
No. _____

In the

Supreme Court of the United States

ISAAC TEKOLA, Petitioner

v.

UNITED STATES OF AMERICA, Respondent

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

Petition for a Writ of Certiorari

AMY M. KARLIN
Interim Federal Public Defender
SONAM HENDERSON*
Deputy Federal Public Defender
321 East 2nd Street
Los Angeles, California 90012
Tel: 213-894-5308
Fax: 213-894-0081
Email: Sonam_Henderson@fd.org

Counsel for Petitioner
**Counsel of Record*

QUESTIONS PRESENTED

Petitioner Isaac Tekola pleaded guilty to and was sentenced on four counts of violating 21 U.S.C. §§ 841(a)(1), (b), which criminalize possession with intent to distribute controlled substances. The district court applied the U.S.S.G. § 2D1.1(b)(12) sentencing enhancement for “maintain[ing] a premises for the purpose of manufacturing or distributing a controlled substance,” notwithstanding that the premises in question was Tekola’s residence that he maintained for the purpose of having a place to live. Tekola contends that under the plain language of the enhancement, the enhancement was not applicable to him unless a drug distribution purpose was motivating his decision to “maintain” the home.

The questions presented are:

1. In interpreting a federal Sentencing Guidelines provision, whether a court may eschew any analysis of the plain text of the guidelines provision in favor of “guidance from the enhancement’s history and purpose, the commentary, and decisions from previous courts”?
2. Whether the U.S.S.G. § 2D1.1(b)(12) enhancement for maintaining a premises for purposes of drug distribution can be applied to a defendant’s home and only residence absent a finding that drug distribution was a motivating force for keeping possession of the home

and keeping it in repair, rather than merely a collateral use of a home that he or she would have maintained anyway?

PARTIES TO THE PROCEEDING

Pursuant to this Court's Rule 14.1(b)(i), petitioner submits that there are no parties to the proceeding other than those named in the caption of the case.

Petitioner Isaac Tekola was the defendant in the district court and the appellant in the Ninth Circuit Court of Appeals. Respondent United States of America was the plaintiff in the district court and the appellee in the Ninth Circuit Court of Appeals.

RELATED PROCEEDINGS

United States Court of Appeals for the Ninth Circuit

United States v. Isaac Tekola, CA No. 24-5467

United States District Court for the Central District of California

United States v. Isaac Tekola, Case No. 2:22-cr-00608-SPG-1

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PETITION FOR WRIT OF CERTIORARI

Isaac Tekola petitions for a writ of certiorari to review the judgment and Opinion of the United States Court of Appeals for the Ninth Circuit.

OPINIONS BELOW

The amended opinion of the court of appeals, which was issued upon the denial of rehearing en banc, (Pet. App. 1–7), is published in the federal reporter at 176 F.4th 606. The district court’s decision was oral and unreported. (Pet. App. 39–42.) The resulting judgment and commitment order was similarly unreported. (Pet. App. 74–79.)

JURISDICTION

The initial judgment of the court of appeals was entered on March 9, 2026. A petition for rehearing and rehearing en banc was denied and an amended judgment issued on May 20, 2026. (Pet. App. 3.) This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND OTHER PROVISIONS INVOLVED

The enhancement at subsection 12 of Guidelines section 2D1.1(b) provides that, for a defendant who is convicted of a drug crime covered by section 2D1.1:

If the defendant maintained a premises for the purpose of manufacturing or distributing a controlled substance, increase [the offense level] by 2 levels.

U.S.S.G. § 2D1.1(b)(12). The commentary for that subsection provides:

Subsection (b)(12) applies to a defendant who knowingly maintains a premises (*i.e.*, a building, room, or enclosure) for the purpose of manufacturing or distributing a controlled substance, including storage of a controlled substance for the purpose of distribution.

Among the factors the court should consider in determining whether the defendant “maintained” the premises are (A) whether the defendant held a possessory interest in (*e.g.*, owned or rented) the premises and (B) the extent to which the defendant controlled access to, or activities at, the premises.

Manufacturing or distributing a controlled substance need not be the sole purpose for which the premises was maintained, but must be one of the defendant’s primary or principal uses for the premises, rather than one of the defendant’s incidental or collateral uses for the premises. In making this determination, the court should consider how frequently the premises was used by the defendant for manufacturing or distributing a controlled

substance and how frequently the premises was used by the defendant for lawful purposes.

U.S.S.G. § 2D1.1 cmt. n.17.

