was forthcoming, relaxed, and participatory during meetings. He anticipated issues in the criminal scheme and provided further suggestions as to how to further launder the profits of the sale of sanctioned oil. As the owner of a mineral rights company with experience in brokering oil sales, he was a sophisticated party to the transaction. When approached to launder money through Stack Royalties, he took steps to effectuate this plan by buying a bulk money counter for \$4,000. There is sufficient evidence for a jury to find that Lane was willing to commit these offenses.

Wang contends that the Government failed to prove that he was predisposed because it failed to establish he knew the proposed transaction to be illegal. This argument fails. Recordings of Wang's conversations with Mason, Shah and the other defendants introduced at trial show that Wang recognized the risks of trading in sanctioned oil and concluded that such risks were manageable. He also discussed these risks with a potential Chinese purchaser and stated that a person would not be held criminally liable provided a non-citizen did not engage in this transaction in connection with an American entity. While there was no direct evidence that Wang conceded this scheme was illegal for him as a citizen of China and lawful permanent resident of the United States, there is significant circumstantial evidence that he was aware of these risks.

There was also evidence he was willing to commit the offenses. During the July 31, 2019 call with Mason,

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he expressed that he “loved” sanctions. He regularly communicated with Mason, Shah, Thwaites, and Fuchs regarding his efforts to advance the scheme. He solicited multiple Chinese purchasers, took steps to launder money through a Polish shell company set up by the group and obtain an Antiguan passport, and even booked a flight to China to consummate the deal.

The Government met its burden as to both Wang and Lane in showing that the defendants were predisposed to participate in this illegal conduct. Accordingly, the motions for judgment of acquittal of Wang and Lane will be denied.

III

Both Wang and Lane seek a new trial under Rule 33 of the Federal Rules of Criminal Procedure, which permits the court to grant a new trial “if the interest of justice so requires.” The standard of review under Rule 33 is different than under Rule 29. Here, the evidence is not evaluated in the light most favorable to the Government. Instead, a new trial may be granted if in the view of the court the verdict is against the weight of the evidence. *See United States v. Johnson*, 302 F.3d 139, 150 (3d Cir. 2002). The court must consider whether there is “a serious danger that a miscarriage of justice has occurred.” *See United States v. Silveus*, 542 F.3d 993, 1004-05, 50 V.I. 1101 (3d Cir. 2008). A new trial may also be granted on the ground that the instructions provided to the jury were erroneous. Under those circumstances, a new trial is warranted when the instructions do not fairly or adequately present the issue without confusing

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or misleading the jury. *See Donlin v. Philips Lighting N. Am. Corp.*, 581 F.3d 73, 79 (3d Cir. 2009).

Lane contends that a new trial is appropriate because the jury, in his view, did not understand how to apply entrapment to the evidence presented and as a resort there was a “serious danger that a miscarriage of justice has occurred.” Lane did not object to the entrapment instruction to the jury nor did he object when the instruction was reread to the jury. “We assume that jurors ‘for the most part understand and faithfully follow [jury] instructions.’” *O’Brien v. Middle East Forum*, 57 F.4th 110, 122 (3d Cir. 2023). No miscarriage of justice has occurred.

Wang seeks a new trial because he maintains that he was prejudiced due to the court’s failure to instruct the jury on mistake of law, that is that a defendant may be acquitted if he had an honest misunderstanding about whether his actions were illegal. A defendant is entitled to a proposed instruction if:

- (1) he proposes a correct statement of the law;
- (2) his theory is supported by the evidence; (3) the theory of defense is not part of the charge; and (4) the failure to include an instruction of the defendant’s theory would deny him a fair trial.

United States v. Friedman, 658 F.3d 342, 352-53 (3d Cir. 2011). The Government asserts that Wang has not satisfied the second prong.

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Wang maintains that due to his misunderstanding of the law, the Government could not prove beyond a reasonable doubt that Wang acted knowingly and willfully. The court instructed the jury as to acting knowingly and willfully. It stated:

A person acts “knowingly” if that person acts voluntarily and intentionally and not because of mistake or accident or other innocent reason. This means that the Government must prove beyond a reasonable doubt that the defendant was conscious and aware of the nature of his actions and of the surrounding facts and circumstances, as specified in the definition of the offense charged.

