NO. _____

In the Supreme Court of the United States

RYAN SCOTT,

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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QUESTION PRESENTED

Whether the federal restitution statutes codified at 18 U.S.C. §§ 3663 & 3663A authorize an order directing a defendant who stole cash proceeds from illegal drug sales to repay the victim.

PARTIES TO THE PROCEEDING

Petitioner Ryan Scott is an individual who was the Defendant-Appellant below. Respondent United States of America was the Plaintiff-Appellee below. No party is a corporation.

DIRECTLY RELATED PROCEEDINGS

United States v. Scott, No. 5:24-CR-54-2 (N.D. Tex. Nov. 6, 2025)

United States v. Scott, No. 25-11283 (5th Cir. Aug. 5, 2026)

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Ryan Scott asks the Court to issue a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINIONS BELOW

The order below was not selected for publication. It is reprinted on page 1a of the appendix.

JURISDICTION

The Fifth Circuit entered its judgment on August 5, 2026. This petition is timely under S. Ct. R. 13.1. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

This case involves interpretation and application of 18 U.S.C. §§ 3663 and 3663A, and 21 U.S.C. § 881. Those provisions are reprinted on pages 14a–21aa of the Appendix.

STATEMENT

After Petitioner Ryan Scott pleaded guilty to participating in a violent kidnapping, the district court ordered him to serve 21 years in prison and to pay $4,000 in restitution. Petitioner waived many of his appellate rights, but explicitly reserved the right to appeal "a sentence exceeding the statutory maximum." 5th Cir. Sealed R. 276. On appeal, he challenged the propriety of the restitution award, arguing that it was not authorized by statute. The Fifth Circuit granted Respondent's opposed motion to dismiss. App., *infra*, 1a.

1. Petitioner, accompanied two co-defendants, burst into a house on January 28, 2024, looking to recover guns that had been stolen by members of a rival gang. 5th Cir. R. 197–200. The men held the victim, identified below as "L.R.," at gunpoint while they searched the house. They did not find the stolen weapons, but they did find and take $4,000 in cash hidden under a mattress. 5th Cir. R. 198.

2. The defendants then took the victim, at gunpoint, away from that house to another location and demanded a $3,000 ransom from her brother. 5th Cir. R. 199–200. After they left to collect the ransom, the victim escaped. 5th Cir. R. 199. She did

not immediately contact police. TXND Sealed Doc. 75-1 at 5.[1] Police learned about the kidnapping from someone else, while investigating a confrontation involving a co-defendant the following day. TXND Doc. 75-1 at 5.

3. A federal grand jury indicted Mr. Scott and two co-defendants for conspiracy, kidnapping, and brandishing a firearm in furtherance of a crime of violence. 5th Cir. R. 160-163. In July 2025, Mr. Scott entered into a plea agreement and pleaded guilty to kidnapping in violation of 18 U.S.C. § 1201(a)(1). TXND Docs. 53–54; 5th Cir. R. 196–201. He agreed to pay restitution for any "relevant conduct" and waived many appellate rights. The government agreed to dismiss the conspiracy and firearm counts.

4. According to the Presentence Investigation Report, the kidnapping victim (L.R.) initially told the U.S. Probation Office that she wanted to pursue restitution for the stolen $4,000. TXND Doc. 75-1 at 6. The USPO informed her she would need to submit an affidavit to document her loss. Then, she cut off all contact with the probation office, did not send in an affidavit, and did not respond to the USPO's written request for more information to support her claim. Even so, the USPO recommended that the district court award L.R. $4,000 in restitution.

5. Mr. Scott objected to the PSR's restitution recommendation. TXND Doc. 84 at 2–6. He did not dispute that L.R. was a "victim" of the kidnapping offense, nor did

[1] The Presentence Investigation Report and related documents were part of the record below, but they were not assigned contiguous pagination. This petition cites those documents using the document numbers assigned by the district court's ECF system.

he challenge the PSR's finding that the defendants together took $4,000 in cash from L.R. during the kidnapping. But he argued that the stolen cash could not support a restitution order because it represented proceeds of illicit drug sales, and the federal restitution statutes do not authorize an order to repay a drug dealer for stolen drug money. TXND Doc. 84 at 2–6 (citing *United States v. Martinez*, 978 F. Supp. 1442, 1453 (D.N.M. 1997), and *United States v. Ojeikere*, 545 F.3d 220, 223 (2d Cir. 2008)). Mr. Scott also pointed to a witness statement by "K.D.," who told defense investigators that L.R. was a drug-dealer, that she identified as such in her social media profiles, and that those profiles were about drugs, cash, and guns. TXND Doc. 84 at 3. Mr. Scott's defense team corroborated K.D.'s statement by reviewing L.R.'s public social media posts. They included screenshots of some of those posts in their PSR objections. TXND Doc. 84 at 3–5.

