

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

MUNSON P. HUNTER, III,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

In *Hunter v. United States*, 608 U.S. 713 (2026), this Court held that an appeal waiver in a plea agreement is unenforceable when it would result in a “miscarriage of justice,” which would occur when leaving in place the kind of “obvious” and “egregious” error “that would bring the judicial system into disrepute.” *Id.* at 724. This Court remanded for the Fifth Circuit to decide whether enforcing petitioner’s appeal waiver – which would leave intact a special condition of supervised release requiring him to take any psychotropic medication that a physician prescribes, over his objection and without any particularized, medically-grounded findings by the sentencing court – would constitute such a miscarriage of justice. The Fifth Circuit held that it would not, concluding that neither its precedent nor this Court’s precedent establishes the constitutional error alleged by petitioner as an “obvious” error worthy of correcting notwithstanding the appellate waiver.

The questions presented are:

1. Whether, under this Court’s decision in *Hunter*, a sentencing error constitutes an “obvious” error rendering an appeal waiver potentially unenforceable as a “miscarriage of justice” only if controlling precedent of this Court or the court of appeals already has resolved the precise question.
2. Whether, under this Court’s decision in *Hunter*, a district court’s supervised release condition requiring a mentally competent, non-dangerous defendant to take psychotropic medication prescribed by a medical doctor – imposed over the defendant’s objection and without particularized, medically-grounded findings – is an “egregious” constitutional error that, if left uncorrected on appeal, would bring the judicial system into disrepute.

PARTIES TO THE PROCEEDING

The petitioner is Munson P. Hunter, III, the defendant-appellant below. The respondent is the United States of America, the plaintiff-appellee below. There were no other parties in the court below.

STATEMENT OF RELATED PROCEEDINGS

This case arises from the following proceedings:

- *United States v. Hunter*, No. 4:23-cr-00085 (S.D. Tex. May 13, 2024) (entering judgment of conviction and sentence).
- *United States v. Hunter*, No. 24-20211 (5th Cir. Dec. 6, 2024) (dismissing appeal based on appeal waiver).
- *United States v. Hunter*, 183 F.4th 416 (5th Cir. July 29, 2026) (on remand from *Hunter v. United States*, 608 U.S. 713 (2026)).

There are no other proceedings in state or federal trial or appellate courts, or in this Court, directly related to this case within the meaning of this Court's Rule 14.1(b)(iii).

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The 2026 opinion of the court of appeals on remand from this Court (App. A) is published at *United States v. Hunter*, 183 F.4th 416 (5th Cir. 2026). The original 2024 opinion of the court of appeals (App. B) is unreported but available at 2024 WL 5003582. The district court’s judgment of conviction and sentence (App. C) is unreported.

JURISDICTION

The court of appeals’ judgment was entered on July 29, 2026. No petition for rehearing was filed. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution provides, in relevant part: “No person shall be ... deprived of life, liberty, or property, without due process of law”

18 U.S.C. § 3583(d) provides, in relevant part:

The court shall order, as an explicit condition of supervised release, that the defendant not commit another Federal, State, or local crime during the term of supervision, and that the defendant not unlawfully possess a controlled substance. The court shall order as an explicit condition of supervised release for a defendant convicted for the first time of a domestic violence crime ... that the defendant attend a public, private, or nonprofit offender rehabilitation program The court may order, as a further condition of supervised release, to the extent that such condition—(1) is reasonably related to the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), and (a)(2)(D); (2) involves no greater deprivation of liberty than is reasonably necessary for the purposes set forth in section 3553(a)(2)(B), (a)(2)(C), and (a)(2)(D); and (3) is

consistent with any pertinent policy statements issued by the Sentencing Commission

18 U.S.C. § 3583(d).

18 U.S.C. § 3563(b)(9) provides that a court may require a defendant to “undergo available medical, psychiatric, or psychological treatment, including treatment for drug or alcohol dependency, as specified by the court, and remain in a specified institution if required for that purpose.”

STATEMENT

This case returns to this Court for the second time. In *Hunter v. United States*, 608 U.S. 713 (2026), this Court held that appeal waivers in plea agreements are unenforceable when they would result in a “miscarriage of justice,” vacated the Fifth Circuit’s decision, and remanded for the Fifth Circuit to decide whether enforcing petitioner’s waiver would produce such a miscarriage. *Id.* at 730. On remand, the Fifth Circuit said no. App. A. In doing so, the court below adopted a cramped reading of this Court’s opinion that threatens to render the miscarriage-of-justice safety valve a dead letter – particularly for conditions of supervised release that implicate fundamental constitutional rights.

