No. _____

In the
Supreme Court of the United States

John Matthew Chapman,

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

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Question Presented

The federal kidnapping statute has two primary elements. First, the defendant must use an identified "means" to conduct the kidnapping. This element is satisfied when a person "seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away" a victim. 18 U.S.C. § 1201(a). Two of those "means"—inveiglement and decoy—signify the use of deception to induce a victim's movement. Second, the defendant must separately "hold[]" the victim, *id.*, by applying "an unlawful physical or mental restraint," *Chatwin v. United States*, 326 U.S. 455, 460 (1946). The circuit courts of appeals are deeply divided about how these elements interact in an inveiglement case—specifically, whether and when deception may amount to holding—and have formed a 1-2-2 split over the issue.

The question presented is:

In a kidnapping case involving inveiglement, may the government prove the holding element merely by establishing the defendant used deception to induce the victim's movement?

List of Parties

John Matthew Chapman is the petitioner. The United States of America is the respondent. No party is a corporate entity.

Related Proceedings

The prior federal proceedings in this case are:

United States v. Chapman, Case No. 24-4939 (9th Cir.) (amended opinion entered August 5, 2026).

United States v. Chapman, Case No. 2:20-cr-00091-CDS-DJA (D. Nev.) (judgment entered August 5, 2024).

The State of Nevada is pursuing a capital prosecution against Chapman for the same conduct in:

State v. Chapman, Case No. CR0301226 (Nev. 7th Jud. Dist. Ct.).

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Petition for a Writ of Certiorari

Petitioner John Matthew Chapman respectfully requests the Court issue a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

Opinions Below

The Ninth Circuit issued a published amended opinion reversing the judgment and remanding for a new trial. Pet. App. 2a-29a. The amended opinion is reported at 185 F.4th 875. The district court order entered a written order denying a post-trial motion for judgment of acquittal. Pet. App. 31a-42a. The order is unreported but available electronically at 2024 WL 3202556.

Jurisdiction

The district court had jurisdiction under 18 U.S.C. § 3231. The Ninth Circuit issued an amended opinion reversing the judgment and remanding for a new trial on August 5, 2026. This petition is timely filed. *See* Supreme Court Rule 13.1. Mr. Chapman seeks to invoke this Court's jurisdiction under 28 U.S.C. § 1254(1).

Statutory Provisions

18 U.S.C. § 1201(a) creates a criminal offense when an individual "unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person . . . when—(1) the person is willfully transported in interstate or foreign commerce . . . or the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense."

Introduction

The federal kidnapping statute, 18 U.S.C. § 1201(a), "outlaw[s] interstate kidnapings." *Chatwin v. United States*, 326 U.S. 455, 464 (1946). But the statute doesn't prohibit "general transgressions of morality involving the crossing of state lines" when those immoral acts "lack[] the characteristics of true kidnapings." *Id.* If federal courts were "to sanction a careless concept of the crime of kidnaping . . . the boundaries of potential liability would be lost in infinity," and "absurd[] . . . result[s]" would follow. *Id.*

The Ninth Circuit's decision below invites the absurd results *Chatwin* warned against. A kidnapper may induce the victim's movement through inveiglement, i.e., by deceiving the victim. But to violate section 1201, the kidnapper must do more than simply deceive the victim; the kidnapper must also *hold* the victim, by applying "an unlawful physical or mental restraint." *Chatwin*, 326 U.S. at 460. The Ninth Circuit concluded that when a kidnapper induces the victim's movement through deception, the use of deception *itself* satisfies the holding element. That cannot be correct. Imagine a husband plans a surprise party for his wife. He deceives her, telling her they'll go out to dinner for her birthday, just the two of them. She travels to the restaurant with him under this false pretense. Under the Ninth Circuit's rule, the husband has both inveigled his wife and has held her through his use of deception, therefore violating the federal kidnapping statute. *Chatwin* proscribes precisely this sort of "careless concept of the crime of kidnaping." 326 U.S. at 464.