INTRODUCTION

For decades now, this Court has been reminding litigants and lower courts of the primacy of text in the interpretation of legal provisions. *See, e.g., Advoc. Health Care Network v. Stapleton*, 581 U.S. 468, 475 (2017); *Green v. Brennan*, 578 U.S. 547, 553 (2016); *Desert Palace, Inc. v. Costa*, 539 U.S. 90, 98 (2003). Among these reminders has been a consistent warning that “the text of a law controls over purported legislative intentions unmoored from any statutory text,” and that a court “may not ‘replace the actual text with speculation as to [the drafters and adopters]’ intent.” *Corner Post, Inc. v. Bd. of Governors of Fed. Rsrv. Sys.*, 603 U.S. 799, 815 (2024) (quoting *Oklahoma v. Castro-Huerta*, 597 U.S. 629, 642 (2022) (quoting *Magwood v. Patterson*, 561 U.S. 320, 334 (2010))). That is in part because “[d]eciding what competing values will or will not be sacrificed to the achievement of a particular objective is the very essence” of the choices that are made when drafting and adopting a legal provision, and so “it frustrates rather than effectuates [the drafter and adopters]’ intent simplistically to assume that *whatever* furthers the [provision]’s primary objective must be the

law.” *Rodriguez v. United States*, 480 U.S. 522, 526 (1987) (emphasis in original).

The Ninth Circuit failed to follow this basic principle in interpreting the enhancement at subsection 2D1.1(b)(12) of the federal Sentencing Guidelines. That enhancement imposes a two-level increase in offense level on a drug defendant who “maintained a premises for the purpose of manufacturing or distributing a controlled substance.” Starting with the text would have required the Ninth Circuit to consider what it means to “maintain a premises” for a particular purpose. Had it done so, it would have seen that to “maintain” a premises for a particular “purpose” requires that the purpose be at least among the motivating reasons that the person is keeping possession of the premises, such that without that purpose they would not keep the premises.

But instead of starting with the text, the Ninth Circuit began with suppositions about the enhancement’s purpose. Indeed, the court of appeals explicitly focused on “guidance from the enhancement’s history and purpose” as the first factor it was considering, and it neither mentioned the text as a factor to be considered nor parsed the language of the enhancement. In doing so, the court below did exactly what this Court has warned against: ignored any sense of the balance struck by the provision’s actual text while focusing on the supposed primary objective of maximizing punishment for anyone who

uses property for a drug crime. And the Ninth Circuit is not alone in its approach: it joined a set of federal courts of appeals that have chosen to treat the enhancement as applicable to people who use their family homes for even small numbers of drug transactions, notwithstanding the lack of any evidence that the defendants in those cases would not have kept the homes had they not intended to deal drugs out of them. According to these courts, it is a “low bar” to establish that a person’s primary residence is nevertheless being “maintain[ed] . . . for the purpose” of drug sales or manufacturing.

This mistaken approach requires this Court’s intervention. First, the premises enhancement is one of the most frequently applied enhancements in the entire sentencing guidelines manual. Unsurprisingly, given the spread of appellate opinions treating the enhancement as having a “low bar,” its application by courts is growing rapidly, nearly doubling between 2020 and 2025, according to Sentencing Commission data. Ensuring that this sentencing enhancement is being properly applied to the more than two thousand people on whom it is imposed annually is reason enough to grant review here. But this Court should also grant review to clarify that for sentencing guidelines, as with all other legal texts, proper interpretation must begin with the plain language of the provision in question.

For all these reasons, this Court should grant petitioner Isaac Tekola a writ of certiorari.

STATEMENT OF THE CASE

A. Mr. Tekola was prosecuted for fentanyl distribution, turned his life around while on bond, and accepted responsibility by pleading guilty without a plea agreement.

This case began with the fentanyl-overdose death of a man who had purchased what turned out to be a counterfeit oxycodone pill from a third party who had in turn purchased pills that came from petitioner Isaac Tekola. *See United States v. Tekola*, 176 F.4th 606, 608-09 (9th Cir. 2026). After a search of his home turned up cash and drugs, Tekola was indicted by a federal grand jury on four counts of violating 21 U.S.C. §§ 841(a)(1), (b).. *Tekola*, 176 F.4th at 609.

Tekola, who had no prior criminal history, was released on bond and promptly began reforming his life. He stopped using drugs and started attending Narcotics Anonymous meetings. (Pet. App. 51–52.) He returned to college, finished his associate’s degree, and began work on a bachelor’s degree, all while earning stellar grades and volunteering. (Pet. App. 51–53.) He also took responsibility for his actions, pleading guilty to all four counts of the indictment without a plea agreement. *Tekola*, 176 F.4th at 609.

B. The district court imposed the sentencing enhancement for maintaining a premises for purposes of drug distribution based on Mr. Tekola's use of his own residence.

At sentencing, the applicable section of the federal Sentencing Guidelines manual was 2D1.1. Under that section, the base offense level is determined in most instances by the weight of the drugs for which the defendant is responsible, with further enhancements added for specific offense characteristics. Tekola's base offense level, determined by the weight of drugs he possessed, was 24. (Pet. App. 14.) The probation office recommended that the district court impose, among other enhancements, the two-level U.S.S.G. § 2D1.1(b)(12) enhancement for "maintain[ing] a premises for the purpose of manufacturing or distributing a controlled substance." (Pet. App. 15.)

