

No. _____

IN THE
Supreme Court of the United States

RADU MICLAUS,
Petitioner,
v.
UNITED STATES,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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October 9, 2025

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QUESTION PRESENTED

Whether resentencing on remand from a court of appeals is, by default, de novo.

**PARTIES TO THE PROCEEDINGS
AND RULE 29.6 STATEMENT**

Petitioner is Radu Miclaus. Respondent is the United States. No party is a corporation.

DIRECTLY RELATED PROCEEDINGS

This case arises from the following proceedings in the United States District Court for the Northern District of Ohio, and the United States Court of Appeals for the Sixth Circuit:

United States v. Miclaus, No. 1:16-cr-00224 (N.D. Ohio Dec. 6, 2019) (initial sentencing hearing)

United States v. Miclaus, No. 19-4273 (6th Cir. Oct. 5, 2021) (opinion, direct appeal)

United States v. Miclaus, No. 19-4273 (6th Cir. Nov. 9, 2021) (amended opinion, direct appeal)

United States v. Miclaus, No. 19-4273 (6th Cir. Jan. 11, 2022) (order denying en banc review)

Radu Miclaus v. United States, No. 21-8129 (U.S. S. Ct. Dec. 12, 2022) (order denying petition for certiorari)

United States v. Miclaus, No. 1:16-cr-00224 (N.D. Ohio Feb. 1, 2023) (resentencing hearing)

United States v. Miclaus, No. 1:16-cr-00224 (N.D. Ohio Feb. 2, 2023) (judgment on resentencing)

United States v. Miclaus, No. 23-3146 (6th Cir. May 29, 2026) (direct appeal from resentencing)

United States v. Bogden Nicolescu, No. 23-3295 and 24-3397 (6th Cir. Oct. 17, 2024) (order severing Nicolescu's appeals from Miclaus' appeal)

There are no other proceedings in state or federal trial or appellate courts, or in this Court directly related to this case.

TABLE OF CONTENTS

QUESTION PRESENTED	i
PARTIES TO THE PROCEEDINGS	ii
DIRECTLY RELATED PROCEEDINGS	iii
TABLE OF CONTENTS.....	iv
TABLE OF AUTHORITIES	vi
INTRODUCTION	1
OPINIONS AND ORDERS BELOW.....	1
JURISDICTION.....	2
STATEMENT OF THE CASE.....	3
REASONS FOR GRANTING THE PETITION.....	6
I. There is a deep and entrenched split among the courts of appeals on the question presented.	7
II. The question presented raises an important and recurring issue.....	11
III.The decision below is wrong.	14
IV.This case is a strong vehicle for resolving the question presented.....	16
CONCLUSION.....	17
APPEDICES	
APPENDIX A: Opinion, <i>United States v. Miclaus</i> , No. 23-3146 (6th Cir. May 29, 2026)	1a
APPENDIX B: Judgment Entry, <i>United States v. Miclaus</i> , No. 1:16CR224-003 (N.D. Ohio Feb. 2, 2023)	18a
APPENDIX C: Resentencing Hearing Transcript Excerpts, <i>United States v. Miclaus</i> , No. 1:21CR519 (N.D. Ohio Feb. 1, 2023)	25a

APPENDIX D: Amended Opinion, <i>United States v. Miclaus</i> , No. 19-4273 (6th Cir. Nov. 9, 2021)	32a
APPENDIX E: Opinion, <i>United States v. Miclaus</i> , No. 19-4273 (6th Cir. Oct. 5, 2021)	62a
APPENDIX F: Original Judgment Entry, <i>United States v. Miclaus</i> , No. 1:16CR224-003 (N.D. Ohio Dec. 12, 2019)	91a
APPENDIX G: Sentencing Hearing Transcript Excerpts, <i>United States v. Miclaus</i> , No. 1:21CR519 (N.D. Ohio Dec. 6, 2019)	98a