A. The Guilty Plea, Sentencing, and Medication Condition

On February 14, 2024, petitioner Munson P. Hunter, III, pleaded guilty to one count of aiding and abetting wire fraud in the U.S. District Court for the Southern District of Texas. ROA.178.¹ Petitioner’s written plea agreement provided, in

¹ The record on appeal in the Fifth Circuit is cited as “ROA” followed by the page number assigned by the Fifth Circuit clerk.

relevant part: “Defendant knowingly and voluntarily waives the right to appeal or ‘collaterally attack’ the conviction and sentence, except that Defendant does not waive the right to raise a claim of ineffective assistance of counsel, if otherwise permitted, or on collateral review in a motion under Title 28, United States Code, section 2255.” ROA.217-18.

The probation officer’s presentence report (PSR) recommended, as a special condition of supervised release, that petitioner “take all mental health medications that are prescribed by [his] treating physician.” ROA.280. This condition was “recommended due to the defendant’s self-reported history of mental health diagnoses and will assist the probation officer in providing services to the defendant while on supervision.” *Ibid.* It is important to note, however, that there was no individualized medical assessment concerning petitioner or the need for him to be medicated – either at the time of sentencing or upon his future release from prison. In particular, no physician had recommended medication. And the PSR made no finding that medication was medically necessary or that compelled medication would further any legitimate penological goal.

At sentencing on May 10, 2024, petitioner objected to the condition: “I want to take mental health programs, but I don’t want to take any medication. I don’t drink. I don’t use drugs. I don’t even curse. I don’t want to have to be forced to medicate.” ROA.200. The district court overruled the objection:

Well, if you’re going to participate in mental health treatment and the treatment provider prescribes drugs, you should take them. If there’s a dispute, you can address it to the probation officer. If the probation officer can’t resolve the dispute, you can address it to me.

Ibid. The court made no findings whatsoever: no finding of medical necessity; no finding that forced medication would serve any legitimate governmental interest; and no finding that the condition involved no greater deprivation of liberty than reasonably necessary. The court simply imposed the condition as written in the PSR. App. C, at 4.

The district court sentenced petitioner to 51 months' imprisonment, three years' supervised release, and \$235,438.83 in restitution. ROA.213.²

B. The Initial Appeal to the Fifth Circuit and this Court

Petitioner appealed to the Fifth Circuit, arguing that the mandatory-medication condition of his supervised release terms “infringes on [his] fundamental due process liberty interest in being free of unwanted mental health medication.” *United States v. Hunter*, No. 24-20211 (5th Cir. Aug. 8, 2024), Doc. 19, at 9. As relevant here, petitioner contended that the appeal waiver did not bar his constitutional claim. *Id.* at 6-9. Petitioner acknowledged the Fifth Circuit's contrary precedent. *See id.* at 9 nn. 5 & 6. The government moved to dismiss petitioner's appeal, contending only that petitioner had waived his appellate right. *See United States v. Hunter*, No. 24-20211 (5th Cir. Sept. 12, 2024), Doc. 29. The Fifth Circuit dismissed the appeal. App. B.

This Court granted certiorari and, on June 18, 2026, vacated the Fifth Circuit's judgment and remanded. *Hunter v. United States*, 608 U.S. 713 (2026). This Court

² Petitioner, who was released from the custody of the Federal Bureau of Prisons on May 8, 2026, is now serving his three-year term of supervised release.

held that an appeal waiver in a plea agreement is unenforceable “when it would result in a miscarriage of justice” – “when it would leave in place the kind of egregious error that would bring the judicial system into disrepute.” *Id.* at 717. The Court explained that “[t]he error must be obvious – not one a judge could reasonably make. And it must be of the type that would undermine public confidence in the judiciary.” *Id.* at 727.³ This Court described the standard as a “[h]igh bar,” yet noted that a “[h]igh bar is not the same as an insurmountable one” and also referred to the standard as a “safety valve for extreme cases.” *Ibid.*