6. The district court overruled the restitution objection. The court was not convinced "that a defendant's otherwise mandatory restitution obligation under the MVRA depends on the way victims obtain the property stolen from them." 5th Cir. R. 255 (discussing *United States v. Taylor*, 62 F.4th 146 (4th Cir. 2023)). The court believed it would have to "invent an exception to the defendant's restitution obligation." 5th Cir. R. 255. The court also concluded that "more evidence" would be needed "to connect the $4,000 at issue in this case to any illegal activity." 5th Cir. R. 254–255 ("So without a clear foundation, the Court will not invent an exception to the defendant's mandatory restitution obligation, especially in the absence of a sufficient evidentiary foundation.").

7. On appeal, Mr. Scott renewed his challenge to the restitution order. He argued that the district court exceeded its statutory authority because the the pertinent statutes did not authorize an order directing a defendant to repay stolen proceeds from unlawful drug sales to the drug dealer. The Fifth Circuit granted Respondent's opposed motion to dismiss the appeal based on the plea agreement's waiver of appellate rights.

REASONS FOR GRANTING THE PETITION

I. The federal restitution statutes do not authorize orders to repay drug dealers for stolen contraband.

For some offenses, restitution is mandatory. *See*, e.g., 18 U.S.C. § 3663A(c). For others, restitution is discretionary. *See* 18 U.S.C. § 3663(a)(1)(A). The district court here believed that restitution was mandatory. *See* 5th Cir. R. 255 (discussing the "mandatory restitution obligation under the MVRA"). The court might have been wrong. But it shouldn't make a difference; both statutes use materially identical language to define loss.

The mandatory and discretionary restitution statutes use almost-identical language when describing the outer limits of a court's restitution authority:

Mandatory Restitution 18 U.S.C. § 3663A	**Discretionary Restitution** 18 U.S.C. § 3663
"For the purposes of this section, the term 'victim' means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered." § 3663A(a)(2).	"For the purposes of this section, the term "victim" means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered." § 3663(a)(2).
"(3) The court shall also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense." § 3663A(a)(3).	"The court may also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense." § 3663(a)(1)(A).

"(b) The order of restitution shall require that such defendant-- "(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense-- "(A) return the property to the owner of the property or someone designated by the owner; or "(B) if return of the property under subparagraph (A) is impossible, impracticable, or inadequate, pay an amount equal to-- "(i) the greater of-- "(I) the value of the property on the date of the damage, loss, or destruction; or "(II) the value of the property on the date of sentencing, less "(ii) the value (as of the date the property is returned) of any part of the property that is returned." § 3663A(b)(1).	"(b) The order may require that such defendant-- "(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense-- "(A) return the property to the owner of the property or someone designated by the owner; or "(B) if return of the property under subparagraph (A) is impossible, impractical, or inadequate, pay an amount equal to the greater of-- "(i) the value of the property on the date of the damage, loss, or destruction, or "(ii) the value of the property on the date of sentencing, less the value (as of the date the property is returned) of any part of the property that is returned." § 3663(b)(1).

This Court should hold that the statutes do not authorize awards in favor of drug dealers where the defendant stole illegal drugs or cash proceeds from the sale of illegal drugs.

First, and most importantly, a drug dealer has no rightful property interest in illegal drugs or in money used to purchase illegal drugs. In 21 U.S.C. § 881(a), Congress made certain property subject to forfeiture, including "[a]ll moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance." 21 U.S.C. § 881(a)(1), § 881(a)(6).

According to federal law, "[a]ll right, title, and interest in property described in subsection (a) shall vest in the United States upon commission of the act giving rise

to forfeiture under this section." 21 U.S.C. § 881(h). The government may argue that, despite the clarity of § 881(h), legal title does not *actually* pass from drug dealer to the government at the time of the illegal transaction. For purposes of weighing *someone else*'s claim to the contraband, that may be true. *Compare United States v. Parcel of Land, Bldgs., Appurtenances & Improvements, Known as 92 Buena Vista Ave.*, 507 U.S. 111, 125–29 (1993) (plurality op.), *with id.* at 134–38 (Scalia, J., concurring in the judgment). Be that as it may, the drug dealer is not the *rightful* owner of the drugs or drug-sale proceeds. *See Caplin & Drysdale, Chartered v. United States*, 491 U.S. 617, 626 (1989) ("The money, though in his possession, is not rightfully his."). For purposes of the restitution statutes, a victim's "pecuniary loss" should not include illegal contraband like drug-sale proceeds.

When construing the restitution statutes, the Court should eschew "hyper-literalism." *United States v. Palomares*, 52 F.4th 640, 648 (5th Cir. 2022) (Oldham, J., concurring in judgment). Courts "have recognized that some individuals that would benefit from a mechanical application" of the restitution statutes' definitions "should not be considered 'victims.'" *United States v. Agate*, 613 F. Supp. 2d 315, 321–22 (E.D.N.Y. 2009).