TABLE OF AUTHORITIES

CASES

<i>Guerrant v. United States</i> , 142 S. Ct. 640, 641 (2022) (Sotomayor, J., joined by Barrett, J., respecting the denial of certiorari)	11
<i>Longoria v. United States</i> , 141 S. Ct. 978, 979 (2021) (Sotomayor, J., joined by Gorsuch, J., respecting the denial of certiorari)	11
<i>North Carolina v. Pearce</i> , 395 U.S. 711, 89 S.Ct. 2072 (1969)	10
<i>Pepper v. United States</i> , 562 U.S. 476 (2011)	10
<i>Sprague v. Ticonic Nat’l Bank</i> , 307 U.S. 161 (1939)	14
<i>United States v. Barnes</i> , 660 F.3d 1000 (7th Cir. 2011)	10
<i>United States v. George Bell</i> , 5 F.3d 64 (4th Cir. 1993).....	14
<i>United States v. Richard Bell</i> , 988 F.2d 247 (1st Cir. 1993).....	10
<i>United States v. Campbell</i> , 168 F.3d 263 (6th Cir. 1999)	7
<i>United States v. Caterino</i> , 29 F.3d 1390 (9th Cir. 1994)	7
<i>United States v. Dunlap</i> , 452 F.3d 747 (8th Cir. 2006).....	7
<i>United States v. Lee</i> , 358 F.3d 315 (5th Cir. 2004)	8, 10, 14
<i>United States v. Marmolejo</i> , 139 F.3d 528 (5th Cir. 1998)	15, 16
<i>United States v. McCoy</i> , 313 F.3d 561 (D.C. Cir. 2002) (en banc)	11
<i>United States v. McFalls</i> , 675 F.3d 599 (6th Cir. 2012)	10
<i>United States v. Moore</i> , 83 F.3d 1231 (10th Cir. 1996).....	11
<i>United States v. Morris</i> , 259 F.3d 894 (7th Cir. 2001).....	8, 10, 15, 16
<i>United States v. Ortiz</i> , 25 F.3d 934 (10th Cir. 1994)	7
<i>United States v. Pileggi</i> , 703 F.3d 675 (4th Cir. 2013).....	6, 8, 10, 13, 14

<i>United States v. Quintieri</i> , 306 F.3d 1217 (2d Cir. 2002)	9, 10
<i>United States v. Scarano</i> , 76 F.3d 1471 (9th Cir. 1996).....	7
<i>United States v. Stinson</i> , 97 F.3d 466 (11th Cir. 1996)	7, 10
<i>United States v. Susi</i> , 674 F.3d 278 (4th Cir. 2012).....	16
<i>United States v. Tat</i> , 97 F.4th 1155 (9th Cir. 2024)	10
<i>United States v. Ticchiarelli</i> , 171 F.3d 24 (1st Cir. 1999).....	8, 10, 15
<i>United States v. Whren</i> , 111 F.3d 956 (D.C. Cir. 1997).....	8, 15, 16

SUPREME COURT BRIEFING CITATIONS:

Brief for the United States in Opposition, <i>Palacios v. United States</i> , No. 18-5168 (Sept. 7, 2018)	10, 11
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INTRODUCTION

Federal courts of appeals have a deep and longstanding split on the scope of resentencing after remand when the court of appeals does not explicitly provide some limiting language in its mandate. Because the split is entrenched and results in drastically different results at resentencing for criminal defendants based on nothing more than geography, this Court should take this opportunity to resolve this split and bring uniformity to federal resentencing hearings.

OPINIONS AND ORDERS BELOW

The opinion of the Sixth Circuit is reported at 177 F.4th 740 (6th Cir. 2026), and is reproduced in the appendix to this petition. (Pet. App. 1a–17a). The Sixth Circuit’s opinion arises from a direct appeal from Miclaus’ resentencing in the United States District Court for the Northern District of Ohio after remand from the Sixth Circuit. The district court’s judgment on resentencing is included in the appendix to this petition. (Pet. App. 18a-24a). The relevant excerpts from Miclaus’ resentencing hearing are included in Appendix C. (Pet. App. 25a-31a).