The issue deserves certiorari. The circuit courts of appeals have formed an intractable 1-2-2 split over what, precisely, the government must establish to prove holding in an inveiglement case. In the Fifth Circuit, deception alone cannot amount to holding. *See United States v. McInnis*, 601 F.2d 1319, 1327 (5th Cir. 1979). In the Fourth and Eleventh Circuits, deception satisfies the holding element if, and only if, the government proves the kidnapper was willing to use force or fear to restrain the victim in the event the victim uncovered the deceptive ruse. *See United States v. Higgs*, 353 F.3d 281, 313 (4th Cir. 2003); *United States v. Boone*, 959 F.2d 1550, 1555 (11th Cir. 1992). In the Eighth and Ninth Circuits, deception alone proves holding. *See United States v. Hoog*, 504 F.2d 45, 51 (8th Cir. 1974); Pet. App. 18a-20a & n.3. The First and Second Circuits have reserved decision in ambiguous opinions that produce additional confusion, with the Second Circuit expressly recognizing the split. *See United States v. Coleman*, 149 F.4th 1, 51 (1st Cir. 2025); *United States v. Corbett*, 750 F.3d 245, 251 (2d Cir. 2014).

The decision below and the Eighth Circuit are on the wrong side of the split because their analysis conflicts with the statutory language and this Court's precedent. As a textual matter, the "holding" requirement conveys an active use of force or fear to keep someone detained, as opposed to the mere use of deception to induce movement. As a matter of precedent, the Ninth Circuit's decision is irreconcilable with *Chatwin*. The Court should grant certiorari to review this important federal question.

The Court's review is warranted in this case. The issue has been percolating for decades throughout the post-*Chatwin* era, and additional decisions from the

courts of appeals are unlikely to provide further guidance. Chapman raised the issue in the district court and on appeal, and both courts directly resolved the question. While the Ninth Circuit ordered a new trial on an unrelated issue, its erroneous ruling foreclosed a meritorious sufficiency of the evidence challenge and will govern anticipated jury instruction disputes at retrial. This case is therefore an appropriate vehicle to resolve this substantial circuit split.

Statement of the Case

1. John Matthew Chapman and Jamie Feden began dating, on and off, in 2009. Pet. App. 6a. Chapman suffers from autism, Tourette syndrome, obsessive-compulsive disorder, and attention deficit hyperactivity disorder. Pet. App. 6a. Feden was born with VATER syndrome, a rare condition that caused her to be small in stature. Pet. App. 6a. Chapman married another woman in 2018 but continued his relationship with Feden. Pet. App. 6a.

In September 2019, Chapman and Feden drove to Las Vegas, a trip they'd been planning for almost a year. Pet. App. 6a. The government alleged that when Chapman began the trip, he intended to kill Feden. The prosecution's evidence of intent relied in large part on Chapman's police interrogation, which the defense unsuccessfully challenged as inadmissible, and on his allegedly incriminating use of the question-and-answer website Quora. Pet. App. 6a-7a, 10a. During the drive, Feden told friends she and Chapman were considering moving to Las Vegas permanently. Pet. App. 7a. The couple successfully arrived in Las Vegas and stayed in a hotel for two days. Pet. App. 7a.

On September 25, 2019, Chapman and Feden drove to a remote desert area north of Las Vegas, where Feden died. Pet. App. 7a. At trial, the government alleged Chapman intentionally killed Feden by tying her to a signpost and suffocating her with duct tape. Pet. App. 7a-8a. The defense maintained the couple engaged in voluntary sexual activities involving bondage, and Feden's death was accidental.

After Feden's death, Chapman returned home. Pet. App. 8a. He allegedly sent messages from Feden's phone and online accounts. Pet. App. 8a. Feden's friends, family, and neighbors grew concerned about Feden's whereabouts. Pet. App. 8a. A police officer went to Feden's house to conduct a welfare check and saw a roll of duct tape, zip ties, and Feden's cell phone. Pet. App. 8a-9a. The police then arrested Chapman and interrogated him. Pet. App. 9a-10a. Following the interrogation, he called his mother and wife and made incriminating statements. Pet. App. 11a.

