

No. _____

In the
Supreme Court of the United States

Bryce Tyrone Verhonich,

Petitioner,

v.

United States of America,

Respondent.

On Petition for Writ of Certiorari
to the United States Court of Appeals
for the Ninth Circuit

Petition for a Writ of Certiorari

Rene Valladares
Federal Public Defender, District of Nevada
*Ellesse Henderson
Nicholas Wolfram
Assistant Federal Public Defender
Office of the Federal Public Defender
411 E. Bonneville Ave., Ste. 250
Las Vegas, NV 89101
(702) 388-6577
Ellesse_Henderson@fd.org
Nicholas_Wolfram@fd.org

*Counsel for Petitioner

Question Presented for Review

A federal regulation prohibits operating water vessels “in a negligent manner, by failing to exercise that degree of care which a reasonable person, under like circumstances, would demonstrate.” 36 C.F.R. § 3.8(b)(8). The Ninth Circuit, deciding the issue for the first time nationwide, interpreted this regulation to encompass a broad range of conduct, including failing to wear a life jacket and utilize a cut-off switch lanyard.

The question presented is: Whether the Ninth Circuit’s interpretation of § 3.8(b)(8) violates basic principles of statutory interpretation as set forth in this Court’s decisions to unjustifiably expand the regulation’s reach.

List of Parties

Bryce Tyrone Verhonich is the petitioner. The United States of America is the respondent. No party is a corporate entity.

Related Proceedings

The prior proceedings for this case are found at:

United States v. Verhonich, 172 F.4th 633 (9th Cir. 2026), *pet. reh'g denied*, Dkt. 58 (9th Cir. June 15, 2026). Appx. A, B.

United States v. Verhonich, No. 2:24-CV-02148-JAD-DJA, Dkt. 21 (D. Nev. Feb. 28, 2025). Appx. C.

United States v. Verhonich, 2:23-mj-00315-DJA, Dkt. 46. Appx. D.

Table of Contents

Question Presented for Review	2
List of Parties.....	3
Related Proceedings.....	4
Table of Contents	5
Table of Authorities	6
Petition for Writ of Certiorari	1
Opinions Below	1
Jurisdiction	1
Relevant Regulatory Provisions.....	2
Introduction	3
Statement of the Case	4
Reasons for Granting the Petition	5
I. The Ninth Circuit’s decision conflicts with the regulation’s plain language....	5
II. The Ninth Circuit’s decision conflicts with the principle of ejusdem generis. .	6
Conclusion.....	8

Table of Authorities

Federal Cases

<i>Barnhart v. Sigmon Coal Co.</i> , 534 U.S. 438 (2002)	5
<i>Caminetti v. United States</i> , 242 U.S. 470 (1917)	6
<i>Esteras v. United States</i> , 606 U.S. 185 (2025)	7
<i>Norfolk & W. R. Co. v. Am. Train Dispatchers Ass’n</i> , 499 U.S. 117 (1991)	6
<i>United States v. Ron Pair Enters., Inc.</i> , 489 U.S. 235 (1989)	5–6
<i>United States v. Verhonich</i> , 172 F.4th 633 (9th Cir. 2026)	1

Federal Statutes

18 U.S.C. § 3402	1
28 U.S.C. § 1254	2

Federal Regulations

36 C.F.R. § 3.8	2, 3, 4, 5, 6, 7
36 C.F.R. § 3.9	4, 7

Federal Rules

Fed. R. Crim. P. 58	1
Sup. Ct. R. 10	3
Sup. Ct. R. 13.1	2

Petition for Writ of Certiorari

Bryce Verhonich petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit, affirming his conviction for negligent operation of a water vessel.

Opinions Below

The Ninth Circuit order denying appellate relief is published at: *United States v. Verhonich*, 172 F.4th 633 (9th Cir. 2026). Appx. A. The Ninth Circuit's denial of the petition for panel or en banc rehearing is unpublished and not reprinted: *United States v. Verhonich*, No. 25-1407, Dkt. 58 (9th Cir. June 15, 2026). Appx. B.

The magistrate judge's final judgment is unpublished and not reprinted. *United States v. Verhonich*, 2:23-mj-00315-DJA, Dkt. 46 (D. Nev.). Appx. D.

The district court's order affirming is unpublished and not reprinted. *United States v. Verhonich*, No. 2:24-CV-02148-JAD-DJA, Dkt. 21 (D. Nev. Feb. 28, 2025). Appx. C.

Jurisdiction

The magistrate judge entered a judgement of conviction on November 11, 2024, Appx. D, and Mr. Verhonich timely appealed to the district court. The district court had jurisdiction under 18 U.S.C. § 3402 and Fed. R. Crim. P. 58.