The amended opinion of the Sixth Circuit from Miclaus’ first appeal is reported at 17 F.4th 706 (6th Cir. 2021), and is reproduced in Appendix D. (Pet. App. 32a-61a). The original opinion of the Sixth Circuit is reported at 15 F.4th 689 (6th Cir. 2021). (Pet. App. 62a-90a). The district court’s original judgment is included in Appendix F. (Pet. App. 91a-97a). And relevant excerpts from Miclaus’ original sentencing hearing are found in Appendix G. (Pet. App. 98a-102a).

JURISDICTION

The United States Court of Appeals for the Sixth Circuit entered judgment on May 29, 2026. (Pet. App. 1a). This Court granted Miclaus an extension of time to file this petition until October 11, 2026. *Miclaus v. United States*, Case No. 26A174. This Court has jurisdiction under 28 U.S.C. § 1254.

STATEMENT OF THE CASE

Radu Miclaus, Bogdan Nicolescu, Tiberiu Danet, and others formed a group operating out of Romania that came to be known as Bayrob. (Pet. App. 2a). The Bayrob Group was responsible for several criminal schemes, including an eBay auction-fraud scheme, a cryptocurrency mining scheme, and spreading malware to steal identities, money, and personal identifying information. (Pet. App. 2a). Miclaus, Nicolescu and Danet were indicted in the United States District Court for the Northern District of Ohio. They were eventually arrested and extradited to the United States for prosecution.

Miclaus specifically was charged with conspiracy to commit wire fraud, wire fraud, conspiracy to commit computer fraud, conspiracy to traffic in counterfeit service marks, five counts of aggravated identity theft, and conspiracy to commit money laundering. (Pet. App. 2a). Miclaus proffered to the government and was prepared to accept responsibility. (Pet. App. 101a-102a). Miclaus ultimately rejected the government's plea offer when the parties could not agree on a reasonable sentence. (Pet. App. 101a-102a). Miclaus and Nicolescu were tried together and convicted by a jury. (Pet. App. 2a, 91a).

At sentencing, Miclaus raised several objections, including any requests for restitution. (Pet. App. 100a). When the district court inquired of the government's attorney about whether anyone was requesting restitution, the government's attorney responded, "No, Your Honor." (Pet. App. 100a). In light of there being no request

for restitution, Miclaus withdrew his objection as “moot.” (Pet. App. 100a). The district court imposed several guideline enhancements and sentenced Miclaus to a total of 216 months in prison, no restitution, and three years of supervised release. (Pet. App. 92a-93a). Miclaus appealed.

On appeal, Miclaus challenged the applicability of a number of guidelines enhancements and his aggravated identity theft convictions. (Pet. App. 32a-61a). Neither Miclaus nor Niculescu, in this consolidated appeal, challenged the restitution order. The government did not cross-appeal. The Sixth Circuit affirmed Miclaus’ convictions but reversed the district court’s use of several guideline enhancements. (Pet. App. 32a-59a). The Sixth Circuit explicitly “remand[ed] so that Nicolescu and Miclaus c[ould] be resentenced under a correctly calculated Guideline range.” (Pet. App. 59a). The court stated that “[f]or the reasons set forth [in its opinion], [it] **AFFIRM[ED]** Nicolescu’s and Miclaus’s convictions, **VACATE[D]** their sentences, and **REMAND[ED]** for resentencing.” (Pet. App. 59a) (emphasis in original).