2. Chapman was federally indicted on one count of kidnapping resulting in death under 18 U.S.C. § 1201(a)(1). Pet. App. 11a. Trial proceeded over eight days in April 2024. Pet. App. 11a. The defense objected to the government's theory of the "holding" element—that deception alone proves holding—but the district court overruled the objection. Pet. App. 12a.

During deliberations, the jurors sent two notes indicating deadlock, but the district court didn't respond to the notes or disclose them to the parties. Pet. App. 12a. The next day, after additional juror notes, the district court brought the jury into the courtroom and "intensely question[ed]" a holdout juror, instructing the

juror that a defense expert witness's testimony was "irrelevant" and to "surrender [the juror's] opinion." Pet. App. 14a-15a (cleaned up). A mere 37 minutes later, the jury returned a guilty verdict.

Chapman filed a post-trial motion for a judgment of acquittal, arguing in relevant part that the government failed to prove the "holding" element because deception alone cannot amount to holding. Pet. App. 15a. The district court denied the motion. Pet. App. 15a, 31a-42a.

3. Chapman appealed. He argued the district court's colloquy with the holdout juror was improper and required retrial. The government confessed error on this issue. Chapman also argued that the evidence was insufficient, and the jury instructions were erroneous, because deception alone cannot establish "holding."

The Ninth Circuit issued an initial published opinion on May 8, 2026. It agreed that the improper juror colloquy required retrial. But it rejected the sufficiency and jury instruction arguments, concluding deception alone necessarily satisfies the holding requirement. Chapman filed a rehearing petition challenging that conclusion. The Ninth Circuit ordered the government to respond to the petition.

The Ninth Circuit issued an amended published opinion on August 5, 2026, reaching the same conclusions. The court framed the statutory interpretation question as "whether the 'holding' element can be satisfied through non-physical force such as deception." Pet. App. 18a. It concluded "the federal kidnapping statute does not require a use of physical force and that an individual may be 'held' against their will through means of deception in an inveiglement case." Pet. App.

18a. It cited a brief portion of *Chatwin*, which observed that there was "no proof that [the defendants there] willfully intended through force, *fear or deception* to confine the [victim] against her desires." Pet. App. 18a (cleaned up) (quoting 326 U.S. at 460 and adding emphasis). Thus, "the holding element does not require a use of physical force," and "an individual may 'hold' another, as that term is meant in the federal kidnapping statute, through non-physical means in inveiglement cases." Pet. App. 19a-20a. Because the Ninth Circuit held "that evidence of 'mental restraint' or 'deception' is sufficient to establish holding," it concluded "the district court did not err when it instructed the jury." Pet. App. 20a n.3. It likewise rejected the defense's corresponding sufficiency of the evidence claim; according to the court, Chapman sufficiently inveigled and held Feden by falsely telling her he might "move in with her after the . . . trip in Las Vegas." *Id.* at 20a. However, the Ninth Circuit agreed with the parties that "Chapman is entitled to a new trial because of . . . impermissible jury coercion." *Id.* at 22a.

Contemporaneously with its amended opinion, the Ninth Circuit denied the defense's petition for rehearing but granted a motion to stay the mandate.

Reasons for Granting the Petition

I. The courts of appeals are intractably split over how the "holding" element applies in inveiglement cases.

The government may establish the first element of kidnapping, that a defendant confined or moved a victim through an enumerated means, by proving that the defendant "inveigled," i.e., deceived, the victim. But the government must also prove the defendant held the victim by applying "an unlawful physical or

mental restraint." *Chatwin*, 326 U.S. at 460. The courts of appeals are deeply divided 1-2-2 over what the government must prove to establish the holding element in an inveiglement case; two other courts of appeals have reserved decision in ambiguous opinions that have introduced further confusion over this issue.

