ORIGINAL

26-5491
No. _______

IN THE
SUPREME COURT OF THE UNITED STATES

MICHAEL GOKLU,
formerly docketed as MUSTAFA GOKLU, a/k/a Mustangy,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether a dealer's immediate bilateral exchange of bitcoin and cash with the same customer—acting as counterparty rather than carrying accepted customer value to a separate recipient—constitutes "money transmitting" under 18 U.S.C. § 1960 and the law governing petitioner's 2018–2019 conduct, where the court of appeals truncated 31 U.S.C. § 5330(d)(2) after "by any means" and treated delivery of either medium back to the customer as transmission to "another location."

2. Whether Federal Rule of Criminal Procedure 30 and due process permit a court, after the defense relied in summation on the announced charge, to add that "exchanging Bitcoin for U.S. currency can qualify as a transfer," resolving the central statutory issue before the Government's rebuttal.

LIST OF PARTIES

The parties below were the United States of America and Michael Goklu, docketed below as Mustafa Goklu, a/k/a Mustangy. Petitioner's legal name is Michael Goklu.

RELATED PROCEEDINGS

United States v. Goklu, No. 19-cr-386 (E.D.N.Y.), judgment entered March 21, 2024; United States v. Goklu, No. 24-767 (2d Cir.), judgment entered April 7, 2026, rehearing denied June 5, 2026.

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PETITION FOR A WRIT OF CERTIORARI

Michael Goklu respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit.

OPINIONS BELOW

The published opinion of the court of appeals, 173 F.4th 16, is reproduced at Pet. App. 1a–17a. Its judgment is at 18a. The order denying rehearing is at 19a. The district court's order denying petitioner's Rule 29 motion is at 20a–28a, and the criminal judgment is at 29a–35a.

JURISDICTION

The court of appeals entered judgment on April 7, 2026, and denied a timely petition for panel and en banc rehearing on June 5, 2026. Pet. App. 18a–19a. This petition is timely under 28 U.S.C. § 2101(c) and Supreme Court Rule 13.3. Jurisdiction rests on 28 U.S.C. § 1254(1).

CONSTITUTIONAL, STATUTORY, AND REGULATORY PROVISIONS INVOLVED

The Fifth Amendment provides that no person shall be deprived of liberty without due process of law. Federal Rule of Criminal Procedure 30(b) requires the court to inform the parties before closing arguments how it intends to rule on requested instructions.

Section 1960(b)(2) states that "money transmitting" includes "transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier."

For petitioner's 2018–2019 conduct, § 5330(d)(2) defined "money transmitting service" to include "accepting currency or funds denominated in the currency of any country and transmitting the currency or funds, or the value of the currency or funds, by any means through a financial agency or institution, a Federal reserve bank or other facility of the Board of Governors of the Federal Reserve System, or an electronic funds transfer network."

The regulation defines money transmission services as "the acceptance of currency, funds, or other value that substitutes for currency from one person and the transmission of currency, funds, or other value that substitutes for currency to another location or person by any means." 31 C.F.R. § 1010.100(ff)(5)(i)(A).

STATEMENT OF THE CASE

Petitioner operated a business charging commissions to exchange bitcoin and cash. In six completed meetings during 2018 and 2019, an undercover agent transferred bitcoin from his wallet to petitioner's wallet, and petitioner handed cash, less a commission, to that same agent. Pet. App. 4a–5a. The opinion also noted that petitioner sometimes sold bitcoin to other customers and obtained some cash used in the agent transactions from such sales. Id. at 4a–5a.

Count One charged promotional money laundering under 18 U.S.C. § 1956(a)(3); Count Two charged operation of an unlicensed money transmitting business under § 1960. Pet. App. 5a. This petition addresses the published construction of § 1960 and the related jury instruction.

Before summations, the district court instructed that a money transmitting business accepts currency, funds, or substitute value "for transfer." Pet. App. 6a. Defense counsel argued that petitioner did not accept currency for transfer and that the bilateral exchanges were purchases and sales, not money transmission. Id. at 6a–7a.

After the defense summation and before rebuttal, the court stated that counsel appeared to argue that "exchanging Bitcoin for U.S. currency cannot qualify as transferring funds or transmitting funds." Id. at 7a. Over objection, it added: "Exchanging Bitcoin for U.S. currency can qualify as a transfer within the meaning of the statute." Id. The jury convicted on both counts.

The court of appeals affirmed. It held that the agent's bitcoin was accepted when transferred to petitioner's wallet and that petitioner then transmitted currency by physically transferring cash back to the same agent. Pet. App. 12a–13a. It reasoned that the bitcoin and cash each moved to "another location." Id. at 13a. Because it deemed that legal proposition correct, it rejected the Rule 30 challenge. Id. at 16a. Rehearing was denied. Id. at 19a.