A dispute arose in the district court on remand about the scope of the remand. (Pet. App. 26a-28a). The district court found that in the Sixth Circuit, in the absence of a specific limitation, remand orders are general. “A remand order is limited only if the language used by the Court of Appeals is unmistakable.” (Pet. App. 27a). Because the remand order did not include specific limiting language, the district court concluded the remand was general and that it must conduct a de novo resentencing hearing. (Pet. App. 27-28a).

The government requested the “record from the original sentencing be incorporated” in the resentencing proceedings “as if they were happening today.” (Pet. App. 29a). Despite affirmatively waiving the request for restitution at the original sentencing hearing, the government requested the court hold Miclaus jointly and severally liable for restitution based on an amount “provided by the [g]overnment in Danet’s sentencing.” (Pet. App. 30a-31a). The district court resentenced Miclaus to the same 216-month prison sentence, imposed \$853,651.99 in restitution, and three years of supervised release. (Pet. App. 18a-24a). Miclaus appealed.

On appeal, Miclaus challenged the district court’s imposition of restitution on remand. (Pet. App. 1a). In affirming the order of restitution, the Sixth Circuit noted that the “circuits are split regarding the breadth of a mandate for resentencing on remand.” (Pet. App. 5a). The Sixth Circuit’s position on this split is “long settled and clear.” (Pet. App. 7a). A general remand in the Sixth Circuit means that “the district court is free to conduct *de novo* resentencing and take any evidence and hear any argument that it could have considered originally, including arguments that have been waived or forfeited.” (Pet. App. 5a). While other circuits hold “that remands are by default limited in scope and, absent express direction otherwise, a district court may consider only such new arguments or new facts as are made newly relevant by the court of appeals’ decision.” (Pet. App. 6a) (omitting internal quotations and citations). Based on established scope of remand law in the Sixth Circuit, it found the district court was permitted to impose restitution on remand, despite the government’s waiver at the initial sentencing hearing. (Pet. App. 5a-13a).

The Sixth Circuit found the district court committed procedural error when imposing the amount of restitution without Miclaus having access to the victim requests and again remanded to the district court for compliance with the restitution statute and Federal Rule of Criminal Procedure 32. (Pet. App. 13a-15a).

REASONS FOR GRANTING THE PETITION

The Federal Courts of Appeals are deeply divided on the scope of the district court's discretion on remand when the court of appeals does not explicitly provide some limiting language in its mandate. This pervasive split, dating back nearly 30 years, has divided the circuit courts nearly in half and continues to produce drastically disparate results for criminal defendants based solely on geography.

Five circuits hold that a remand order, without specific limiting language, results in a de novo resentencing hearing and the district court may hear arguments on any issue, including those which a party previously waived or forfeited. Five circuits disagree. Those five circuits hold that a remand, even if it does not include limiting language, is limited by the appellate court's opinion "and the circumstances it embraces." *United States v. Pileggi*, 703 F.3d 675, 679 (4th Cir. 2013). In these circuits, a party may not revive waived issues in the district court on remand.

This split is implicated in nearly every criminal case remanded to the district courts for resentencing. The issue presented, therefore, occurs frequently and is fundamental to fair resentencing hearings throughout the country. Given the deep and longstanding split on this important issue this Court's intervention is necessary.

I. There is a deep and entrenched split among the courts of appeals on the question presented.

The courts of appeals are deeply divided over the scope of remand to the district court for resentencing. The split is longstanding, and this Court’s review is warranted now.