The Court offered “examples” of errors that would qualify, expressly cautioning that they were “just examples, not intended to be exclusive.” *Id.* at 728. These included “a sentence that exceeds the statutory maximum”; “a sentence that is infected with a blatant constitutional error, such as when a judge takes account of a constitutionally impermissible factor (like race) or imposes a constitutionally infirm condition of supervised release (like barring a defendant from becoming pregnant)”; and “a sentence imposed without the minimum civilized procedure.” *Ibid.* (citation omitted). Notably, the pregnancy-prohibition example was drawn not from

³ Although this Court did not explicitly align the miscarriage of justice standard with the “plain-error” standard, its references to “obvious” constitutional errors and those “that would bring the judicial system into disrepute” or “undermine public confidence in the judiciary” indicate that the errors that should excuse an appeal waiver are the same type that would warrant reversal under the familiar plain-error standard. According to the canonical definition, “plain” errors are “‘clear’ or ... ‘obvious’” errors raised for the first time on appeal that warrant correction if they “seriously affect the fairness, integrity or *public reputation of judicial proceedings*.” *United States v. Olano*, 507 U.S. 725, 734, 736 (1993) (emphasis added). And the discretion to reverse convictions for plain error “should be employed in those circumstances in which a *miscarriage of justice* would otherwise result.” *Id.* at 736 (citations and internal quotation marks omitted) (emphasis added); see also *United States v. Gonzalez-Huerta*, 403 F.3d 727, 736-40 (10th Cir. 2005) (en banc).

controlling federal precedent but from a California intermediate appellate decision. *See People v. Zaring*, 8 Cal. App. 4th 362 (1992). *Hunter*, 608 U.S. at 727.

This Court remanded with an express directive: “It is therefore now up to the Fifth Circuit to decide whether enforcing Hunter’s appeal waiver would result in a miscarriage of justice.” *Id.* at 730.

Justice Gorsuch, joined by Justices Sotomayor and Jackson, concurred. He wrote that “a defendant may be able to appeal a sentence imposing a condition of release that violates his right to be free from forced medication.” *Hunter*, 608 U.S. at 739 (Gorsuch, J., concurring). He stated that a miscarriage of justice would be “all but certain to arise whenever a sentence infringes a constitutional right that was ‘firmly established at the time of sentencing.’” *Id.* at 739 (quoting *United States v. Carter*, 87 F.4th 217, 225 (4th Cir. 2023)). Justice Gorsuch further noted that a miscarriage arises for conditions “wholly unrelated to legitimate sentencing purposes” or “lacking in rationality.” *Ibid.* (citing *United States v. Boudreau*, 58 F.4th 26, 33 (1st Cir. 2023)). He observed that the district court “did not find that forcing Mr. Hunter to take psychiatric medication against his will would further any particular goal of criminal punishment.” *Id.* at 732. Justice Kavanaugh, joined by Justice Alito and Justice Barrett, concurred separately, emphasizing the “high bar” but disagreeing with Justice Gorsuch’s articulation of a lower threshold. *Id.* at 745 (Kavanaugh, J., concurring).

C. The Proceedings on Remand and the Decision Below

On remand, the Fifth Circuit ordered supplemental letter briefs on whether enforcing the appeal waiver would constitute a miscarriage of justice. In his letter

briefs, petitioner argued that the medication condition satisfies the “miscarriage of justice” standard on both constitutional and statutory grounds. He explained that the district court imposed the condition without any of the particularized, medically grounded findings that multiple circuits require before compelling a defendant to take psychotropic medication – findings such as those this Court has required in *Washington v. Harper*, 494 U.S. 210 (1990), *Riggins v. Nevada*, 504 U.S. 127 (1992), and *Sell v. United States*, 539 U.S. 166 (2003), when the government seeks to administer psychotropic drugs over an incarcerated person’s objection. Petitioner further contended that a defendant on supervised release has at least as much – *if not more* – of a “liberty interest” in avoiding unwanted medication than a prisoner. *See Johnson v. United States*, 529 U.S. 694, 708-09 (2000) (noting that Congress intended “supervised release after incarceration ... to improve the odds of a successful transition *from the prison to liberty*”) (emphasis added). He further showed that the Fifth Circuit’s own plain-error cases regularly have vacated unsupported conditions of supervised release involving liberty interests. *See, e.g., United States v. Bree*, 927 F.3d 856, 861-62 (5th Cir. 2019); *United States v. Gordon*, 838 F.3d 597, 604-05 (5th Cir. 2016). *See United States v. Hunter*, No. 24-20211 (5th Cir. June 30, 2026), Doc. 70, at 1-10; *United States v. Hunter*, No. 24-20211 (5th Cir. July 6, 2026), Doc. 75, at 1-3.