In deciding whether the defendant acted “knowingly,” you may consider evidence about what the defendant said, what the defendant did and failed to do, how the defendant acted, and all the other facts and circumstances shown by the evidence that may prove what was in the defendant’s mind at that time.

A person acts “willfully” if that person knew his conduct was unlawful and intended to do something that the law forbids. That is, to find that the defendant acted “willfully,” you must find that the evidence proved beyond a reasonable doubt that the defendant acted with a purpose to disobey or disregard the law. “Willfully” does not, however, require proof

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that the defendant had any evil motive or bad purpose other than the purpose to disobey or disregard the law.

The defendant need not be aware of the specific law or regulation that his conduct would violate. However, the Government must prove the defendant had general knowledge of the law which forbade his actions and that he acted with the specific intent to circumvent that law.

Wang objected to this instruction at trial and now argues that the court should have instructed the jury that to find him guilty it must have found he acted “willfully . . . that the defendant knew his conduct was unlawful and had a purpose to disobey or disregard the law.”

Wang posits that the evidence establishes that he had an honest misunderstanding as to the legality of his conduct. Though he initially stated that he was knowledgeable about oil sales in China, he contends that, beyond his representations, there was no evidence he was telling the truth.

The court’s instruction was proper on knowledge and willfulness. A guilty verdict was not against the weight of the evidence. Wang understood the risk of sanctions. Upon hearing about the opportunity to broker a sale of sanctioned oil, he positively discussed the impact that the high risk of sanctions would have on the bottom line. Participants, including an apparent Chinese buyer,

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identified these risks to him throughout the conspiracy. Wang's response to the Chinese buyer demonstrated that he understood that non-citizens of the United States could still be punished for violating United States sanctions if the transaction had a connection to the United States.

The court did not err in failing to provide Wang's requested jury instruction on the state of mind required. The verdict was not against the weight of the evidence, and thus the motion of Wang for new trial will be denied.

IV

Finally, Wang moves the court to arrest judgment under Rule 34 on the ground that the court did not have jurisdiction to charge Wang with conspiracy to violate IEEPA or attempt to violate IEEPA. A motion under Rule 34 will be granted if "the court does not have jurisdiction of the charged offense." Fed. R. Crim. P. 34(a).³ To determine if such an error exists, the court does not consider the evidence introduced at trial, but rather must look to the indictment, the verdict, and the sentence. *United States v. Sisson*, 399 U.S. 267, 281 n.10, 90 S. Ct. 2117, 26 L. Ed. 2d 608 (1970).

3. Though prior to 2014, a motion may be made under Rule 34 for a defective indictment, amendments to the Federal Rules of Criminal Procedure in 2014 limited Rule 34 to jurisdictional challenges. *United States v. D'Ambrosio*, Crim. A. No. 15-3, 2019 U.S. Dist. LEXIS 135187, 2019 WL 3776510, at *9 (M.D. Pa. Aug. 12, 2019). A defective indictment is not a jurisdictional concern. *United States v. Cotton*, 535 U.S. 625, 629-31, 122 S. Ct. 1781, 152 L. Ed. 2d 860 (2002).

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Wang argues that the court should arrest judgment because IEEPA constitutes an unconstitutional delegation of authority by Congress to the President. IEEPA was enacted in 1977 and authorizes the President to exercise

Any authority granted to the President [by the statute] to deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat.

50 U.S.C. § 1701(a). The President may issue regulations in response to a national emergency to investigate or block international economic transactions or confiscate property where there is a person or entity involved in the transaction over which the United States has jurisdiction.

50 U.S.C. § 1702(a). Congress may terminate a national emergency by concurrent resolution, and when it does so, the President may no longer exercise the aforementioned powers. *Id.* at § 1706(b). If a person willfully commits or willfully attempts to commit an action made unlawful under IEEPA regulations, that person may be fined not more than \$1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both. *Id.* at § 1705(c).