The district court affirmed Mr. Verhonich's conviction and sentence on February 28, 2025. Appx. C. Mr. Verhonich timely appealed on March 3, 2025.

The Ninth Circuit entered its final order denying panel or en banc rehearing on June 15, 2026. Appx. B. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(a). This petition is timely under Supreme Court Rule 13.1.

Relevant Regulatory Provisions

36 C.F.R. § 3.8:

(b) The following operations are inherently unsafe and therefore prohibited:

(1) Operating a power-driven or sailing vessel within 100 feet of a diver's flag except a vessel in support of dive operations, which may not be operated in excess of flat wake speed.

(2) Failing to observe restriction(s) established by a regulatory marker.

(3) Operating a vessel in excess of flat wake speed in designated areas.

(4) Operating a vessel in excess of flat wake speed within 100 feet of:

(i) A downed water skier;

(ii) A person swimming, wading, fishing from shore or floating with the aid of a flotation device;

(iii) A designated launch site; or

(iv) A manually propelled, anchored or drifting vessel. If the park is located within a State specifying different conditions, then that State law is adopted in lieu of this paragraph.

(5) Unless a designated area is marked otherwise, operating a power-driven or sailing vessel within 500 feet of a shoreline designated as a swimming beach. This prohibition does not apply in locations such as a river, channel, or narrow cove where passage is restricted to less than 500 feet. In such restrictive locations where

swim beaches are designated, the operation of a vessel in excess of a flat wake speed is prohibited.

(6) Operating a power-driven vessel while a person is riding on the decking over the bow, gunwales, top edge of the transom, motor cover, or in any other unsafe position when the vessel is being operated. This provision does not apply when that portion of the vessel is designed and constructed for the purpose of carrying passengers safely at all speeds or when the vessel is maneuvering for anchoring, docking or mooring.

(7) Operating a power driven vessel engine/s or generator with a person sitting, riding or hanging on to a swim platform or swim ladder.

(8) Operating a vessel, or knowingly allowing another person to operate a vessel in a negligent manner, by failing to exercise that degree of care which a reasonable person, under like circumstances, would demonstrate in order to prevent the endangering of the life, limb, or property of a person(s) through the operator's lack of knowledge, inattention, or general carelessness.

(9) Operating a vessel or knowingly allowing another person to operate a vessel in a grossly negligent manner, by willfully and wantonly creating an unreasonable risk of harm to person(s) or property, regardless of whether the operator intended to cause harm.

Introduction

The Ninth Circuit affirmed Bryce Verhonich's misdemeanor conviction for negligent operation based on its interpretation of 36 C.F.R. § 3.8(b)(8). As the court noted in its opinion, this is the first published decision by a federal appellate court interpreting the scope of this regulation. But in its novel opinion, the Ninth Circuit ignored decisions from this Court on basic principles of statutory interpretation. Because of the importance of this regulation and of proper principles of statutory interpretation more generally, certiorari review is appropriate. Sup. Ct. R. 10(c).

Statement of the Case

Around 5:00 a.m. on June 30, 2022, Verhonich and Lily Hatcher set off on a jet ski from Verhonich's houseboat in the Lake Mead National Recreation Area. Verhonich drove; Ms. Hatcher was his passenger. The two were originally heading to a public shower station but rode to Hoover Dam to watch the sunrise. On their way to Hoover Dam, conditions on the lake suddenly changed. The water became rough, and the wind picked up. Verhonich slowed the jet ski and turned around to head for safety. While turning, the jet ski fell on its side, sending both Verhonich and Hatcher into the water. Verhonich was rescued, but Hatcher tragically drowned. The government charged Verhonich by complaint with three misdemeanors: negligent operation, in violation of 36 C.F.R. § 3.8(b)(8); failure to wear a personal floatation device, in violation of 36 C.F.R. § 3.9(b)(a); and failure to attach an engine cut-off switch lanyard, in violation of 36 C.F.R. § 3.9(b)(2).

During closing arguments, defense counsel argued that whether Mr. Verhonich wore a life jacket or attached the cut-off switch lanyard to his person was irrelevant to the negligent operation count because that regulation is concerned only with "the actual operation of the vessel." The magistrate judge found Verhonich guilty of all three counts and sentenced him to six months' incarceration and two years of probation. Appx. D. In finding Verhonich guilty of negligent operation, the magistrate judge considered evidence of Verhonich's failure to utilize lifejackets or the cut-off switch lanyard. Appx. C at APP 32a. The district court rejected Verhonich's arguments on appeal and affirmed the convictions and sentence. Appx. C at APP 31a–34a.