REASONS FOR GRANTING THE PETITION

This case presents a narrow question at the boundary between exchange and transmission. It does not require the Court to decide whether bitcoin may be "funds." The First and Second Circuits have answered that threshold question yes. United States v. Freeman, No. 23-1839 (1st Cir. July 29, 2025); Pet. App. 11a. The question is whether the two legs of an immediate bilateral exchange—bitcoin from customer to dealer and cash from dealer back to that customer—supply the distinct acceptance and transmission required for a federal felony, under the text and notice available in 2018–2019.

Review is warranted because the decision below rests on an incomplete quotation of the then-governing registration statute; gives "another location" a breadth that leaves no stable boundary between sale and transmission; and approves a dispositive legal instruction first announced after the defense summation. Those linked questions implicate fair warning in a rapidly expanding market.

I. THE DECISION BELOW ABBREVIATED THE GOVERNING PRE-2021 TEXT.

The panel stated that, at the time of petitioner's conduct, § 5330(d)(2) included accepting and transmitting currency, funds, or value "by any means." Pet. App. 11a. But the sentence did not end there. It continued: "by any means through a financial agency or institution, a Federal reserve bank or other facility of the Board of Governors of the Federal Reserve System, or an electronic funds transfer network." 31 U.S.C. § 5330(d)(2) (2018).

The omission matters because the panel invoked the supposed breadth of "by any means" while deciding what conduct counted as transmission. Pet. App. 12a–13a. The text applicable to petitioner instead joined that phrase directly to identified financial channels.

Congress changed that grammatical relationship in 2021. Section 6102(d)(2)(B) of the Anti-Money Laundering Act of 2020, Pub. L. No. 116-283, 134 Stat. 3388, 4552, inserted ", including" after "by any means." The current text thus reads "by any means, including through" the listed channels. The petition does not claim that the amendment's legislative history conclusively declares an expansion. It makes the narrower point: the two versions are textually different, and the panel stopped its quotation precisely before the language Congress altered.

Freeman confirms that temporal precision matters. While rejecting a challenge to bitcoin's status as funds, the First Circuit there distinguished the definition effective for the charged period from the definition enacted in 2021. United States v. Freeman, No. 23-1839 (1st Cir. July 29, 2025). The same discipline was required here.

Section 1960(b)(2) is broad, but it does not make § 5330 irrelevant. Count Two proceeded under § 1960(b)(1)(B), which expressly incorporates failure to comply with § 5330 or its regulations. Pet. App. 10a–11a. The panel itself relied on § 5330 and the implementing regulation to identify the acceptance-and-transmission framework. Id. Once it did so, it was required to apply the text in force during the conduct, not an abbreviation that reads like the post-2021 grammar.

This Court repeatedly insists upon precision before extending federal criminal statutes. Yates v. United States, 574 U.S. 528, 539–48 (2015); McDonnell v. United States, 579 U.S. 550, 574–76 (2016); Marinello v. United States, 584 U.S. 1, 10–11 (2018); Dubin v. United States, 599 U.S. 110, 129–32 (2023). The Court should require that precision here.

II. THE DECISION ERASES THE EXCHANGE/TRANSMISSION BOUNDARY.

The regulation separates acceptance from transmission: value is accepted "from one person" and transmitted "to another location or person." 31 C.F.R. § 1010.100(ff)(5)(i)(A). The panel treated receipt of the agent's bitcoin as acceptance and the immediate cash payment back to the agent as transmission. Pet. App. 12a–13a.

That reading does not violate the word "person" alone; the regulation uses the disjunctive phrase "another location or person." The problem is the meaning assigned to "another location." The panel reasoned that funds moved because bitcoin left the agent's wallet and cash left petitioner's physical possession. Id. At that level of abstraction, every bilateral sale of value has acceptance followed by movement to a different hand, account, or wallet. The line between a dealer who buys property and a transmitter who carries value on behalf of the public disappears.

Section 1960(b)(2) uses "transferring funds on behalf of the public." That phrase naturally describes an intermediary moving value for a customer, not every dealer acquiring an asset for its own account and paying the seller. The contrary reading gives "transmitting," "on behalf of," and the regulation's two-step structure almost no limiting function. Courts ordinarily give effect to each part of a text. Reiter v. Sonotone Corp., 442 U.S. 330, 339 (1979).

Treasury's 2011 rulemaking confirms that "another location or person" was intended as a genuine limit. FinCEN explained:

> "Transactions involving the acceptance of currency from one person at one location and the return of that currency to that same person at the same location would not be considered a money transmission service." 76 Fed. Reg. 43,585, 43,592 (July 21, 2011). FinCEN added that the new phrase "explicitly conveys this interpretation." Id.