The court instructed the jury:

IEEPA empowers the federal Government to issue and enforce economic sanctions in the

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interest of national security. As I will explain in more detail in a moment, this case involves regulations related to doing business with Iran, which are among the regulations incorporated by reference into IEEPA.

...

A regulation under the IEEPA prohibits a United States person from engaging or attempting to engage “in any transaction or dealing in or related to goods or services of Iranian origin or owned or controlled by the Government of Iran.” The term transaction or dealing includes the purchasing, selling, transporting, financing, facilitating, or brokering of any oil of Iranian origin.

The regulations under the IEEPA also prohibit any transaction with Iran by any United States person who “evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions.”

In 1987, the President simply limited the importation of Iranian goods to the United States. Exec. Order No. 12613, 52 Fed. Reg. 41940 (Oct. 29, 1987). Later executive orders declared Iran an “unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby declare[d] a national emergency to deal with that threat.” Exec. Order No. 12957, 60 Fed. Reg. 14615, 14615 (Mar. 15, 1995). In 2018, the President banned individuals from “knowingly

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engag[ing] in a significant transaction for the purchase, acquisition, sale, transport, or marketing of petroleum or petroleum products from Iran.” Exec. Order No. 13846, 83 Fed. Reg. 38939, 38941 (Aug. 7, 2018). United States persons may only participate in sanctioned transactions if they obtain a license to do so.

In *United States v. Amirnazmi*, our Court of Appeals considered the constitutionality of IEEPA as applied to a defendant convicted for contracting with Iranian entities to facilitate the construction of chemical plants there. 645 F.3d 564, 567-69, 571 (3d Cir. 2011). The court held that IEEPA, as amended, was constitutional because it “‘meaningfully constrains’ the President’s discretion.” *Id.* at 576 (quoting *Touby v. United States*, 500 U.S. 160, 166, 111 S. Ct. 1752, 114 L. Ed. 2d 219 (1991)). Congress placed sufficient procedural restrictions on the President’s exercise of his or her powers in a national emergency, and thereby permitted the President to be flexible during a national emergency while still limiting his or her discretion. *Id.* at 577.

Wang posits both that IEEPA is impermissibly vague, as it does not define a national emergency, as well as that Congress has insufficient oversight over the President’s authority under the statute. However, these arguments are without merit. *Amirnazmi* controls.

The motion of Wang to arrest his judgment on the basis of IEEPA’s unconstitutionality will be denied.

**APPENDIX F — DENIAL OF REHEARING OF
THE UNITED STATES COURT OF APPEALS FOR
THE THIRD CIRCUIT, FILED FEBRUARY 27, 2026**

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-2111
(E.D. Pa. No. 2:20-cr-00254-002)

UNITED STATES OF AMERICA

v.

ZHENYU WANG, ALSO KNOWN AS BILL WANG,

Appellant.

SUR PETITION FOR REHEARING

Present: CHAGARES, *Chief Judge*, HARDIMAN,
SHWARTZ, KRAUSE, RESTREPO, BIBAS,
PORTER, MATEY, PHIPPS, FREEMAN,
MONTGOMERY-REEVES, CHUNG, BOVE,
and MASCOTT, *Circuit Judges*

The petition for rehearing filed by Appellant Zhenyu Wang in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having

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voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,

s/ Cheryl Ann Krause
Circuit Judge

Dated: February 27, 2026

**APPENDIX G — RELEVANT STATUTORY
PROVISIONS**

50 U.S.C. § 1701

**Unusual and extraordinary threat; declaration of
national emergency; exercise of Presidential authorities**

(a) Any authority granted to the President by section 1702 of this title may be exercised to deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat.

(b) The authorities granted to the President by section 1702 of this title may only be exercised to deal with an unusual and extraordinary threat with respect to which a national emergency has been declared for purposes of this chapter and may not be exercised for any other purpose. Any exercise of such authorities to deal with any new threat shall be based on a new declaration of national emergency which must be with respect to such threat.

