

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JORDAN JYSAE PULIDO,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Does 18 U.S.C. § 2423(a), which criminalizes the transportation of a person who has not attained the age of 18 years in interstate or foreign commerce, with intent that the individual engage in any sexual activity for which any person can be charged with a criminal offense, require that the government charge and prove that the intended sexual activity would violate a particular predicate offense as an element, or is the specific predicate offense merely a means of satisfying the § 2423(a) charge?

PARTIES TO THE PROCEEDING

A list of all the parties to the proceeding in the court whose judgment is the subject of this petition is provided below:

- United States of America
- Jordan Jysae Pulido

RELATED PROCEEDINGS

UNITED STATES SUPREME COURT

Jordan Jysae Pulido v. United States
Case No. 25-5795, 146 S. Ct. 396 (Mem.)
Petition Denied: November 10, 2025

UNITED STATES COURT OF APPEALS, ELEVENTH CIRCUIT

United States v. Jordan Jysae Pulido
Case No. 22-10709, 133 F.4th 1256
Judgment Date: April 8, 2025

United States v. Jordan Jysae Pulido,
Case No. 25-13215, 2026 WL 879751
Judgment Date: March 31, 2026

UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF FLORIDA

United States v. Jordan Jysae Pulido
Case No. 8:20-cr-292-VMC-CPT-1
Amended Judgment Date: September 10, 2025

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PETITION FOR WRIT OF CERTIORARI

Jordan Jysae Pulido respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit in *United States v. Pulido*, No. 25-13215, 2026 WL 879751 (11th Cir. Mar. 31, 2026).

OPINION BELOW

The district court denied Mr. Pulido's motion to dismiss counts three and four of the indictment, which charged him with conspiracy and transportation of a minor with intent to engage in sexual activity in violation of 18 U.S.C. § 2423(a) and (e), during a pretrial motion hearing. A copy of the transcript with the district court's reasoning is attached as Appendix A and a copy of the endorsed order entered after the hearing is attached as Appendix B.

A copy of the judgment of the district court finding Mr. Pulido guilty and imposing his sentence is provided as Appendix C. During an initial appeal, the Eleventh Circuit affirmed the denial of Mr. Pulido's motion to dismiss the § 2423 counts, but vacated a different count and remanded for resentencing. That decision is reported at *United States v. Pulido*, 133 F.4th 1256 (11th Cir. 2025), and is provided as Appendix D.¹

The district court's judgment on resentencing is provided as Appendix E. Mr. Pulido challenged the denial of his motion to dismiss the § 2423 counts in his second

¹ Mr. Pulido filed a Petition for Writ of Certiorari after the Eleventh Circuit's decision in his first appeal, which raised arguments based on the application of the Fourth Amendment to his motion to suppress. *See* Pet. for Writ. Of Cert., *Pulido v. United States*, No. 25-5795 (Sept. 30, 2025). The petition was denied on November 10, 2025. *Pulido v. United States*, 146 S. Ct. 396 (2025).

appeal. The Eleventh Circuit affirmed again, in an unreported opinion that is provided as Appendix F.

JURISDICTION

The United States District Court, Middle District of Florida, had jurisdiction over this criminal case under 18 U.S.C. § 3231. Pursuant to 28 U.S.C. § 1291, the Eleventh Circuit Court of Appeals had jurisdiction to review the final decision of the district court.

The opinion of the Eleventh Circuit Court of Appeals was issued on March 31, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

Title 18, Section 2423(a) of the United States Code states:

A person who knowingly transports an individual who has not attained the age of 18 years in interstate or foreign commerce, or in any commonwealth, territory or possession of the United States, with intent that the individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be fined under this title and imprisoned not less than 10 years or for life.

Additionally, at the time of Mr. Pulido's conduct, subsection (e) of the same statute stated:

Whoever attempts or conspires to violate subsection (a), (b), (c), or (d) shall be punishable in the same manner as a completed violation of that subsection.

18 U.S.C. § 2423(e) (2018). That provision has since been relocated to subsection (f).

Id. § 2423(f) (2023).

STATEMENT OF THE CASE

Pursuant to 18 U.S.C. § 2423(a), it is a criminal offense to knowingly transport a minor with the intent that the individual engage in “any sexual activity for which any person can be charged with a criminal offense.” There is a split among the circuits as to whether, under this law, the government is required to specifically identify in the indictment the “criminal offense” with which any person can be charged. In the Eleventh Circuit, the government is not required to do so.

Mr. Pulido was charged by indictment with conspiring to “knowingly transport Victim 1, an individual who had not attained the age of 18 years, in interstate commerce and foreign commerce from the country of Croatia to the state of Florida, with intent that Victim 1 engage in any sexual activity for which any person could be charged with a criminal offense,” in violation of 18 U.S.C. §§ 2423(a) and (e). He was also charged with the actual transportation of that minor “with the intent that Victim 1 engage in any sexual activity for which any person could be charged with a criminal offense,” also in violation of § 2423(a). The indictment did not provide specificity as to what criminal offense a person could be charged with for the intended sexual activity.

Mr. Pulido moved to dismiss the counts as insufficient because they failed to provide that specificity as to the particular criminal offense that could be charged. The United States opposed the motion, arguing that the indictment was sufficient

because the language tracked that of the statute and sufficiently apprised Mr. Pulido of the charges against him.