1. Like the Sixth Circuit, four other courts of appeals—the Eighth, Ninth, Tenth, and Eleventh Circuits—have adopted a default rule of a *de novo* resentencing after a remand, which does not explicitly limit the issues the district court may consider. See *United States v. Ortiz*, 25 F.3d 934, 935 (10th Cir. 1994) (“an order vacating a sentence and remanding for resentencing directs the lower court to begin anew and that fully *de novo* resentencing is appropriate.”); *United States v. Caterino*, 29 F.3d 1390, 1394-1396 (9th Cir. 1994), overruled on other grounds by *United States v. Scarano*, 76 F.3d 1471, 1474-1477 (9th Cir. 1996) (default scope of remand is *de novo* and parties may raise issues that were previously waived); *United States v. Stinson*, 97 F.3d 466, 469 (11th Cir. 1996) (when a criminal sentence is vacated it “wipes the slate clean” and the district court is free to begin anew on remand); *United States v. Campbell*, 168 F.3d 263, 265-268 (6th Cir. 1999) (discussing the differing approaches in the circuits and concluding the default on remand should be *de novo*); *United States v. Dunlap*, 452 F.3d 747, 749-750 (8th Cir. 2006) (“where a court of appeals vacates a sentence or reverses a finding related to sentencing and remands the case for resentencing without placing any limitations on the district court, the court can hear any relevant evidence on that issue that it could have heard at the first hearing.”) (internal quotations and citations omitted).

By contrast, five courts of appeals—the First, Fourth, Fifth, Seventh, and D.C. Circuits—hold that by default a remand is limited to issues that are relevant to the court of appeals’ decision or those that have become relevant because of the decision. This is true regardless of whether the remand contains explicit limiting language. See *United States v. Whren*, 111 F.3d 956, 960 (D.C. Cir. 1997) (“upon a resentencing occasioned by a remand, unless the court of appeals expressly directs otherwise, the district court may consider only such new arguments or new facts as are made newly relevant by the court of appeals’ decision—whether by reasoning or by the result” and those issues which only become relevant because of the court of appeals’ decision); *United States v. Ticchiarelli*, 171 F.3d 24, 32 (1st Cir. 1999) (following the D.C. Circuit Court’s decision in *Whren*); *United States v. Morris*, 259 F.3d 894, 898 (7th Cir. 2001) (“on remand and in the absence of special circumstances, a district court may address only (1) the issues remanded, (2) issues arising for the first time on remand, or (3) issues that were timely raised before the district court and/or appellate courts but which remain undecided.”); *United States v. Lee*, 358 F.3d 315, 320-324 (5th Cir. 2004) (“as a general rule, only those discrete, particular issues identified by the appeals court for remand are properly before the sentencing court” and any issues that have only become relevant by the court of appeals decision); *Pileggi*, 703 F.3d at 679 (“the mandate rule forecloses litigation of issues. . . foregone on appeal or otherwise waived, for example because they were not raised in the district court.”) (internal citations, quotations, and emphasis omitted).

The Second and Third Circuits take a hybrid approach. The Second Circuit holds that if a conviction is vacated, the default rule is that the resentencing is de novo. *United States v. Quintieri*, 306 F.3d 1217, 1228 (2d Cir. 2002). However, if the court of appeals vacates a sentence, the remand is limited and the law of the case doctrine dictates what may be raised in the district court and on any subsequent appeal. *Id.* at 1229. Therefore, if an issue was not raised on the initial appellate review even though it was ripe, “it is considered waived and the law of the case doctrine bars the district court on remand and an appellate court in a subsequent appeal from reopening” unless the mandate expressly permits. *Id.* The Second Circuit “explained that it would be absurd that a party who has chosen not to argue a point on a first appeal should stand better as regards the law of the case than one who has argued and lost.” *Id.* at 1229. (internal quotations and citations omitted). The Third Circuit follows a similar approach but suggests that not every reversal of a conviction should result in de novo resentencing. Although declining to adopt a default rule, the Third Circuit holds “that when the remand includes instructions to vacate at least one interdependent count of conviction, a de novo sentencing is appropriate.” *Id.* at 180.

2. The Court’s intervention is necessary to address a legal question that has divided the circuits for nearly 30 years. Given the length of time the circuits have been divided, the split is unlikely to resolve without this Court’s intervention. This Court should address this important issue now because as long as the circuit courts continue to interpret the mandate rule differently, criminal defendants will suffer disparate judgments based solely on their geographic location.