The example is closely analogous, not identical: FinCEN described currency accepted and currency returned, while petitioner accepted bitcoin and returned cash. But that difference is the disputed question, not a reason to ignore the rulemaking. The preamble shows that acceptance plus a same-person return at the transaction site is not automatically transmission merely because value changes hands. The Government acknowledged at oral argument that § 5330 itself "has no reference to location or third party" and that the location language appears in the regulation. Oral Argument Audio at 15:53, United States v. Goklu, No. 24-767 (2d Cir. Feb. 9, 2026). That acknowledgment is not a concession on the ultimate issue; it confirms that the regulatory limit must do independent work.

FinCEN's limited-service ATM guidance illustrates the same boundary. A private ATM could debit a customer account and dispense cash to that customer, but could not transmit funds to third parties or other customer accounts. FinCEN concluded that the owner-operator was not a money transmitter. FIN-2007-G006 (Dec. 3, 2007). The analogy is again limited: a conventional ATM links a customer to an account at a regulated depository institution, while petitioner dealt in CVC. It nevertheless shows that electronic-account movement followed by cash in the same customer's possession was not, standing alone, treated as money transmission.

The panel relied on United States v. Gilboe, 684 F.2d 235, 238 (2d Cir. 1982), for the proposition that electronic signals can transport funds. Pet. App. 12a. But Gilboe involved funds electronically moved from victims' accounts into an account controlled by the defendant under 18 U.S.C. § 2314. It establishes that an electronic signal can be a means of transportation; it does not decide whether a dealer's payment to its counterparty in a bilateral purchase is a separate transmission under § 1960.

Footnote 4 likewise does not supply the missing boundary. The panel said its holding does not reach a person buying bitcoin to hold in a personal account because petitioner charged commissions for exchange services. Pet. App. 15a n.4. Charging for a business establishes business status and profit motive; it does not itself establish the distinct statutory act of accepting value for transmission. The disputed line is between a compensated dealer acting as counterparty and a transmitter carrying customer value onward.

The decision below supplies no administrable stopping point. Its published rule can reach peer-to-peer dealers, brokers, kiosks, and other bilateral exchanges whenever one medium leaves a customer and another returns. Whether regulation should reach those models is a policy question for Congress and Treasury; whether felony liability already did so in 2018–2019 is a question of statutory meaning and notice.

III. THE CONSTRUCTION WAS NOT FAIRLY DISCLOSED IN 2018–2019.

Due process requires criminal liability to be reasonably clear when the conduct occurs. United States v. Lanier, 520 U.S. 259, 266–67 (1997). A court may not retroactively apply an "unexpected and indefensible" enlargement of criminal law. Bouie v. City of Columbia, 378 U.S. 347, 352–54 (1964). Fair warning is enforced through vagueness doctrine, lenity, and limits on novel judicial construction. Lanier, 520 U.S. at 266.

In 2018–2019, a reader encountered three signals. First, § 1960 spoke of transferring funds "on behalf of the public." Second, § 5330 joined "by any means" directly to listed financial channels. Third, the regulation required acceptance followed by transmission to "another location or person." None clearly announced that a dealer's immediate cash purchase from the same customer supplied the transmission element.

FinCEN's 2013 virtual-currency guidance is the Government's strongest notice authority. It stated that an exchanger that "buys or sells convertible virtual currency for any reason is a money transmitter," unless a limitation or exemption applies, and described an exchanger's funding of the same user's CVC account as transmission to another location. FIN-2013-G001 at 3–4 (Mar. 18, 2013). That language weighs heavily against petitioner, especially for sales of bitcoin to customers; this petition does not minimize it.

But the 2013 document also preserved a purchase/sale boundary. In discussing e-currencies and e-precious metals, it said a broker or dealer accepting and transmitting funds solely to effect a bona fide purchase or sale of currency or commodities "is not acting as a money transmitter," and then said the same rules apply because the definition does not differentiate real and convertible virtual currencies. Id. at 3. The tension between that passage and "buys or sells . . . for any reason" sharpened—not eliminated—the question whether a dealer's own immediate two-party exchange supplies the distinct transmission element.

FinCEN's May 2019 guidance later addressed P2P exchangers and CVC kiosks expressly. FIN-2019-G001 at 14–15, 17–18. That material is adverse to any broad claim that P2P exchange could never be regulated. It also described itself as a consolidation and traced its same-account "another location" example to the 2013 guidance. Id. at 13–14. The petition therefore does not claim those concepts first appeared in 2019. Its narrower temporal point is that the P2P- and kiosk-specific articulation came after petitioner's six completed agent exchanges ended in January 2019 and after his April 2019 arrest. Pet. App. 4a–5a. Guidance informs notice, but it cannot replace the enacted and regulatory text. United States v. Apel, 571 U.S. 359, 369 (2014).