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Appendix G

50 U.S.C. § 1702

Presidential authorities

(a) In general

(1) At the times and to the extent specified in section 1701 of this title, the President may, under such regulations as he may prescribe, by means of instructions, licenses, or otherwise--

(A) investigate, regulate, or prohibit--

(i) any transactions in foreign exchange,

(ii) transfers of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of any foreign country or a national thereof,

(iii) the importing or exporting of currency or securities, by any person, or with respect to any property, subject to the jurisdiction of the United States;

(B) investigate, block during the pendency of an investigation, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any

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foreign country or a national thereof has any interest by any person, or with respect to any property, subject to the jurisdiction of the United States; and.¹

(C) when the United States is engaged in armed hostilities or has been attacked by a foreign country or foreign nationals, confiscate any property, subject to the jurisdiction of the United States, of any foreign person, foreign organization, or foreign country that he determines has planned, authorized, aided, or engaged in such hostilities or attacks against the United States; and all right, title, and interest in any property so confiscated shall vest, when, as, and upon the terms directed by the President, in such agency or person as the President may designate from time to time, and upon such terms and conditions as the President may prescribe, such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes.

(2) In exercising the authorities granted by paragraph (1), the President may require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in paragraph (1) either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in

1. So in original. The period probably should not appear.

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which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of such paragraph. In any case in which a report by a person could be required under this paragraph, the President may require the production of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.

(3) Compliance with any regulation, instruction, or direction issued under this chapter shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, this chapter, or any regulation, instruction, or direction issued under this chapter.

(b) Exceptions to grant of authority

The authority granted to the President by this section does not include the authority to regulate or prohibit, directly or indirectly--

- (1) any postal, telegraphic, telephonic, or other personal communication, which does not involve a transfer of anything of value;
- (2) donations, by persons subject to the jurisdiction of the United States, of articles, such as food, clothing, and medicine, intended to be used to relieve human

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suffering, except to the extent that the President determines that such donations (A) would seriously impair his ability to deal with any national emergency declared under section 1701 of this title, (B) are in response to coercion against the proposed recipient or donor, or (C) would endanger Armed Forces of the United States which are engaged in hostilities or are in a situation where imminent involvement in hostilities is clearly indicated by the circumstances; or²

(3) the importation from any country, or the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials, including but not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds. The exports exempted from regulation or prohibition by this paragraph do not include those which are otherwise controlled for export under section 4604³ of this title, or under section 4605³ of this title to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States, or with respect to which acts are prohibited by chapter 37 of Title 18;

(4) any transactions ordinarily incident to travel to or from any country, including importation of accompanied

2. So in original. The word “or” probably should not appear.

3. Repealed. See References in Text notes set out under this section.

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baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

(c) Classified information.--In any judicial review of a determination made under this section, if the determination was based on classified information (as defined in section 1(a) of the Classified Information Procedures Act) such information may be submitted to the reviewing court ex parte and in camera. This subsection does not confer or imply any right to judicial review.

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50 U.S.C. § 1705

Penalties

(a) Unlawful acts

It shall be unlawful for a person to violate, attempt to violate, conspire to violate, or cause a violation of any license, order, regulation, or prohibition issued under this chapter.

(b) Civil penalty

A civil penalty may be imposed on any person who commits an unlawful act described in subsection (a) in an amount not to exceed the greater of--

(1) \$250,000; or

(2) an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(c) Criminal penalty

A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of, an unlawful act described in subsection (a) shall, upon conviction, be fined not more than \$1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

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(d) Statute of limitations

(1) Time for commencing proceedings

(A) In general

An action, suit, or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, under this section shall not be entertained unless commenced within 10 years after the latest date of the violation upon which the civil fine, penalty, or forfeiture is based.

(B) Commencement

For purposes of this paragraph, the commencement of an action, suit, or proceeding includes the issuance of a pre-penalty notice or finding of violation.

(2) Time for indictment

No person shall be prosecuted, tried, or punished for any offense under subsection (c) unless the indictment is found or the information is instituted within 10 years after the latest date of the violation upon which the indictment or information is based.