For its part, the government has acknowledged that “the practice in the courts of appeals is not uniform on the proper scope of resentencing when the court of appeals does not directly speak to the intended scope of proceedings on remand.” See Br. in Opp. at 10, *Palacios v. United States*, No. 18-5168 (Sept. 7, 2018). The government has nevertheless urged this Court to deny review, as it maintains that “the rules concerning resentencing on remand can appropriately be viewed as local rules,” which may permissibly differ from circuit to circuit. *Id.* at 11.

The government is wrong. The proper scope of remand is not a matter of local rules, and the courts of appeals have not treated it as such. The First, Second, Fourth, Fifth and Seventh Circuits ground their approach in the mandate rule, a corollary of the “law of the case” doctrine. See *Ticchiarelli*, 171 F.3d at 28-29 (quoting *United States v. Bell*, 988 F.2d 247, 250 (1st Cir. 1993)); *Quintieri*, 306 F.3d at 1229; *Pileggi*, 703 F.3d at 679; *Lee*, 358 F.3d at 320-321; *Morris*, 259 F.3d at 898. The Sixth, Ninth, and Eleventh Circuits rely on language from this Court to conclude that the law of the case doctrine does not apply to sentences that have been vacated because once a sentence is vacated “the slate is wiped clean.” See *United States v. McFalls*, 675 F.3d 599, 606 (6th Cir. 2012) (citing *Pepper v. United States*, 562 U.S. 476, 507 (2011)); *United States v. Tat*, 97 F.4th 1155, 1161 (9th Cir. 2024) (same); *Stinson*, 97 F.3d at 469 (quoting *North Carolina v. Pearce*, 395 U.S. 711, 721, 89 S.Ct. 2072, 2078 (1969)). The Fourth and Seventh Circuits, have rejected the argument that *Pepper*, 562 U.S. 476, abolishes the mandate rule. *Pileggi*, 703 F.3d at 680; *United States v. Barnes*, 660 F.3d 1000, 1006-1007 (7th Cir. 2011).

Additionally, as the government recognizes (*Palacios* BIO at 12 n.3), the D.C. Circuit and Tenth Circuit have limited the scope of remand in light of Federal Rule of Criminal Procedure 32(i)(1)(D), which allows new claims to be raised at any time before the imposition of sentence “for good cause.” See *United States v. McCoy*, 313 F.3d 561, 564-567 (D.C. Cir. 2002) (en banc); *United States v. Moore*, 83 F.3d 1231, 1235 (10th Cir. 1996). If the court of appeals considers its rule on the scope of resentencing to be compelled by the Federal Rules of Criminal Procedure, “that rule could not properly be viewed as a local rule of practice.” *Palacios* BIO at 12 n.3.

The split among the courts of appeals is thus not a matter of differing “local rules”; it reflects a real—and sustained—disagreement about a district court’s authority to address issues outside the scope of the appeal, absent express instructions to the contrary.

II. The question presented raises an important and recurring issue.

The question presented is important, as “the present disagreement among the Courts of Appeals means that similarly situated defendants may receive substantially different sentences depending on the jurisdiction in which they are sentenced.” *Longoria v. United States*, 141 S. Ct. 978, 979 (2021) (Sotomayor, J., joined by Gorsuch, J., respecting the denial of certiorari). This circuit split is also regularly implicated and is fundamental to criminal resentencing hearings. The scope of remand is central to every criminal defendant facing resentencing. This “unresolved division[] among the Courts of Appeals” on the issue presented here has “direct and severe consequences for defendants’ sentences.” *Guerrant v. United States*, 142 S. Ct. 640, 641 (2022) (Sotomayor, J., joined by Barrett, J., respecting the denial of certiorari).