The First Circuit's later decision in Freeman held that bitcoin is funds and that a bitcoin operation can fall within the statutory regime. United States v. Freeman, No. 23-1839 (1st Cir. July 29, 2025). It did not decide this transaction-structure question: whether the opposite legs of an immediate bilateral purchase themselves establish acceptance and onward transmission. Nor did any pre-conduct appellate decision fairly disclose the panel's specific "another location" theory.

At minimum, the interaction among the pre-2021 text, the regulation, and the guidance created grievous ambiguity as applied to this bilateral exchange. Criminal ambiguity is resolved in favor of liberty. United States v. Bass, 404 U.S. 336, 347–49 (1971); Bittner v. United States, 598 U.S. 85, 102–04 (2023).

IV. THE POST-SUMMATION INSTRUCTION WARRANTS REVIEW.

Rule 30(b) requires advance notice of the court's rulings on requested instructions so counsel can frame closing argument around the governing law. Closing argument is a basic component of the adversary process. Herring v. New York, 422 U.S. 853, 858–65 (1975).

Defense counsel relied on the announced "for transfer" charge and argued the Government had proved an exchange, not money transmission. Pet. App. 6a–7a. Only after that summation did the court tell the jury that exchanging bitcoin for dollars "can qualify as a transfer." Id. at 7a. The Government then delivered rebuttal under the newly announced instruction.

The court of appeals resolved the Rule 30 claim entirely through its merits holding: because the added instruction was legally correct, giving it was within the district court's discretion. Pet. App. 16a. That makes the issues inseparable. If the panel's construction was erroneous or unforeseeable, the post-summation instruction both changed the legal framework and impaired the defense's only opportunity to argue under it.

The question is not whether a trial court may correct a misstatement or respond to an improper argument. It is whether, after announcing the governing instruction and allowing reliance on it, the court may add a contested construction that effectively tells the jury the charged exchange can satisfy the very element the defense argued was missing. Review would clarify Rule 30's protection where a late charge is substantive rather than merely curative.

V. THE PANEL'S ALTERNATIVE FACTUAL DISCUSSION DOES NOT DEFEAT REVIEW.

The panel added that, "in any event," the jury heard evidence that petitioner also accepted cash and sent bitcoin to customers. Pet. App. 14a. That discussion is important, but it does not make the question presented immaterial. Those transactions were the reverse direction of the same bilateral exchange: a customer gave cash to petitioner and petitioner sent bitcoin to that customer. The opinion did not identify a customer who entrusted value to petitioner for onward delivery to a third-party beneficiary.

The revised question presented therefore covers both directions of the bilateral trade. If a dealer's delivery of its own inventory as consideration is a sale rather than transmission of value accepted from the customer, neither direction supplies the distinct acceptance-and-transmission sequence. If delivery to the same customer's wallet is itself enough, the Court can say so while addressing the governing historical text and fair-warning problem.

Nor did the jury return a transaction-specific verdict. Count Two was submitted under a general instruction that an exchange "can qualify as a transfer," and the jury was not asked to identify which trades or legal theory established transmission. Pet. App. 6a–7a. When a general verdict may rest on a legally invalid theory, evidence supporting another theory ordinarily presents a harmless-error inquiry; it does not make the legal question unreviewable. Hedgpeth v.

Pulido, 555 U.S. 57, 58, 60–62 (2008) (per curiam); Skilling v. United States, 561 U.S. 358 (2010). At minimum, the proper disposition would be vacatur and remand for the court of appeals to conduct that analysis under the correct legal rule.

VI. THE ISSUE IS IMPORTANT, AND THIS CASE IS A SUITABLE VEHICLE.

Digital-value exchange now occurs through centralized platforms, peer-to-peer markets, brokers, and kiosks. The difference between selling an asset and transmitting customer value determines whether registration duties—and a five-year federal felony—apply. A published rule that treats the two legs of a bilateral exchange as acceptance plus transmission therefore has consequences beyond this record.

The absence of a developed circuit split does not make the issue unimportant. Rule 10(c) recognizes review where a court of appeals decides an important federal question that should be settled by this Court. The Second Circuit squarely decided the statutory application, and the First Circuit's Freeman decision leaves the narrower bilateral-transaction issue open.

The issue was preserved through objection to the supplemental instruction, post-trial proceedings, direct appeal, and rehearing. Pet. App. 7a, 10a, 16a, 19a. There was a trial, not a guilty plea or appeal waiver. The opinion expressly identifies the transaction structure and the reasoning challenged here.

Vacating Count Two would provide meaningful relief even though concurrent sentences were imposed. Count Two is a separate felony judgment with its own special assessment and collateral consequences. The petition does not ask the Court to resolve fact-bound claims concerning Count One. It asks the Court to vacate the § 1960 judgment or, at minimum, remand for reconsideration under the complete historical text and correct fair-warning principles.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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Date: September 2, 2026