On July 29, 2026, the Fifth Circuit issued a published opinion enforcing the appeal waiver and dismissing petitioner’s appeal. *Hunter*, 183 F.4th 416 (Davis, J., joined by Smith and Higginson, JJ.). The court’s analysis proceeded in two steps.

First, the court acknowledged that supervisees retain a “significant liberty interest” in avoiding unwanted medication. *Id.* at 420-21. But it held that the medication condition was not a “blatant constitutional error” because “neither the Supreme Court nor [the Fifth Circuit] ha[s] addressed the constitutional standard for requiring a defendant to take medication as a condition of supervised release.” *Id.* at 420. The court deemed *Harper* and *Sell* “distinguishable” because those cases involved prisoners and pretrial detainees, not supervisees, and reasoned that persons on supervised release lack the “full panoply of rights” available to free citizens. *Id.* at 420 (citing *United States v. Giglio*, 126 F.4th 1039 (5th Cir. 2025), and *Samson v. California*, 547 U.S. 843 (2006)). The court dismissed petitioner’s authorities as “out-of-circuit case law,” relegating to a footnote the decisions of the Sixth, Ninth, and Tenth Circuits that establish constitutional standards for medication conditions. *Hunter*, 183 F.4th at 419 n.14.

The Fifth Circuit held that “an error is clear or obvious only if it is apparent under controlling law and does not require an extension of precedent.” *Id.* at 420 & n.24 (citing *United States v. Evans*, 587 F.3d 667, 671 (5th Cir. 2009)). It analogized to the federal habeas corpus standard (28 U.S.C. § 2254(d)(1)), under which state courts do not violate “clearly established Federal law” if this Court’s cases “give no clear answer.” *Id.* at 420 n.24 (citing *Wright v. Van Patten*, 552 U.S. 120, 126 (2008)).

As a second step to their analysis, the court then conducted what it called a “balanc[ing]” of the medication condition’s features. *Hunter*, 183 F.4th at 420-22. It identified a purported nexus between the condition and government interests in

promoting health and reducing recidivism – *a rationale that the district court never articulated*. It emphasized that the condition was “modifiable” because petitioner could raise disputes about medication with his probation officer or the court. *Id.* at 421. And it noted that the condition is limited to physician-prescribed medication. *Ibid.* It also introduced a novel “prevalence” factor, reasoning that the medication condition is “broadly imposed ... as a ‘stock’ special condition,” appears in the Administrative Office’s national template and the Southern District of Texas General Order No. 2017-10, and that this “widespread imposition ... is strong evidence that this is not an ‘extreme case.’” *Id.* at 421-22 (quoting *United States v. Malone*, 937 F.3d 1325, 1328 (10th Cir. 2019)). Finally, the court held that the medication condition “bears no resemblance” to the race-based and pregnancy-prohibition examples given in this Court’s decision because those “stem from extreme animus or prejudice.” *Id.* at 422.

Regarding petitioner’s statutory argument, the Fifth Circuit also rejected petitioner’s argument that the medication condition was imposed in violation of 18 U.S.C. § 3583(d), characterizing any such error as “standard-fare.” 183 F.4th at 423. It found a “nexus” between the condition and sentencing factors, distinguished *Gordon* and *Bree* (which vacated conditions with no record support), and relied on *United States v. Rocha*, 732 F. App’x 291 (5th Cir. 2018). *Hunter*, 183 F.4th at 423.

REASONS FOR GRANTING THE PETITION

In petitioner’s first appeal, this Court announced a new standard governing the exceptions to the enforceability of appeal waivers, declaring that the miscarriage-of-justice exception provides a “safety valve for extreme cases” (and observing that a “[h]igh bar is not the same as an insurmountable one”). *Hunter*, 608 U.S. at 728. The Fifth Circuit has already rendered that safety valve effectively insurmountable in all but the very rarest of cases. This Court should grant certiorari.

I. The Fifth Circuit’s Decision Misreads this Court’s Decision in *Hunter* and Converts the Miscarriage-of-Justice Safety Valve into a Virtually Insurmountable Bar.