This is a case in point, as Mr. Miclaus now faces a nearly \$900,000 restitution order that would not have been imposed in other circuits. At his original sentencing hearing, Miclaus raised an objection to restitution. The district court stated that “[no]body [was] asking for restitution here,” and the government’s attorney affirmed that it was not requesting restitution. (Pet. App. 100a). After calculating the guidelines range, the district court imposed a 216-month prison sentence and no restitution. (Pet. App. 91a-97a). Miclaus appealed and raised challenges to multiple guidelines enhancements and his aggravated identity theft convictions. (32a-59a). The government did not cross appeal. The Sixth Circuit affirmed Miclaus’ convictions but found several of the enhancements were incorrectly applied. (Pet. App. 58a-59a). The Court vacated Miclaus’ sentence and remanded for resentencing under the correct guidelines. (Pet. App. 59a).

On remand, the district court found that it must hold a *de novo* resentencing based on the law in the Sixth Circuit. (Pet. App. 27a-28a). The government then requested more than \$850,000 in restitution. (Pet. App. 30a). The district court reimposed the same 216-month prison sentence and ordered \$853,651.99 in restitution. (Pet. 19a, 23a). Miclaus appealed the order of restitution. The Sixth Circuit upheld the imposition of restitution on remand despite the government’s affirmative waiver at the initial sentencing hearing because vacating his sentence “effectively wipes the slate clean, thus permitting parties to advance arguments they may have forfeited or

waived at the prior sentencing.” (Pet. App. 7a). The exact opposite would have happened if Miclaus were in the First, Second, Third, Fourth, Fifth, Seventh, or D.C. Circuits.

The Fourth Circuit’s decision in *Pileggi*, 703 F.3d 675, is illustrative. Giuseppe Pileggi appealed his 600-month sentence to the Fourth Circuit. *Pileggi*, 703 F.3d 675. Although the district court had imposed a restitution order of just over \$4 million, Pileggi did not raise restitution as an issue on appeal. The government did not cross appeal. *Id.* at 678. The Fourth Circuit vacated Pileggi’s sentence finding the 600-month sentence was based on clearly erroneous facts about an agreement the prosecutor had with Costa Rica. *Id.*

On remand, the district court imposed a 300-month sentence, and the government requested a hearing on the issue of restitution. *Id.* The government asked the district court to impose \$20 million in restitution based on a subsequent analysis of the records. *Id.* at 678-679. After a hearing, the district court increased the restitution order to \$20,726,005.18. *Id.* at 679. Pileggi appealed, arguing that the district court lacked the authority to reconsider the restitution amount on remand. *Id.* The Fourth Circuit agreed, reasoning that the “mandate rule ‘forecloses litigation of issues . . . *forgone on appeal or otherwise waived*, for example because they were not raised in the district court.” *Id.* at 679. Because neither party had raised the issue of restitution on appeal, “the government is not permitted to ‘use the accident of remand to raise . . . an issue that [it] could just as well have raised in the first appeal.” *Id.* at 680. The prior appellate opinion only vacated Pileggi’s 600-month sentence and did not address

the order of restitution. *Id.* at 680. The Fourth Circuit vacated the restitution order and remanded the case with instructions for the district court to reimpose the original restitution amount. *Id.* at 683-684. Pileggi's \$20 million restitution order would have been affirmed if he were in the Sixth, Eighth, Ninth, Tenth, or Eleventh Circuits.

Had Miclaus had the good fortune of being in the First, Second, Third, Fourth, Fifth, Seventh, or D.C. Circuits, he would not have been liable for nearly \$900,000 in restitution. By contrast, Pileggi would have been responsible for more than \$20 million in restitution if he were in the Sixth, Eighth, Ninth, Tenth, or Eleventh Circuits.

Because circuit split on the scope of remand is not grounded in the local rules of the circuit courts but is an important and reoccurring legal issue that is fundamental to criminal resentencing hearings, this Court should grant review.

III. The decision below is wrong.

The decision below is wrong. It conflicts with the mandate rule. In addition, it is deeply inequitable and inefficient.