Verhonich again appealed, this time to the Ninth Circuit. After oral argument, the court affirmed Verhonich’s convictions and sentence in a published opinion. Appx. A. The court noted that Verhonich’s argument about the scope of § 3.8(b)(8) was “an issue of first impression.” Appx. A at APP 10a. But the court rejected his argument that his failure to wear a life jacket or attach the cut-off switch lanyard was irrelevant to his negligent operation charge under 36 C.F.R. § 3.8(b)(8), and therefore concluded sufficient evidence supported his negligent operation conviction. Appx. A at APP 10a–14a.

Reasons for Granting the Petition

The Ninth Circuit, in its novel decision, disregarded two bedrock principles of statutory interpretation: courts must begin with the plain language of the statute (the plain meaning rule), and general terms are limited by preceding specific terms (*ejusdem generis*).

I. The Ninth Circuit’s decision conflicts with the regulation’s plain language.

When interpreting a federal regulation, courts look first at its plain meaning. *Barnhart v. Sigmon Coal Co.*, 534 U.S. 438, 450 (2002). “The first step ‘is to determine whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case.’” *Id.* (quoting *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997)). “The inquiry ceases ‘if the statutory language is unambiguous and the statutory scheme is coherent and consistent.’” *Id.* (quoting *Robinson*, 519 U.S. at 340); see *United States v. Ron Pair Enters., Inc.*, 489 U.S. 235, 241 (1989) (“[W]here . . . the statute’s language is plain, ‘the sole function of the

courts is to enforce it according to its terms.” (quoting *Caminetti v. United States*, 242 U.S. 470, 485 (1917)).

The regulation here has a plain meaning. It covers “[o]perating a vessel.” 36 C.F.R. § 3.8(b)(8). And “operation” in this context means: “The action of putting a machine, device, etc. into motion or action, or of maintaining that motion or action, [especially] through control or direction.” *Operation*, Black’s Law Dictionary (12th ed. 2024). The word “operate” is thus concerned only with piloting a vessel, not external factors like the pilot’s safety gear.

The Ninth Circuit held the regulation covered “external factors that impact the nature of the maintenance or use, such as safety gear.” Appx. A at APP 11a. But this conflicts with the plain language of “operation,” which is concerned only with motion. By holding the regulation’s language covered acts unrelated to the actual operation of the vessel, the Ninth Circuit ignored the statutory canon, and certiorari review is warranted.

II. The Ninth Circuit’s decision conflicts with the principle of ejusdem generis.

The Ninth Circuit also ignored the ejusdem generis principle in concluding the regulation’s context supported a broader reading of the word “operate.” Appx. A at APP 11a–13a. “[W]hen a general term follows a specific one, the general term should be understood as a reference to subjects akin to the one with specific enumeration.” *Norfolk & W. R. Co. v. Am. Train Dispatchers Ass’n*, 499 U.S. 117, 129 (1991). The regulation here provides a list of specific operations that are “inherently unsafe,” the first five of which exclusively describe piloting the vehicle.

36 C.F.R. § 3.8(b)(1)–(5). Negligent operation (Section 3.8(b)(8)) and grossly negligent operation (Section 3.8(b)(9)) follow thereafter. The driving-specific examples thus inform the reader that the general negligence provisions apply to driving-specific conduct.

The Ninth Circuit concluded otherwise because two preceding subsections—Sections (b)(6) and (b)(7)—prohibit operating a vessel when passengers are in prohibited locations on the vessel. Appx. A at APP 12a. But the court ignored that by including just two passenger-specific examples of unsafe circumstances, the regulation purposely excluded other passenger-specific circumstances from Section 3.8(b)’s ambit. If the agency wanted to include the failure to attach external safety features as an unsafe operation, it would have said so, just like it did for unsafe locations of passengers. *See Esteras v. United States*, 606 U.S. 185, 195 (2025) (“[E]xpressing one item of [an] associated group or series excludes another left unmentioned.”). Instead, the Park Service criminalized the failure to wear life jackets or attach a cut-off switch lanyard in a succeeding provision as requirements *before* operating a vessel. *See* 36 C.F.R. § 3.9(b)(1), (2).

The Ninth Circuit rejected this argument because it believed that “interpreting section 3.8(b)(8) as prohibiting only the specific activities listed beforehand would render the provision meaningless.” Appx. A at APP 12a. But this reading wouldn’t render the negligence provisions meaningless; it would simply tailor those provisions to cover conduct intended by the agency in drafting the regulation. Indeed, under Verhonich’s reading of § 3.8(b)(8), an individual could still

be convicted for negligent operation in various circumstances related to *actual operation* of the watercraft, not covered by the preceding subsections.

Conclusion

Because the Ninth Circuit's opinion conflicts with these basic principles of statutory interpretation, this Court should grant a writ of certiorari.

Dated this 10th day of September, 2026.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Ellesse Henderson
Ellesse Henderson
Counsel of Record
Assistant Federal Public Defender

s/ Nicholas Wolfram
Nicholas Wolfram
Assistant Federal Public Defender