The premises in question was Tekola's Santa Barbara home, where he lived with a roommate. (Pet. App. 31, 47.) Tekola sold drugs to some trusted clients from that home, but generally conducted his drug sales elsewhere, making "rounds" through the area, and meeting customers at varied locations like bars, beaches, parking lots, clients' homes, and restaurants. (1-PSR-166; 1-PSR-169; 1-PSR-171; 1-PSR-184; 1-PSR-209; 1-PSR-220-21; 2-PSR-251; 3-PSR-585); *see also Tekola*, 176 F.4th at 611 (acknowledging Tekola's drug sales away from home). He also kept a safe in his bedroom in which he stored drugs and cash, and when law enforcement searched his bedroom,

they found various drugs, scales, baggies and other tools of the drug trade. *Tekola*, 176 F.4th at 609. There was no evidence, however, that those items interfered with his primary use of the bedroom as a place to live and sleep, or indeed that Tekola's drug activities in any way compromised his and his roommate's residential use of any area of the home. The home was a home.

As the district court acknowledged, (Pet. App. 41), the Guidelines commentary instructs that in order to impose the § 2D1.1(b)(12) premises enhancement, “[m]anufacturing or distributing a controlled substance . . . must be one of the defendant’s primary or principal uses for the premises, rather than one of the defendant’s incidental or collateral uses for the premises.” U.S.S.G. § 2D1.1 cmt. n.17. It further instructs that “[i]n making this determination, the court should consider how frequently the premises was used by the defendant for manufacturing or distributing a controlled substance and how frequently the premises was used by the defendant for lawful purposes.” *Id.*

Despite invoking that commentary language, the district court did not consider the frequency of Tekola's drug activities in the home against the frequency of his residential uses of the property. *See Tekola*, 176 F.4th at 611. Instead, it minimized Tekola's lawful residence at the home, saying that “the only lawful purpose that I have heard is that he lived there at these premises,” (Pet. App. 41), seemingly implying a defendant would need

additional lawful purposes beyond living in a home to avoid having drug activity render that home a drug premises. And when the court found the enhancement applied, it focused not on Tekola's use of his home for the drug business but on evidence that Tekola had been a drug dealer for four years, that he made \$10,000 a month, and that he had "no real other source of employment." (Pet. App. 42.) Those factors describing his general drug dealing went to whether he qualified for the separate criminal livelihood enhancement, (Pet. App. 44–46), but were not relevant to whether he maintained his home for the purpose of distributing drugs.

C. The Ninth Circuit affirmed and issued a new standard for applying the enhancement based on the enhancement's "history and purpose," rather than an analysis of the enhancement's plain text.

After briefing and oral argument, a panel of the Ninth Circuit affirmed Tekola's sentence in a published opinion, which it amended when it denied Tekola's petition for rehearing en banc. *Tekola*, 176 F.4th at 608.

The Ninth Circuit first observed that the enhancement was created to satisfy a congressional mandate for a Guidelines provision covering "maintain[ing] an establishment for the manufacture or distribution of a controlled substance, as generally described in [21 U.S.C. § 856]." *Tekola*,

176 F.4th at 610 (quoting Pub. L. No. 111–220, § 6(2)).¹ The Ninth Circuit then observed that it had previously described § 856(a)(1) as having been designed to punish people who use their properties to run drug businesses. *Id.* (referencing *United States v. Shetler*, 665 F.3d 1150, 1162–63 (9th Cir. 2011)). From there it cited an Eighth Circuit decision for the proposition that both the enhancement and the statute were “intended to deter the manufacture and distribution of illegal drugs” in homes “where children are being raised.” *Id.* (quoting *United States v. Miller*, 698 F.3d 699, 707 (8th Cir. 2012)). The reference to children was a non sequitur: no children were being raised in Tekola’s home, and at no point did the government suggest or the district court find otherwise.

Having identified what it saw as general purposes underlying the enhancement, the court of appeals cited approvingly to decisions upholding the enhancement where defendants had used their home for what it described as “substantial” drug trafficking activities, with no need to compare the frequency of the drug uses and the residential uses to each other. *Id.*

¹ Section 856 makes it a crime to “knowingly open, lease, rent, use, or maintain any place, whether permanently or temporarily, for the purpose of manufacturing, distributing, or using any controlled substance.” 21 U.S.C. § 856(a)(1).

The panel concluded the enhancement applies “where a defendant regularly uses his home for substantial drug trafficking activity.” *Id.* at 610, 612.

While the court of appeals relied upon what it saw as the purpose of § 856(a)(1) in interpreting the § 2D1.1(b)(12) enhancement, it also held that it was not bound by its previous holding about the meaning of § 856(a)(1)’s “maintain . . . for the purpose of manufacturing, distributing” language. *Id.* at 611. In *Shetler*, the Ninth Circuit held that “maintain[ing]” a premises under § 856(a)(1) required more than drug manufacturing or distribution being a “significant purpose” of a premises. 665 F.3d at 1162. Rather, “the manufacture (or distribution or use) of drugs must be at least one of the *primary or principal* uses to which the house is put.” *Id.* (emphasis added). Because “substantial” and “significant” are synonymous,² *Shetler*’s rejection of “significant” drug purpose as the standard under § 856(a) should have foreclosed the panel’s holding that “substantial drug trafficking activity” was sufficient to trigger the enhancement in U.S.S.G. § 2D1.1(b)(12).