A. The Fifth Circuit Applied an Unduly Demanding Standard.

The Fifth Circuit held that a sentencing error cannot be “clear or obvious” unless it is “apparent under controlling law” and “does not require an extension of precedent.” *Hunter*, 183 F.4th at 420 & n.24 (citing *Evans*, 587 F.3d at 671). It reinforced this limitation by analogizing to the federal habeas corpus standard under 28 U.S.C. § 2254(d)(1), under which relief is unavailable if this Court’s “clearly established” precedent “give[s] no clear answer.” *Ibid.* (citing *Wright v. Van Patten*, 552 U.S. at 126). This reasoning was error for at least three reasons.

First, this Court’s decision in *Hunter* does not require that a constitutional error be “apparent under controlling law” to the degree that it “does not require an extension of precedent.” While the miscarriage standard shares the plain error

standard’s concern for errors that are “obvious”⁴ and that call the judiciary into disrepute if left uncorrected, *Hunter*, 608 U.S. at 727, the standard does not strictly prohibit any “extension of precedent.” The Fifth Circuit’s AEDPA analogy is erroneous. AEDPA’s “clearly established Federal law” standard is a deliberately deferential standard of *federal habeas* review designed to respect state-court judgments under principles of comity and finality. See 28 U.S.C. § 2254(d)(1). Nothing in this Court’s decision in *Hunter* suggests that this Court intended to import that framework into the interpretation of contractual waiver provisions in federal plea agreements. To do so would perversely give federal sentencing errors *more* insulation from review than state-court errors receive on federal habeas corpus review. Moreover, even in the federal habeas context, extensions of precedent are not entirely prohibited. See, e.g., *Andrew v. White*, 604 U.S. 86, 94 (2025) (per curiam) (“General legal principles can constitute clearly established law for purposes of AEDPA”).

Notably, several other federal circuit courts do not limit what is “plain” or “obvious” error under the plain-error standard to errors *precisely dictated* by binding

⁴ Significantly, the “plain error” case on which Federal Rule of Criminal Procedure 52(b)’s language is based did not require **both** “obvious” error **and** an error that, if left uncorrected, would bring the judiciary into disrepute. It required only either of them. See *United States v. Atkinson*, 297 U.S. 157, 160 (1936) (“In exceptional circumstances, especially in criminal cases, appellate courts, in the public interest, may, of their own motion, notice errors to which no exception has been taken, if the errors are obvious, **or** if they **otherwise** seriously affect the fairness, integrity, or public reputation of judicial proceedings.”) (emphasis added); see *United States v. Young*, 470 U.S. 1, 7 (1985) (noting that the “standard laid down in *United States v. Atkinson* [was] codified in Federal Rule of Criminal Procedure 52(b)”). See also *Troupe v. Chicago, D. & G. Bay Transit Co.*, 234 F.2d 253, 261 (2d Cir. 1956) (Frank, J., concurring) (noting that *Atkinson* “set forth, in the disjunctive, two grounds for reviewing such errors: (1) ‘the errors are obvious or (2) they otherwise seriously affect the fairness, integrity, or public reputation of judicial proceedings’”).

precedent of this Court or the governing circuit if there is a clearly established “legal norm” or “legal principle” that the district court violated. *See, e.g., United States v. Jabateh*, 974 F.3d 281, 299 (3d Cir. 2020) (noting “lack of precedent alone will not prevent us from finding plain error” if the legal norm is clear enough); *United States v. Pabon*, 819 F.3d 26, 34 (1st Cir. 2016); *United States v. Brown*, 352 F.3d 654, 664-65 (2d Cir. 2003) (“The ‘plainness’ of the error can depend on well-settled legal principles as much as well-settled legal precedents”); *cf. United States v. Coston*, 964 F.3d 289, 294 (4th Cir. 2020) (error can be “plain” based on decisions of other courts of appeals). The Fifth Circuit’s decision in petitioner’s case conflicts with those decisions.

Second, the “no extension of precedent” rule is self-perpetuating in this context. As Justice Gorsuch recognized, appeal waivers are “ubiquitous” in federal plea agreements and are present in the vast majority of the 97% of federal convictions that result from guilty pleas. *Hunter*, 608 U.S. at 736-37 (Gorsuch, J., concurring). But when waivers prevent appellate courts from reaching the merits of constitutional claims, those claims never generate the “controlling precedent” that the Fifth Circuit demands. The waiver thus stunts the growth of appellate law. *See* Nancy J. King & Michael E. O’Neill, *Appeal Waivers and the Future of Sentencing Policy*, 55 Duke L.J. 209, 251-53 (2005). The Fifth Circuit’s rule promotes this doctrinal vacuum: the less precedent there is, the harder it is to show “obvious” error; and the harder it is to show obvious error, the less precedent will develop. This vicious circle seems at odds with the “safety valve” this Court intended.