A. The Fifth Circuit has determined a victim cannot be held through deception alone. In *United States v. McInnis*, 601 F.2d 1319 (5th Cir. 1979), the defendants allegedly conspired to use deception to induce the victim to travel alone from Texas to Mexico, where he would be kidnapped and killed. The court found those allegations insufficient to establish a conspiracy to commit federal kidnapping. The defendants intended for the victim to arrive in Mexico unharmed and "did not contemplate any unlawful act before [the victim] crossed the international boundary." *Id.* at 1326. Admittedly, the defendants "attempted to 'decoy' [i.e., deceive] [the victim] into Mexico, but, prior to his arrival in Mexico, no unlawful interference with [his] actions was intended." *Id.* The court declined to construe the statute "to reach the entirely voluntary act of a victim in crossing a state line even though it is induced by deception." *Id.* at 1327.

The Ninth Circuit cited a different Fifth Circuit decision, *United States v. Carrion-Caliz*, 944 F.2d 220 (5th Cir. 1991)—which involved convictions under a different statutory offense—for the proposition that "restraining or holding a person against her will does not require the use of physical force." Pet. App. 19a. That proposition may well be true; a defendant might indeed hold a victim without using physical force by, for example, instilling fear instead. But that proposition doesn't mean a defendant always holds a victim whenever the defendant uses mere

deception. The Ninth Circuit also noted, in a parenthetical, that *Carrion-Caliz* references deception as a potential form of non-physical restraint. Pet. App. 19a. But the defendant in *Carrion-Caliz* restrained the victims by applying a form of deceptive *fear*; he falsely "warned [the victims] that if they left [the house] they would be captured by immigration officials and deported" and thereby "frightened or deceived them." 944 F.2d at 221, 226. Again, it may well be true that a defendant can hold a victim by deceptively causing fear. But that doesn't mean a defendant always holds a victim whenever the defendant uses any kind of deception, regardless of whether fear results. Thus, there's no tension between *McGinnis* and *Carrion-Caliz*; to the extent there is, the ensuing intra-circuit split would simply indicate additional confusion and more reason to grant certiorari.

B. The Eleventh and Fourth Circuits have determined that deception alone is insufficient to prove holding, unless the government also establishes that the defendant was willing to use force or fear to restrain the victim if the deceptive ruse failed.

1. In *United States v. Boone*, 959 F.2d 1550, 1555 (11th Cir. 1992), the court concluded that "[i]nveigling or decoying someone across state lines is not in and of itself conduct proscribed by the federal kidnapping statute." *Id.* at 1555. Rather, "a fact finder must ascertain whether the alleged kidnapper had the willingness and intent to use physical or psychological force to complete the kidnapping in the event that his deception failed." *Id.* "Inveiglement becomes an unlawful form of kidnapping under the statute when the alleged kidnapper interferes with his

victim's actions, exercising control over his victim through the willingness to use forcible action should his deception fail." *Id.* at 1555 n.5; *see also id.* at 1556.

The Ninth Circuit cited another Eleventh Circuit decision, *United States v. Gillis*, 938 F.3d 1181 (11th Cir. 2019), for the proposition that "the federal kidnapping statute can be violated without the use of physical force." Pet. App. 19a (cleaned up). Again, it may well be true that a defendant can hold a victim without using physical force, for example if a defendant uses deception and intends to apply force or fear if the deception falters. Those propositions are consistent with *Boone*. Indeed, *Gillis* favorably analyzes *Boone* at length. 938 F.3d at 1207-09. And again, any tension between these cases would simply provide more reason to grant review.

2. In *United States v. Higgs*, 353 F.3d 281 (4th Cir. 2003), the court concluded the defendant held the victims because he inveigled them and "at least was prepared to confine them at gunpoint if necessary." *Id.* at 313 (citing *Boone* favorably). In other words, the defendant held the victim through his willingness to use force or fear, i.e., brandishing a firearm, if the deception proved unsuccessful. *See also United States v. Lentz*, 383 F.3d 191, 202-03 (4th Cir. 2004) (citing *Boone* and *Higgs* favorably).