The Ninth Circuit, however, reasoned that *Shetler* did not control because § 856(a) contains an additional means of liability that the guideline

² See, e.g., *Significant & Substantial*, Merriam-Webster.com Dictionary, <https://www.merriam-webster.com> (last visited September 17, 2026) (identifying the words as synonyms).

provision does not: the statute criminalizes maintaining a premises “for the purpose of manufacturing, distributing, *or using* any controlled substance,” while the guideline only covers manufacturing and distributing—not mere using. 176 F.4th at 612 (quoting 21 U.S.C. § 856(a)(1) (emphasis in original)). The panel wrote that the inclusion of “using” in the statute had made it necessary for *Shetler* to interpret narrowly what “maintain[ing]” a place for a drug purpose meant, to avoid sweeping in casual drug use. *Id.* at 952-53. But because “using” was omitted from § 2D1.1(b)(12), the panel reasoned that the Guideline could be interpreted differently than the statute. *Id.* It also framed *Shetler*’s interpretation of the statute as a “saving construction” meant to avoid vagueness concerns that it saw as inapplicable to the Guidelines. *Id.* at 953. The panel thus deemed itself free to disregard *Shetler*’s narrower construction of § 856(a) and instead embrace a broad interpretation of the enhancement based on what it saw as the enhancement’s purpose and the decisions of other courts of appeals. Notably, however, beyond noting the inclusion of “using” in § 856(a) but not § 2D1.1(b)(12), the panel made no attempt to analyze the plain language of the enhancement. Rather, it examined only “the enhancement’s history and purpose, the commentary, and decisions from previous courts.” *Tekola*, 176 F.4th at 611.

Tekola petitioned for rehearing and rehearing en banc. *Id.* at 608. The Ninth Circuit issued an amended opinion but denied Tekola’s petition. *Id.*

REASONS FOR GRANTING THE WRIT

A. The Ninth Circuit’s Decision Conflicts with the Plain Language of the Enhancement

1. **By its plain terms, the premises enhancement requires that the defendant maintain the premises for drug purposes, not merely that a defendant make use—even substantial use—of a premises he or she would have maintained anyway.**

a. Under the plain language of the § 2D1.1(b)(12) enhancement, it does not apply to a defendant merely because that defendant sold drugs out of their home once, twice, or even on several dozen occasions. The Sentencing Commission could have written the enhancement to apply to anyone who “used” their home or another property to commit a drug crime. *See, e.g.*, 21 U.S.C. § 881(a)(7). It could even have written the condition to apply to a defendant who regularly used property for substantial drug trafficking activity, as the court below held.

But the Commission did neither of those things. It wrote that the enhancement would apply where a defendant “maintained a premises *for the purpose of* manufacturing or distributing a controlled substance.” U.S.S.G. § 2D1.1(b)(12) (emphasis added). Those words have a clear meaning, and require not just “use,” but that the defendant act “for the purpose of,” *i.e.*, he

or she would not have kept possession of the premises or kept the premises in the same condition unless to use it for drug trafficking.

To “maintain” a premises is to “continue in possession” of that property or to “engage in general repair and upkeep.”³ And a “purpose” is “[t]he object toward which one strives or for which something exists.”⁴ Thus, combining those words together in phrasing such as “maintained a premises for the purpose of” a particular objective contemplates that the person is keeping possession over the premises and keeping it in good condition *in order to* achieve that objective. It also necessarily contemplates the contrapositive: that if the person were not trying to achieve that objective, they would not be keeping possession of the premises or keeping it in repair.⁵ The “maintained

³ *Maintain*, Black’s Law Dictionary (12th ed. 2024); *see also* *Maintain*, Am. Heritage Dictionary, <https://www.ahdictionary.com/> (last visited Sept. 16, 2026) (“to keep [it] in existence” or to “sustain” it); *Maintain*, Merriam-Webster.com Dictionary, <https://www.merriam-webster.com/dictionary/> (last visited Sept. 17, 2026) (“to continue having or doing (something)” or “to keep (something) in good condition . . .”).

⁴ *Purpose*, Am Heritage Dictionary, <https://ahdictionary.com/> (last visited Sept. 17, 2026) (def 1); *Purpose*, Black’s Law Dictionary (12th ed. 2024) (“An objective, goal, or end . . .”).

⁵ Consistent with this reading, courts and legislatures have used similar phrasing to describe a necessary purpose, in the absence of which the

a premises for the purpose of” language of § 2D1.1(b)(12) thus requires that drug distribution or manufacturing be the objective underlying the defendant’s continuing possession of the premises, or at least an objective sufficiently important that the defendant would not have kept the premises without it.