The district court held a hearing where it denied Mr. Pulido's motion after the parties presented their arguments. The court reasoned that the indictment "contain[ed] the essential elements of the offense" and "sufficiently enable[d]" Mr. Pulido "to rely upon the indictment against double jeopardy for any subsequent prosecution for the same offense."

The case proceeded to a jury trial. After the parties rested, the jury was instructed as follows: "It is a federal crime to transport an individual under 18 years old in interstate or foreign commerce with the intent that the individual engage in sexual activity for which any person can be charged with a criminal offense." The jury was further instructed that an element of the offense was that "at the time of the transportation, Defendant intended that I.G. would engage in unlawful sexual activity." The instructions elaborated that "[t]he Government must prove that if the intended sexual activity had occurred, the Defendant could have been charged with a criminal offense under the laws of Florida." The jury instructions also listed a specific Florida offense, and informed the jury that:

Under Florida law, (a) engaging in sexual activity with a person 12 years of age or older but less than 16 years of age, or (b) encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity, is a crime. "Sexual activity" is defined as the oral, anal, or vaginal penetration by, or union with, the

sexual organ of another or the anal or vaginal penetration of another by any other object.

The jury found Mr. Pulido guilty.

Mr. Pulido appealed the denial of his motion to dismiss, although he conceded that his argument was precluded by the Eleventh Circuit's precedent in *United States v. Doak*, 47 F.4th 1340, 1352-53 (11th Cir. 2022). Like Mr. Pulido, the defendants in *Doak* argued that their indictment under 18 U.S.C. § 2423(a) was insufficient because it did not list any independent statutes criminalizing the sexual activity the defendants intended to commit. 47 F.4th at 1352. The Eleventh Circuit rejected this argument, holding that the statutes criminalizing the intended sexual activity were not themselves elements of the offense, but were instead means of showing the intended sexual activity was criminal. *Id.*

The Eleventh Circuit affirmed the district court's denial of Mr. Pulido's motion to dismiss.

REASONS FOR GRANTING THE WRIT

This Court's review is needed because there is a circuit split as to the elements of an offense under § 2423(a).

Circuit courts disagree over the elements of the federal statute making it an offense to transport a minor with intent to engage in criminal sexual activity, 18 U.S.C. § 2423(a). The statute makes it an offense to knowingly transport an individual who is under 18 years old in interstate or foreign commerce with intent that the individual engage "in any sexual activity for which any person can be charged with a criminal offense." 18 U.S.C. § 2423(a). The final element—that the sexual activity would constitute a "criminal offense"—is the subject of the split. Whereas the

Eleventh Circuit has held that this is no more than a means of satisfying the final element of § 2423(a), the Seventh Circuit has held that the statute creates a piggyback offense where the state offenses are elements of the offense. *Compare Doak*, 47 F.4th at 1352, *with United States v. Ray*, 831 F.3d 431, 434 (7th Cir. 2016); *see also United States v. Ortner*, No. 21-5075, 2023 WL 382932, at *3 (10th Cir. Jan. 25, 2023) (“The issue of whether the violation of a specific state statute is an element of the offense or merely a means of proving the third element is one on which courts may differ.”).

Whether the specific criminal offense is an element of § 2423(a), or instead a means of satisfying an element, has two significant practical implications: First, must an indictment charging a § 2423(a) offense name a specific predicate offense? Second, does a jury need to unanimously agree as to the predicate offense that would be chargeable based on the intended sexual activity? *Cf. United States v. Mannava*, 565 F.3d 412, 415-16 (7th Cir. 2009) (concluding that a predicate offense was an element of § 2422(b), which required the government to prove and the jury to find which state statute would be violated).

Because of the Eleventh Circuit’s decision that the specific “criminal offense” the defendant intended the minor to engage in is not an element of § 2423(a), but is instead a means of committing such an offense, the indictment does not need to specifically identify what offense a person could be charged with for the intended conduct. *Pulido*, No. 25-13215, 2026 WL 879751, at *1 (citing *Doak*, 47 F.4th at 1352-53). The Sixth Circuit has reached the same conclusion in *United States v. Gordon*,

713 F. App'x 424, 430 (6th Cir 2017) (holding that the jury was not required to unanimously decide whether the defendant violated the statute by intending prostitution, criminal sexual acts, or sexual activity, because those were alternate means of violating the statute and not elements of the offense).

In the Seventh Circuit, however, the specific “criminal offense” is treated as an element of § 2423(a). *Ray*, 831 F.3d at 434. There, the Seventh Circuit explained that “Section 2423(a) creates a piggyback offense: The prosecution must show that the sexual activity after crossing the state line violated some other statute.” *Id.* To find the defendant guilty of the § 2423(a) offense, the jury was also required to unanimously find that the defendant violated a specific state statute. *Id.* at 435.

The circuits are thus split on the question of whether § 2423(a) includes a predicate offense element, or whether the predicate is merely a means of satisfying the federal charge. This Court should accept review in this case to resolve that split.

CONCLUSION

For the foregoing reasons, Mr. Pulido respectfully requests that this Court grant his petition for a writ of certiorari.

Respectfully submitted,

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