The Ninth Circuit cited three other Fourth Circuit cases for the proposition that the holding element "can be committed without violence." Pet. App. 19a (cleaned up). Yet again, that may well be true; deception backed up with force or fear held in reserve may suffice to establish holding. The decision below also suggests, in a parenthetical, that in *United States v. Hughes*, 716 F.2d 234 (4th Cir. 1983), the court indicated misrepresentations could amount to holding. Pet. App.

19a. In *Hughes*, the defendant lied about whether he would take the victim "to her desired destination" and instead took her somewhere else. 716 F.2d at 239. The case doesn't purport to resolve whether other forms of deception necessarily amount to holding. To the extent *Hughes* suggests deception alone always suffices, then it conflicts with *Higgs* and *Lentz*, creating yet another intra-circuit split that yet again supports certiorari.

C. The Eighth Circuit, along with the Ninth Circuit's decision below, allow the government to prove holding through mere deception.

1. In *United States v. Hoog*, 504 F.2d 45 (8th Cir. 1974), the defendants committed kidnapping because they "induced [the victims] to accept a ride by false representations" and then "lured or enticed [the victims]—again by false promises—to stay in the vehicle." *Id.* at 51.

2. In its decision below, the Ninth Circuit determined—perhaps correctly—"that an individual may 'hold' another . . . through non-physical means in inveiglement cases." Pet. App. 20a. It then concluded—erroneously—"that evidence of . . . 'deception' is sufficient to establish holding." Pet. App. 20a n.3; *see also* Pet. App. 18a (similar).

D. The First and Second Circuits have identified the issue and reserved decision, but their ambiguous opinions only add to the confusion that has festered among the lower courts.

1. In *United States v. Corbett*, 750 F.3d 245 (2d Cir. 2014), the court identified the relevant split. "This case presents a question that is new to our circuit: what evidence is sufficient . . . to convict a defendant of 'holding' a victim

against the victim's will?" *Id.* at 246. "Other circuits differ as to whether a defendant who first 'takes' control of his victim by 'decoy' or trick must intend to back up his pretense with physical or psychological force in order to 'hold' the unwilling victim under the statute." *Id.* (comparing *Boone* with *Hoog*). The court indicated it was unclear "whether § 1201(a) covers a defendant who *continues* to use trickery to 'hold' his victim captive, without resorting to physical or psychological coercion." *Id.* at 251. It noted the Fourth and Eleventh Circuits require proof "the defendant was willing and intended to use force to back up his deceit." *Id.* (citing *Higgs* and *Boone*). "[O]ther circuits . . . [conclude] that continuing to 'hold' the victim by trickery is sufficient." *Id.* (citing *Hoog* and *Carrion-Caliz*).

But the Second Circuit declined to resolve the issue. "We need not join either side of the split to decide this case." *Corbett*, 750 F.3d at 246. "[W]e need not, and hence, do not, decide today whether § 1201(a) may be satisfied when a victim is 'held' only by the victim's continuing belief in his kidnapper's dupe." *Id.* at 251. Rather, the court focused "on the defendant's intent." *Id.* Because the defendant "intended to 'hold' [the victim] . . . against [the victim's] will," the element was satisfied. *Id.* at 252. The court didn't clarify what it means to intend to hold a victim against the victim's will in an inveiglement case, so the standard in the Second Circuit remains opaque.

2. In *United States v. Coleman*, 149 F.4th 1 (1st Cir. 2025), the court indicated "a hold could be carried out through deception alone." *Id.* at 46 n.35. That statement included a cross-reference to a later portion of the opinion. *Id.* In that later portion, the court discussed the defense's proposed jury instruction that

holding requires "the willingness and intent to use physical force to complete the kidnapping if the deception failed." *Id.* at 51 (cleaned up). The court (perhaps correctly) concluded there's "no physical force requirement." *Id.* (citing *Boone*, *Gillis*, and *Higgs*). It noted that "whether the statute's text requires psychological force is not at issue in this case, so we do not reach that question." *Id.*

II. The decision below misreads the statutory text and conflicts with this Court's precedent on an important issue of federal law.