The Sentencing Commission could have chosen a different route and identified mere “use” of the premises for drug trafficking activity as sufficient to trigger the enhancement. For instance, the federal forfeiture statute makes subject to forfeiture “[a]ll real property . . . which is used, or intended to be used, in any manner or part, to commit, or to facilitate” certain crimes. 21 U.S.C. § 881(a)(7). Similarly, a California statute declares that “[e]very building” that is “*used* for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance” is a nuisance. Cal. Health and Safety § 11570. Indeed, as noted above, the

premises or other thing being maintained would not be maintained. *See, e.g., Glenwood Light & Water Co. v. Mut. Light, Heat & Power Co.*, 239 U.S. 121, 122 (1915) (“to erect and maintain a plant for the purpose of supplying the town and its inhabitants with electric light and power”); *Cramer v. United States*, 261 U.S. 219, 226 (1923) (Native American family “had actually resided upon the lands and improved them for the purpose of making for themselves homes”).

statute on which the enhancement was modeled includes “use” as a trigger for liability. *See* 21 U.S.C. § 856(a)(1) (“it shall be unlawful to knowingly open, lease, rent, use, or maintain any place . . .”).

But when Congress mandated the creation of a premises enhancement, it chose not to include “use.” Instead, it set a much higher bar, requiring not just that a premises have been “used” to manufacture or distribute drugs, but that the defendant have “maintained an establishment for the manufacture or distribution of a controlled substance” Pub. L. No. 111–220, § 6(2)). And the Sentencing Commission followed that legislative instruction, likewise omitting mere “use” as a trigger and instead requiring that the defendant have “maintained a premises for the purpose of manufacturing or distributing a controlled substance.” U.S.S.G. § 2D1.1(b)(12).

b. The Sentencing Commission’s commentary further demonstrates that the enhancement is triggered only where drug trafficking purposes are motivating the defendant’s continued possession and upkeep of the property, as opposed to being collateral uses of a property that the defendant was going to maintain whether or not they were using it for drug distribution or manufacturing.⁶ Consistent with the language of the Guideline itself, the

⁶ How authoritative the commentary is here depends on whether *Stinson v. United States*, 508 U. S. 36 (1993), remains good law. *Stinson* held that

commentary explains that “maintain[ing]” a premises “for the purpose of” drug distribution requires that the drug distribution or manufacturing be a driving force behind the defendant’s continued possession of the premises. The commentary states that while “[m]anufacturing or distributing a controlled substance need not be the sole purpose for which the premises was maintained,” it must nevertheless “be one of the defendant’s *primary or principal* uses for the premises, rather than one of the defendant’s incidental or collateral uses for the premises.” U.S.S.G. § 2D1.1 cmt. n.17 (emphasis added).

“Primary” and “principal” both mean “first or highest in rank or importance.”⁷ A given purpose or use cannot be “first or highest” in

“commentary in the Guidelines Manual that interprets or explains a guideline is authoritative unless it violates the Constitution or a federal statute, or is inconsistent with, or a plainly erroneous reading of, that guideline.” *Id.* at 38. But several circuits, including the Ninth Circuit, *see United States v. Castillo*, 69 F.4th 648, 655, 664 (9th Cir. 2023), have held that *Stinson* is no longer good law in light of *Kisor v. Wilkie*, 588 U.S. 558 (2019), and this Court has already accepted certiorari on the issue in a case set for argument on October 13, 2026. *See Beaird v. United States*, S. Ct. No. 25-5343.

⁷ *See Primary & Principal*, Am. Heritage Dictionary, <https://ahdictionary.com/> (last visited Sept. 17, 2026). *See also Primary &*

importance or rank unless it is at least co-equal in importance or rank with every other purpose or use. If some other purpose or use is more important, then the purpose in question could not be called “first” or “highest” in importance, and so would not be a “primary” or “principal” purpose or use. Consistent with the use of these comparative superlatives, the commentary goes on to instruct courts to “consider how frequently the premises was used by the defendant for manufacturing or distributing a controlled substance and how frequently the premises was used by the defendant for lawful purposes.” U.S.S.G. § 2D1.1 cmt. n.17.

* * *

As written and as explained by the Sentencing Commission, the enhancement would apply easily and obviously to spaces like crack dens and stash houses that a defendant maintains mostly or solely for drug purposes. It might also apply to an area within a defendant’s residence, but the application would be less straightforward. Under the plain language of the enhancement, a court would have to consider how essential the drug dealing purposes were to the person’s reasons for “maintaining” the residence. Only

Principal, Merriam-Webster.com Dictionary, <https://www.merriam-webster.com/dictionary/> (last visited Sept. 17, 2026) (“of first rank, importance, or value” and “most important, consequential, or influential: chief”).

where the drug dealing or manufacturing was for the defendant a reason for maintaining the premises on par with the defendant's residential or other legitimate purposes would the drug dealing or manufacturing trigger the premises enhancement.

2. The Ninth Circuit interpreted the enhancement not by analyzing the text, but via unmoored conjecture about its purpose.

1. Despite the clear text of the enhancement (and the Sentencing Commission commentary which largely dovetails with that clear text), the Ninth Circuit chose a very different tack. Eschewing any textual analysis, it instead focused on its own understanding of the purpose behind adopting the enhancement and the circumstances in which courts have previously applied the enhancement. Indeed, at one point, the Ninth Circuit listed its considerations—"guidance from the enhancement's history and purpose, the commentary, and decisions from previous courts"—leaving the text of the provision at issue entirely off the list. *Tekola*, 176 F.4th at 611.