Third, the Fifth Circuit’s approach is irreconcilable with this Court’s own examples. The majority cited the prohibition on becoming pregnant as an example of a “constitutionally infirm condition of supervised release.” *Hunter*, 608 U.S. at 727-28. But that example did not come from “controlling” federal precedent. It came from *People v. Zaring*, 8 Cal. App. 4th 362 (1992), a California intermediate appellate court decision. If an error can be “obvious” based on a state intermediate court’s reasoning, it surely can be “obvious” when multiple federal circuits and this Court’s own precedents recognizing the liberty interest in bodily integrity compel the same conclusion.

B. The Fifth Circuit’s “Prevalence” Rationale Turns the Miscarriage-of-Justice Standard on its Head.

The Fifth Circuit reasoned that because the medication condition is a “stock” special condition – one that is “broadly imposed” by federal courts, appears in the Administrative Office’s national template, and is codified in a Southern District of Texas General Order – “widespread imposition of this exact condition is strong evidence that this is not an ‘extreme case.’” *Hunter*, 183 F.4th at 422. This reasoning turns this Court’s miscarriage-of-justice exception on its head.

If a condition is constitutionally deficient, the fact that it is imposed as boilerplate on thousands of defendants makes the error *more* – not less – threatening to the integrity of the judicial system. As the Tenth Circuit warned in *Malone*, the very case from which the Fifth Circuit drew its “stock” characterization, “[b]oth parties recognized that [the medication] condition is currently being broadly imposed as a ‘stock’ special condition” – and the court struck the condition *precisely because*

routine imposition without particularized findings “overlook[s] the constitutional implications.” *Malone*, 937 F.3d at 1328, 1330. The nationwide scope of a boilerplate error is what makes it systemic; it does not immunize the error from review.

This Court’s focus on conditions that would “bring the judicial system into disrepute” and “undermine public confidence in the judiciary,” *Hunter*, 608 U.S. at 727, is especially implicated by errors embedded in stock conditions. When a constitutional violation is hardwired into the bureaucratic machinery of sentencing – written into templates, general orders, and PSR boilerplate – the harm is not diminished by its prevalence. It is compounded by it.

C. The “Animus” Limitation Has No Basis in This Court’s Decision.

The Fifth Circuit attempted to distinguish the *Hunter* majority’s examples by characterizing them as cases “stem[ming] from extreme animus or prejudice.” *Hunter*, 183 F.4th at 422. But this Court said no such thing. The examples were offered as illustrations of “blatant constitutional error,” not of animus. *Hunter*, 608 U.S. at 728. A race-based sentence is constitutionally infirm because it violates equal protection, not merely because it reflects “animus.” And the pregnancy-prohibition example from *Zaring* was struck down as an impermissible “imposition of personal social values,” 8 Cal. App. 4th at 374-75, not because the sentencing judge harbored animosity. The Fifth Circuit’s gloss improperly narrows this Court’s miscarriage-of-justice exception to a subset of constitutional errors characterized by subjective bad faith, a limitation that this Court never adopted.

D. The Fifth Circuit Supplied Its Own *Post Hoc* Justifications.

The Fifth Circuit identified a “nexus” between the medication condition and government interests in health and recidivism prevention – but the district court never articulated these interests, never made findings connecting medication to those goals, and never assessed whether forced medication was the least restrictive means. *See Hunter*, 608 U.S. at 732 (Gorsuch, J., concurring, joined by Sotomayor & Jackson, JJ.) (noting that the district court “did not find that forcing Mr. Hunter to take psychiatric medication against his will would further any particular goal of criminal punishment”); *Hunter*, 183 F.4th at 421. The district court merely adopted the presentence report’s justification that the condition was required “due to the defendant’s self-reported history of mental health diagnoses and will assist the probation officer in providing services to the defendant while on supervision.” ROA.280.