1. "Few legal precepts are as firmly established as the doctrine that the mandate of a higher court is 'controlling as to matters within its compass.'" *United States v. Bell*, 5 F.3d 64, 66 (4th Cir. 1993) (quoting *Sprague v. Ticonic Nat'l Bank*, 307 U.S. 161, 168 (1939)). This mandate rule is "a specific application of the general doctrine of the law of the case." *Lee*, 358 F.3d at 321. The mandate rule "compels compliance with the dictates of the superior court and forecloses litigation of issues expressly or impliedly decided by the appellate court," this includes "both the letter and the spirit of the . . . mandate, taking into account [the] opinion and the circumstances it embraces." *Bell*, 5 F.3d at 66. (internal quotation marks and citation omitted).

The law of the case doctrine also holds that “findings and conclusions that are not appealed and are not related to the issues on appeal are treated as settled, unless they fall within an exception to the law of the case doctrine.” *Ticchiarelli*, 171 F.3d at 29. Specifically, a party has not waived an issue if they had no reason to raise it at the initial sentencing or if the court of appeals decision “has breathed life into a previously dormant issue.” *Id.* at 32 (quoting *Whren*, 111 F.3d at 960).

2. Following the default limited remand rule of the First, Fourth, Fifth, Seventh, and D.C. Circuits also best serves both equity and judicial efficiency. Because parties are required to raise all relevant issues at the original sentencing hearing and articulate any errors in the first appeal, this allows each party to have early notice of the other party’s position and allows the district court to “resolve all material issues early on—when the record is fresh in mind.” *Whren*, 111 F.3d at 959-960. Issues that are waived by a party remained waived on remand, unless it only became relevant on remand. *Id.* at 959-960.

A de novo remand is “in essence a license for the parties to introduce issues, arguments, and evidence that they should have introduced at the original sentencing hearing.” *Whren*, 111 F.3d at 959. This is unequitable. It allows the parties to “use the accident of remand as an opportunity to reopen waived issues.” *Morris*, 259 F.3d at 898. It does nothing more than provide a party with a second bite of the apple. *United States v. Marmolejo*, 139 F.3d 528, 531 (5th Cir. 1998) (citing *Whren*, 111 F.3d at 959). Allowing a party to resurrect waived issues has the “anomalous” effect

of putting the party in a better position for having neglected to raise a relevant argument. *Whren*, 111 F.3d at 960.

The de novo approach is also inefficient. Judicial economy is not served by allowing the parties to relitigate issues that have been waived or already resolved and not challenged. *Marmolejo*, 139 F.3d at 531. “There is no reason to require a district court to plow through the same arguments, take the same evidence, and make the same findings that it has already made in the original sentencing where such an effort would serve no purpose.” *United States v. Susi*, 674 F.3d 278, 286 (4th Cir. 2012).

Because the Sixth Circuit’s default de novo rule is inconsistent with the law of the case doctrine, and is inequitable and judicially ineffective in practice, this Court should grant review and adopt the rule used by First, Fourth, Fifth, Seventh, and D.C. Circuits, which holds that on remand and “in the absence of special circumstances, a district court may address only (1) the issues remanded, (2) issues arising for the first time on remand, or (3) issues that were timely raised before the district court and/or appellate courts but which remain undecided.” *Morris*, 259 F.3d at 898

IV. This case is a strong vehicle for resolving the question presented.

Without the default de novo rule of the Sixth Circuit, the district court would not have been able to revisit the restitution order. In upholding the imposition of restitution on remand, the Sixth Circuit recognized that circuits are split on the scope of remand but that the law in the Sixth Circuit is “long settled and clear.” (Pet. App. 7). Because the outcome of Miclaus’ appeal turns on the scope of the remand, this case is the right vehicle for the Court to review and decide the question presented.

CONCLUSION

The Court should grant the petition.

Respectfully submitted,

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