This Court, however, has repeatedly admonished litigants and lower courts that text must be "the starting point" for any exercise in legal interpretation. *See, e.g., Desert Palace, Inc. v. Costa*, 539 U.S. 90, 98 (2003); *Advoc. Health Care Network v. Stapleton*, 581 U.S. 468, 475 (2017) ("Start, as we always do, with the statutory language . . ."); *Green v. Brennan*, 578 U.S.

547, 553 (2016) (“we begin our interpretation of the regulation with its text”). Indeed, this Court has made clear that the plain language of a legal provision is of such primacy, that when it “provides a clear answer,” the analysis “ends there.” *Hughes Aircraft Co. v. Jacobson*, 525 U.S. 432, 438 (1999). The Ninth Circuit’s implicit claim that the text of § 2D1.1(b)(12) is inessential to interpreting § 2D1.1(b)(12) directly conflicts with the clear instructions of this Court.

2. Worse still is what the Ninth Circuit chose to replace textual interpretation: its free-floating assertions about the purpose of the provision. This Court has long warned that “the text of a law controls over purported legislative intentions unmoored from any statutory text,” and the Court “may not ‘replace the actual text with speculation as to Congress’ intent.” *Corner Post, Inc.*, 603 U.S. at 815 (quoting *Castro-Huerta*, 597 U.S. at 642) (quoting *Magwood*, 561 U.S. at 334). As this Court explained nearly 200 years ago, “The spirit of the act must be extracted from the words of the act, and not from conjectures aliunde.” *Gardner v. Collins*, 27 U.S. 58, 93 (1829).

Part of the problem is that such conjecture may be incorrect. *See, e.g.*, *Kisor v. Wilkie*, 588 U.S. 558, 621–22 (2019) (Gorsuch, J., concurring) (warning about the dangers of interpretation by way of “open-ended policy appeals and speculation about legislative intentions”). But this Court has also explained that even when a court has properly grasped the primary

objective of a legal provision, that purpose cannot stand in for interpreting the text of the statute. That is because every legal provision balances countervailing factors: for federal sentencing statutes and sentencing guidelines, that balancing is reflected in the parsimony principal at 18 U.S.C. § 3553, which requires that a sentence be “sufficient, but not greater than necessary, to comply with the purposes” of punishment set forth in the statute. 18 U.S.C. § 3553(a)(1). Part of the Commission’s task in promulgating guidelines (and Congress’s task in demanding that certain guidelines be promulgated, *see, e.g.*, Pub. L. No. 111–220, § 6(2)), is striking that balance by “[d]eciding what competing values will or will not be sacrificed to the achievement of a particular objective.” *Rodriguez*, 480 U.S. at 526. Because a court overemphasizing one particular purpose or objective disrupts the balance struck by the enacted text, “it frustrates rather than effectuates legislative intent simplistically to assume that *whatever* furthers the statute’s primary objective must be the law.” *Id.*

The Ninth Circuit’s approach in this case exemplifies both dangers about which this Court has warned. The first purpose for the enhancement that the Ninth Circuit identified was “deter[ing] the manufacture and distribution of illegal drugs” in homes “where children are being raised.” *Tekola*, 176 F.4th at 610 (quoting *Miller*, 698 F.3d at 707). In addition to being irrelevant to Tekola’s case—no children were being raised in his

home—that focus on protecting children, while laudable, appears nowhere in the text. And examining *Miller* reveals that the Eighth Circuit had no textual source for its assertion that the purpose of the enhancement was to protect children, only an ipse dixit that the Commission “surely intended” to do so. *See* 698 F.3d at 707. But a court may not speculate about the purpose for which a provision was drafted and then rely on the results of that speculation to ignore the text of that provision. To the contrary, a court’s “job is to follow the text even if doing so will supposedly undercut a basic objective of the statute.” *Baker Botts L.L.P. v. ASARCO LLC*, 576 U.S. 121, 135 (2015) (cleaned up).

The second purpose identified by the Ninth Circuit was “punish[ing] those who *use* their property to run drug businesses.” *Tekola*, 176 F.4th at 610 (cleaned up) (emphasis added). While this is closer to the text, it is still not accurate. As this Court has made clear, “the starting point in discerning . . . intent is the existing . . . text.” *Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004). As already noted above, the enhancement punishes those who “maintain” properties in order to run drug businesses; the guideline text does not purport to apply to persons who merely “use” properties. A court cannot expand the reach of a provision simply by assigning to it a looser, broader purpose than the one on the face of the text. *See, e.g., Villarreal v. R.J. Reynolds Tobacco Co.*, 839 F.3d 958, 970 (11th Cir. 2016) (“Elevating general

notions of purpose over the plain meaning of the text is inconsistent with our judicial duty to interpret the law as written.”); *see also Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 443 n.6 (2024) (Gorsuch, J., concurring) (“The answer for judges eliding statutory terms is . . . a demand that all return to a more faithful adherence to the written law.”).