The Fifth Circuit thus reviewed the condition’s reasonableness in the abstract rather than the district court’s actual reasoning (or absence thereof). This approach conflicts with the principle that appellate courts reviewing conditions of supervised release generally assess the specific reasoning articulated by the sentencing court, not post hoc rationalizations offered by the government (or the court of appeals *sua sponte*) on appeal. *See United States v. Sueiro*, 59 F.4th 132, 143-44 (4th Cir. 2023); *United States v. Betts*, 886 F.3d 198, 202 (2d Cir. 2018); *United States v. Siegel*, 753 F.3d 705, 711-13 (7th Cir. 2014); *United States v. Burroughs*, 613 F.3d 233, 244-45 (D.C. Cir. 2010); *United States v. Miller*, 594 F.3d 172, 184 (3d Cir. 2010); *cf. SEC v. Chenery Corp.*, 332 U.S. 194, 196 (1947) (“[I]n dealing with a determination or

judgment which an administrative agency alone is authorized to make, [a reviewing court] must judge the propriety of such action solely by the grounds invoked by the agency. If those grounds are inadequate or improper, the court is powerless to affirm the administrative action by substituting what it considers to be a more adequate or proper basis.”). If the miscarriage-of-justice inquiry can be satisfied by *post hoc* justifications that the sentencing court never offered, the requirement of *on-the-record* findings becomes meaningless.

II. The Fifth Circuit’s Refusal to Find “Obvious” Constitutional Error that, if Left Intact, Would Bring the Judiciary into Disrepute, Conflicts with Plain-Error Decisions of the Second and Tenth Circuits Involving Involuntary Medication Conditions.

Two other circuits – the Second and Tenth – have held that district courts’ medication conditions imposed in similar cases lacking particularized findings for the need for such conditions violated due process. Both those cases were decided in applying the plain-error standard, which, as noted above, has very similar requirements to this Court’s miscarriage-of-justice standard governing the enforceability of appeal waivers.

The Tenth Circuit held that a blanket medication condition imposed without particularized findings constitutes plain error affecting the “fairness, integrity, and public reputation of judicial proceedings.” *United States v. Malone*, 937 F.3d 1325, 1327–30 (10th Cir. 2019). In *Malone*, the Tenth Circuit struck an identical “stock” medication condition – the same boilerplate at issue in petitioner’s case – because the sentencing court made no individualized findings and the condition was not justified by “compelling circumstances.” *Id.* at 1330.

The Second Circuit recently agreed. In *United States v. McCrone*, 182 F.4th 254 (2d Cir. 2026), the court – reviewing for plain error – reversed a medication requirement embedded in a mental-health treatment condition that directed the defendant to “continue to take any prescribed medications unless otherwise instructed by the health care provider.” *Id.* at 262. The district court “provided no individualized explanation of the medication requirement,” its “rationale [was] not self-evident from the record,” and the court of appeals saw “nothing in the record that could support” it. *Id.* Recognizing that the condition “potentially imposes a substantial burden on McCrone’s liberty” interest in refusing unwanted medication, the court held that such a requirement “can only stand if the district court makes a medically grounded finding that the condition is ‘necessary to accomplish one or more of the factors listed in § 3583(d)(1),’” and a finding that it “involves no greater deprivation of liberty than is reasonably necessary.” *Id.* at 264 (quoting *United States v. Williams*, 356 F.3d 1045, 1057 (9th Cir. 2004)). Determining no such findings, the court remanded with instructions to strike the medication requirement. *Id.* at 263-64.

Conversely, the Fifth Circuit refused to find “obvious” error in the medication condition even when there were no particularized findings by the sentencing court justifying it. *Hunter*, 183 F.4th at 419-22.

III. The Questions Presented Are Important and Recurring.

The questions presented in petitioner’s case sit at the intersection of two features of the modern federal criminal system: the dominance of plea bargaining and

the prevalence of boilerplate supervised-release conditions that implicate fundamental rights. They affect countless federal defendants.

The constitutional right at stake is fundamental. This Court has long recognized that forced psychotropic medication “represents a substantial interference with that person’s liberty.” *Harper*, 494 U.S. at 229; *see also Sell*, 539 U.S. at 178-79 (recognizing an individual’s “significant” interest in “avoiding the unwanted administration of antipsychotic drugs” as an interest that is “essential” or “overriding”); *Riggins*, 504 U.S. at 134-35 (forced mental health medication during trial requires showing of “overriding justification and a determination of medical appropriateness”). As then-Judge Cardozo observed over a century ago, “[e]very human being of adult years and sound mind has a right to determine what shall be done with his own body.” *Schloendorff v. Society of N.Y. Hospital*, 211 N.Y. 125, 129 (N.Y. 1914). Or as this Court put it in *Cruzan by Cruzan v. Director, Missouri Dept. of Health*, 497 U.S. 261 (1990): “No right is held more sacred, or is more carefully guarded, by the common law, than the right of every individual to the possession and control of his own person.” 497 U.S. at 269 (quoting *Union Pacific R. Co. v. Botsford*, 141 U.S. 250, 251 (1891)).