The federal kidnapping statute requires the defendant to "hold" the victim. 18 U.S.C. § 1201(a). To satisfy that element, the defendant must use active force ("an unlawful physical . . . restraint") or active fear ("an unlawful . . . mental restraint") to detain the victim. *Chatwin*, 326 U.S. at 460. At a minimum, the government must prove the defendant was willing to use force or fear if necessary to keep the victim detained if the victim uncovered the deception. The Ninth Circuit concluded otherwise, but the decision below is unpersuasive.

A.1. The text of the statute unambiguously requires active restraint, not mere deception. The defendant must "hold[]" the victim. 18 U.S.C. § 1201(a). Relevant definitions of "hold" include "[t]o keep from getting away; to keep fast, grasp," and "[t]o detain in custody, keep under arrest." Oxford English Dictionary, "hold (v.)" (June 2025).[1] The verb connotes the active use of force or fear to keep someone in place—not the mere passive use of deception to induce movement at the outset of a trip.

[1] Available at https://www.oed.com/dictionary/hold_v.

In addition, the statute requires the defendant to "inveigle[] [or] decoy[] . . . *and* hold[]" a victim. 18 U.S.C. § 1201(a) (emphasis added). "[T]he conjunctive 'and'" suggests separate mandatory requirements. *United States v. Palomar-Santiago*, 593 U.S. 321, 326 (2021). But according to the decision below, deception always amounts to holding. That rule improperly renders the holding element "superfluous" in inveiglement cases. *TRW Inc. v. Andrews*, 534 U.S. 19, 29 (2001). By contrast, interpreting holding to require the active use of force or fear, or at a minimum the intent to use force or fear if necessary, creates a separate requirement from mere inveiglement and thus appropriately gives each element independent meaning.

2. Even if the text were insufficient, precedent resolves the question. This Court in *Chatwin* concluded the government failed to prove holding. 326 U.S. at 460. "Nothing indicates that [the victim] was deprived of her liberty, compelled to remain where she did not wish to remain, or compelled to go where she did not wish to go." *Id.* "[S]he was perfectly free to leave the [defendants] when and if she so desired." *Id.* As the Fifth Circuit put it, the statute doesn't extend to "the entirely voluntary act of a victim in crossing a state line even though it is induced by deception," because even if a victim is induced to move by false promises, the victim is nevertheless engaging in voluntary behavior. *McInnis*, 601 F.2d at 1327; *see also Boone*, 959 F.2d at 1555 n.5 (requiring the factfinder to determine whether the defendant was "*exercising control* over his victim through the willingness to use forcible action should his deception fail") (emphasis added).

The defense's proposed standards—active use of force or fear, or, alternatively, willingness to use force or fear if necessary—are consistent with *Chatwin*'s standard. Even if a defendant deceives someone about a trip's purpose, that person nevertheless remains "perfectly free to leave" the trip. *Chatwin*, 326 U.S. at 460. But if a defendant uses actual force or fear to keep the person on the trip, the victim's movements become unlawfully restricted. Likewise, if a defendant refrains from actively using force or fear but nevertheless *intends* to use force or fear if necessary to confine the victim, then the victim isn't free to leave; in this category of case, assuming the victim uncovers the deception and attempts to leave, the defendant will then use force or fear to prevent that outcome. But the decision below fails to apply either standard and therefore contradicts *Chatwin*'s rule that a defendant doesn't hold a victim if the victim remains free to leave. Indeed, the Ninth Circuit concluded Chapman both inveigled and held Feden merely because he falsely suggested to Feden that "he would move in with her after the . . . trip." Pet. App. 20a.