3. The balance of the Ninth Circuit’s reasoning did nothing to salvage its error-ridden process or conclusions. From dubious, atextual formulations of the enhancement’s “purpose,” the Ninth Circuit moved to listing decisions from other circuits that it said stood for the proposition that the enhancement could be applied “where defendants regularly used the premises both as a primary residence and for substantial drug trafficking activities.” *Tekola*, 176 F.4th at 610.⁸

⁸ As noted in the Statement of the Case above, in a previous case interpreting § 856(a)(1), the Ninth Circuit rejected a “significant” drug dealing purpose was insufficient to meet the “for the purpose” of drug trafficking language, and held instead that “in the residential context, the manufacture (or distribution or use) of drugs must be at least one of the primary or principal uses to which the house is put.” *Shetler*, 665 F.3d at 1162. There is no appreciable daylight between “significant” and “substantial”: they are synonyms. *See Significant & Substantial*, Merriam-Webster.com Dictionary, <https://www.merriam-webster.com/dictionary> (last visited Sept. 14, 2026). Hence, if “significant” drug activity is not enough to

But the Ninth Circuit's primary example, *Miller* from the Eighth Circuit, makes clear that in the Ninth Circuit's eyes, "regularly us[ing] the premises . . . for substantial drug trafficking activities" does not require that the drug purposes be anywhere near co-equal in importance to the reasons for maintaining the home as a residence.⁹ This is contrary to the text of

render a home a drug premises, neither should "substantial" drug activity meet the standard. Rather, what is required is examining why the defendant was maintaining the home.

⁹ The other cases cited by the Ninth Circuit, *United States v. Johnson*, 737 F.3d 444 (6th Cir. 2013), and *United States v. Flores-Olague*, 717 F.3d 526 (7th Cir. 2013), appear more consistent with the textual admonition that the premises in question be "maintained . . . for the purposes of" the drug trade. But they also describe factual scenarios very different than the one here, and so do not require the broad, atextual rule applied by the Ninth Circuit. In *Johnson*, the defendant maintained a room in his Arkansas house dedicated to receiving and storing large, bulky quantities (at least 1200 pounds total) of marijuana for other members of a drug conspiracy. 737 F.3d at 447-48. The *Flores-Olague* defendant was selling several grams of cocaine out of his home on a daily basis over a three-year period and elevated the drug trade over the residential uses of the home, placing no limitations on when he sold from the home and relegating his long-time girlfriend and their teenage son to one bedroom of the home during the frequent occasions he had drug visitors. 717 F.3d at 528-29, 532-33.

§ 2D1.1(b)(12). In *Miller*, although Ms. Miller was raising 11 children in the family home, the Eighth Circuit found that her participation in just three controlled buys at the home and accepting payments “on other occasions” was enough to trigger the enhancement. *Id.* at 706-07.¹⁰ That sort of incidental “use” of a home the defendant was plainly keeping for residential purposes is a far cry from “maintain[ing] a premises for purposes of” the drug trade. U.S.S.G. § 2D1.1(b)(12).

Unfortunately, although the Ninth Circuit did not cite them, its “use” approach is echoed in the decisions of several other circuits. For instance, in *United States v. Terry*, 83 F.4th 1039 (6th Cir. 2023), the Sixth Circuit described the “evidentiary bar for applying the enhancement” as “relatively low,” saying that drug storage or drug transactions on the property will usually suffice, *id.* at 1044. It then upheld application of the enhancement based on evidence of seven drug transactions at a residence over the course of five months, *id.* at 1041-42. In *United States v. Galicia*, 983 F.3d 842 (5th

¹⁰ *Miller* is not an outlier for the Eighth Circuit. For instance, in *United States v. Shores*, 700 F.3d 366 (8th Cir. 2012), the Eighth Circuit held that a *single* transaction outside a residence and drugs being seized from the residence the next day were sufficient to demonstrate that the residence was being “maintained” for the purpose of distributing drugs, *id.* at 371.

Cir. 2020), the Fifth Circuit held that storing drugs in a garage on three occasions was enough to meet “the low bar for establishing a primary use for a premises,” notwithstanding the defendant’s thirty-five years of living and raising his family in the home. *Id.* at 844–45. Similarly, the Seventh Circuit has held that “eight transactions, most within a two-month period” and four transactions in a twelve-week period in a home were each sufficient to support the enhancement. *See United States v. Contreras*, 874 F.3d 280, 283–85 (7th Cir. 2017); *United States v. Winfield*, 846 F.3d 241, 243 (7th Cir. 2017). In unpublished decisions, the Fourth and Tenth Circuits have likewise held that a small number of transactions in or near a home is enough to apply the enhancement. *See United States v. Saxby*, 754 F. App’x 161, 164–65 (4th Cir. 2018) (per curiam) (three confirmed heroin deals and an offer to arrange future purchases); *United States v. Henderson*, 604 F. App’x 655, 658–59 (10th Cir. 2015) (three methamphetamine sales at or near residence, plus arranged a delivery of a methamphetamine shipment).