The condition is pervasive. The medication condition – or a materially identical variant – appears in the Administrative Office of the U.S. Courts’ standard template for supervised-release conditions, which is used nationwide. *See Overview of Probation and Supervised Release Conditions*, Chapter 3.⁵ The Southern District

⁵ Available at: <https://www.uscourts.gov/about-federal-courts/probation-and-pretrial-services/post-conviction-supervision/overview-probation-and-supervised-release-conditions>

of Texas has codified it as part of its General Order No. 2017-10. Countless federal supervisees are subject to this condition at any given time. The constitutional infirmity identified here is not an idiosyncratic error; it is a nationwide, systemic practice.

The plea-bargaining context amplifies the importance of the questions.

Approximately 97% of federal criminal convictions result from guilty pleas, and the “vast majority” of plea agreements include appeal waivers. *See Hunter*, 608 U.S. at 736-37 (Gorsuch, J., concurring). If the miscarriage-of-justice exception does not reach constitutional errors in conditions of supervised release, the combined effect of boilerplate waivers and boilerplate conditions will be to insulate a vast category of constitutional violations from any appellate review whatsoever.

IV. Petitioner’s Case Is an Ideal Vehicle.

This case is an exceptionally clean vehicle for resolving the two questions presented. Petitioner objected to the medication condition at sentencing. The issue was squarely presented to the Fifth Circuit on remand and fully briefed. The Fifth Circuit issued a published decision. This Court has already taken the case once and remanded for the specific determination at issue.

V. The Decision Below Is Wrong.

The medication condition is a textbook miscarriage of justice under this Court’s framework. The district court ordered petitioner – a competent, non-dangerous individual who affirmatively objects to being forced to take psychotropic medication – to take any psychotropic medication that any treating physician prescribes. It did

so without making a single finding: no finding of medical necessity, no finding that forced medication would serve a penological interest, no finding that the condition involved no greater deprivation of liberty than reasonably necessary. 18 U.S.C. § 3583(d). The district court’s entire analysis was: “Well, if you’re going to participate in mental health treatment and the treatment provider prescribes drugs, you should take them.” ROA.200-01.

That is not a finding. It is an assertion of authority. And it collides with decades of this Court’s precedent recognizing that the forcible administration of psychotropic medication requires, at a minimum, an individualized determination supported by constitutionally adequate justification. *See Harper*, 494 U.S. at 221–22 (requiring determination that the individual is “dangerous” and that medication is “in the [individual’s] medical interest”); *Sell*, 539 U.S. at 179-81 (requiring court findings that medication is “medically appropriate” and “unlikely to have side effects that will interfere significantly” with the individual’s rights); *Riggins*, 504 U.S. at 135 (requiring “overriding justification and a determination of medical appropriateness”).

The error is “obvious.” This Court need not “extend” *Harper*, *Riggins*, or *Sell* to reach it. Those cases establish a firmly settled constitutional principle: the government may not force psychotropic medication on an unwilling individual without particularized justification. Whether the individual is a prisoner, a pretrial detainee, or a federal supervisee, the constitutional floor is the same: a finding by a court that forced medication is medically justified and the least restrictive alternative. The district court here made *no* meaningful findings at all.

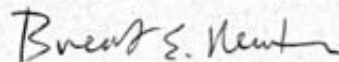
As Justice Gorsuch recognized, a miscarriage of justice is “all but certain” whenever a sentence infringes a constitutional right that was “firmly established at the time of sentencing.” *Hunter*, 608 U.S. at 739 (Gorsuch, J., concurring). The right to refuse unwanted psychotropic medication without sufficient medically-grounded findings by a court is firmly established. *Riggins*, 504 U.S. at 134-35; *Sell*, 539 U.S. at 178-79. The district court clearly violated that fundamental right in petitioner’s case. It would be a miscarriage of justice to leave that condition intact because of the appeal waiver provision in petitioner’s plea agreement.

CONCLUSION

The petition for a writ of certiorari should be granted.

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Respectfully submitted,



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