The most prominent example of "victims" who are nonetheless excluded from restitution are participants and co-conspirators. Courts have repeatedly recognized that the statutes do *not* authorize restitution awards in favor of participants or co-conspirators. *See United States v. Reifler*, 446 F.3d 65, 127 (2d Cir. 2006) ("[A]ny order entered under the MVRA that has the effect of treating coconspirators as 'victims,'

and thereby requires 'restitutionary' payments to the perpetrators of the offense of conviction, contains an error so fundamental and so adversely reflecting on the public reputation of the judicial proceedings that we may, and do, deal with it *sua sponte*."); *see also United States v. Lazarenko*, 564 F.3d 1026 (9th Cir. 2009) ("We hold that, in the absence of exceptional circumstances, a co-conspirator cannot recover restitution.").

These decisions make sense, even though they are not immediately grounded in statutory text. The Second and Ninth Circuits hold that "Congress could not have intended for federal courts to engage in redistribution of restitutionary payments amongst joint perpetrators of an offense when it enacted the MVRA." *United States v. Kendre*, 486 F. App'x 271, 275–76 (3d Cir. 2012). This Court also applies the so-called absurdity canon. *See*, e.g., *United States v. Solis-Campozano*, 312 F.3d 164, 166 (5th Cir. 2002) ("No authority need be cited for the rule that such plain meaning controls, *unless it leads to an absurd result*.") (emphasis added).

Mr. Scott urges the Court to apply the same sort of reasoning here. Obviously, L.R. was not a "participant" in her own kidnapping (or in the simultaneous theft, which would be "relevant conduct" under the plea agreement's paragraph 3, subparagraph f. TXND Doc. 53 at 2. But she had no rightful ownership interest in cash paid in exchange for illegal drugs.

In fact, 18 U.S.C. § 3663(a)(1)(A) expressly excludes drug-crime participants from eligibility for restitution where the underlying offense is a drug crime. There is no reason to treat them differently here.

II. This Court should overrule or abrogate the Fourth Circuit's decision in *United States v. Taylor*.

In *United States v. Taylor*, 62 F.4th 146 (4th Cir. 2023), the court applied a hyper-literalist and mechanical approach to the MVRA and affirmed a restitution order in favor of a drug dealer for drug-sale proceeds. That decision was wrong.

According to *Taylor*, drug dealers who lose their illicit proceeds due to someone else's wrongdoing are restitution "victims" because they suffer "pecuniary loss." The court first rejected the defendant's argument that the drug-money exclusion could be incorporated in the definition of "pecuniary loss." Then, the court rejected its own straw-man argument that the exclusion might be found in the so-called "common law" of "restitution." *Taylor*, 62 F.4th at 148–50.

Drug-dealers have no rightful property interest in the proceeds of their illicit trade. *92 Buena Vista Ave.*, 507 U.S. at 125 ("[W]e are not aware of any common-law precedent for treating proceeds traceable to an unlawful exchange as a fictional wrongdoer subject to forfeiture."). For statutory forfeitures, the wrongdoer immediately loses "right to the property," which then "vests in the United States." *Id.* at 126. Title might not be "perfected," but the restitution statutes' terms like "victim" and "pecuniary loss" can readily be interpreted to refer to *right* rather than *title*.

Beginning on or before the moment of the illegal sale, a drug-dealer loses rightful ownership of the money paid in exchange. If a person simply loses *possession*

of someone else's item, that person has not experienced cognizable pecuniary harm. This Court should hold that the same is true of someone who has no rightful ownership interest.

III. If the restitution statutes fail to authorize orders to repay drug dealers, then the decision below should be vacated.

The district court held that the federal restitution statutes allow or even require an order to repay stolen drug proceeds to a drug dealer who is a victim of a Title 18 offense. The court also expressed doubt about whether Petitioner met his "burden" of showing that the cash the drug-dealing victim hid under her mattress represented proceeds of her illegal activities.

When granting Respondent's motion to dismiss, the Fifth Circuit was circumspect: "Enforcing the appeal waiver would not result in a miscarriage of justice." App., *infra*, 1a. That ruling likely rested on an incorrect interpretation of the restitution statutes. While the appeal was pending, this Court held that an appeal waiver does not apply where there has been a "miscarriage of justice," which specifically means that "a defendant may appeal a sentence exceeding what the relevant statute allows." *Hunter v. United States*, 608 U.S. 713, 728 (2026).

Under a proper interpretation of the restitution statutes, Petitioner could have shown that the district court clearly erred in its alternative holding that he failed to prove that the stolen funds were illegal proceeds. First, restitution is a criminal punishment, and so Respondent had the burden of proving any facts necessary to that punishment. Second, the circumstantial evidence tends to suggest that these were illicit funds. After all, hiding $4,000 in *legitimate* cash under one's mattress would be

unexpected and unusual; not so where the cash is contraband. Third, a witness described the victim as a drug dealer, and her social media presence confirmed that she represented herself as a cash-carrying drug dealer. Fourth, the victim's refusal to contact police about her kidnapping, combined with her avoidance of the USPO's inquiries about the cash, tends to confirm the status of the funds.

CONCLUSION

This Court should grant the petition and set this case for a decision on the merits.

Respectfully submitted,

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