The “low bar” described and implemented in these cases and implicitly adopted by the Ninth Circuit here cannot be reconciled with the plain language of the enhancement. Again, to have “maintained a premises for the purpose of manufacturing or distributing a controlled substance” requires that the defendant kept possession of the premises and kept it in working order *in order to* meet those drug purposes. If the drug purposes did not

cause the defendant to maintain the home, then the home cannot be said to have been maintained for drug purposes. Facilitating the drug trade has to have been a motivating force behind keeping the home and keeping it in good repair. It is surely possible in particular cases to make that showing even for a defendant's home. But merely showing some drug sales from the home and that the defendant stored some drugs in a corner of the home cannot alone and in itself be enough to show that the home was "maintained . . . for the purpose" of facilitating the drug trade. The government must show that the use for the drug trade was not just an incidental or collateral use of a home the defendant would have kept anyway, but a motivating force behind maintaining the home.

This Court should grant certiorari to ensure the enhancement is being properly interpreted and that courts are applying it, not based on their notions of its purpose, but based on the actual balance struck in the language of the text the Sentencing Commission adopted.

B. This Case Involves Exceptionally Important Questions of Law

The questions presented here—on the proper application of U.S.S.G. § 2D1.1(b)(12) specifically, and more generally, the extent to which a court must start with the text of a Sentencing Guideline when determining its

meaning—are exceptionally important. As such, they merit the exercise of this Court discretionary power of review.

Section 2D1.1(b)(12) is one of the most commonly applied enhancements in the federal Sentencing Guidelines Manual. In 2025 alone, it was imposed on more than 2,121 defendants, or 13.3% of all federal drug offenders.¹¹ Its use by the courts appears to be steadily increasing: it has risen every year since 2020 and has nearly doubled in those six years.¹² Its

¹¹ United States Sentencing Commission, *Use of Guidelines and Specific Offense Characteristics Guideline Calculation Based, Fiscal Year 2025*, at 58, https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/guideline-application-frequencies/2025/Ch2_Guideline_FY25.pdf.

¹² In 2024, 2,077 defendants, or 11.7 % of all federal drug defendants got the enhancement; in 2023, courts imposed it on 1,995 defendants, or 10.7% of all federal drug offenders; in 2022, 1,676 defendants, or 8.7% of drug offenders got it; in 2021, 1,340 (7.8% of all drug offenders) got it; and in 2020, it was imposed on 1,187 (7.5% of all drug offenders). See United States Sentencing Commission, *Use of Guidelines and Specific Offense Characteristics Guideline Calculation Based, Fiscal Year 2024*, at 57, https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/guideline-application-frequencies/2024/Ch2_Guideline_FY24.pdf; United States Sentencing Commission, *Use of Guidelines and Specific Offense Characteristics Guideline*

misapplication, therefore, has the potential to attach thousands of extra years of incarceration to sentences annually, depriving defendants and their families of time together and costing taxpayers millions of dollars. That on its own makes the questions here presented exceptionally important.

Calculation Based, Fiscal Year 2023, at 58,
https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/guideline-application-frequencies/2023/Ch2_Guideline_FY23.pdf; United States Sentencing Commission, *Use of Guidelines and Specific Offense Characteristics Guideline Calculation Based*, Fiscal Year 2022, at 58,
https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/guideline-application-frequencies/2022/Ch2_Guideline_FY22.pdf; United States Sentencing Commission, *Use of Guidelines and Specific Offense Characteristics Guideline Calculation Based*, Fiscal Year 2021, at 57,
https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/guideline-application-frequencies/2021/Ch2_Guideline_Based.pdf; United States Sentencing Commission, *Use of Guidelines and Specific Offense Characteristics Guideline Calculation Based*, Fiscal Year 2020, at 29,
https://www.ussc.gov/sites/default/files/pdf/research-and-publications/federal-sentencing-statistics/guideline-application-frequencies/Use_of_SOC_Guideline_Based.pdf.

But the underlying question—whether a court may interpret a Guidelines enhancement without starting with the text, as is required in other contexts, but instead by jumping straight to guidance from the enhancement’s history and purpose, the commentary, and decisions from previous courts—is more important still. It affects all federal defendants facing sentencing—more than 66,000 in 2025¹³—and all Guidelines provisions. This Court should grant certiorari and affirm that any interpretation of a Guidelines provision must begin with that provision’s text.

¹³ United States Sentencing Commission, *2025 Guideline Application Frequencies*, <https://www.ussc.gov/research/data-reports/guideline/2025-guideline-application-frequencies> (last visited Sept. 16, 2026).

CONCLUSION

For the foregoing reasons, petitioner Isaac Tekola respectfully requests that this Court grant his petition for writ of certiorari.

Respectfully submitted,

AMY M. KARLIN
Interim Federal Public Defender



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By:

SONAM HENDERSON*
Deputy Federal Public Defender
321 East 2nd Street
Los Angeles, California 90012
Tel: 213-894-5308
Fax: 213-894-0081
Email: Sonam_Henderson@fd.org

Counsel for Petitioner
*Counsel of Record