The decision below is inconsistent with *Chatwin*'s underlying rationale as well as its legal standard. *Chatwin* warns at length against an expansive interpretation of the kidnapping statute. "Were we to sanction a careless concept of the crime of kidnaping . . . the boundaries of potential liability would be lost in infinity." 326 U.S. at 464. "A loose construction of the statutory language conceivably could lead to the punishment of anyone who induced another to leave his surroundings." *Id.* "The absurdity of such a result, with its attendant likelihood of unfair punishment and blackmail, is sufficient by itself to foreclose that

construction." *Id.* at 464-65; *cf. Bond v. United States*, 572 U.S. 844, 859-60 (2014) (applying "basic principles of federalism" to avoid "the deeply serious consequences of adopting . . . a boundless reading" that would "reach purely local crimes"). But the Ninth Circuit's rule creates the same absurd results *Chatwin* forecloses. The husband planning the surprise party is guilty of kidnapping merely because the husband induced the wife's movements under false pretenses. By contrast, under the defense's proposed standards, no crime has occurred in this hypothetical (or other analogous ones), because the husband presumably isn't actively using force or fear to restrain his wife and doesn't intend to do so if the wife prematurely discovers the surprise and decides to return home.

B. The decision below fails to provide a convincing analysis. Much of the court's reasoning addressed a strawman: "whether the 'holding' element can be satisfied through non-physical force such as deception." Pet. App. 18a; *see also, e.g.*, Pet. App. 19a ("[T]he holding element does not require a use of physical force."). It may well be true that the holding element can be satisfied through non-physical force, such as the defendant's active use of fear (e.g., threats) to keep the victim from leaving, *see, e.g.*, *Carrion-Caliz*, 944 F.2d at 220 (involving a defendant who falsely inculcated fear), or through the defendant's willingness to resort to force or fear if necessary, *see, e.g.*, *Boone*, 959 F.2d at 1555. Even if so, that doesn't answer whether deception *by itself* is always enough to prove holding. The Ninth Circuit spent much of its reasoning disputing a physical force requirement but applied scant attention to the actual question presented.

The Ninth Circuit also relied on a brief portion of *Chatwin*, where this Court observed there was "no proof that [the defendants] willfully intended through force, *fear or deception* to confine the [victim] against her desires." Pet. App. 18a (quoting 326 U.S. at 460 and adding emphasis). But this Court was merely describing the facts of the case, not providing an exhaustive discussion of the holding element and its application to cases involving deception. This terse description cannot reasonably be understood as authorizing a conviction whenever someone uses deception to induce another person to move. *Cf. Reiter v. Sonotone Corp.*, 442 U.S. 330, 341 (1979) ("[T]he language of an opinion is not always to be parsed as though we were dealing with language of a statute."). Rather, it must be read in context with the entire opinion, which repeatedly cautions against unduly broad interpretations of the statute. The Court should grant certiorari to reject the Ninth Circuit's improperly expansive rule.

III. The question presented deserves review now, and this case provides a suitable vehicle.

A. The circuit courts of appeals have divided into a deep 1-2-2 split over the question presented, with two other circuits providing relevant yet ambiguous decisions that sow further confusion. The Court should grant review to dispel the widespread disagreement among the lower courts and ensure the uniform application of the kidnapping statute throughout the Nation. Had Chapman and Feden decided to take a vacation to New Orleans, Asheville, or Miami instead of Las Vegas, the government would likely lack sufficient evidence of holding. The Court

shouldn't allow such geographical disparities to determine a defendant's guilt of a potentially capital-eligible charge.

B. The Court should grant review now, rather than wait for further percolation. Five courts of appeals have resolved the issue in published opinions, taking three conflicting approaches to the question presented. Two more have elected not to reach the issue, instead reserving decision through opinions that further murky the waters. The Ninth Circuit declined to grant en banc review despite the widespread disagreement among its sister circuits. The split is therefore unlikely to resolve on its own, and further decisions addressing the issue are unlikely to dispel the confusion or provide materially useful analysis.

C. The issue is recurring and important. Seven circuit courts of appeals have issued relevant published decisions on the topic in every decade since the 1970s. And under the Ninth Circuit's decision below, "the boundaries of potential liability [are] lost in infinity." *Chatwin*, 326 U.S. at 464. Even though Congress didn't intend "that the punishment of death or long imprisonment . . . might be applied to those guilty of immoralities lacking the characteristics of true kidnapings," *id.*, the Ninth Circuit's rule threatens just that result. A married man might face life in prison for taking a trip with a paramour, merely because the man falsely denied having a wife or misleadingly suggested he might move in with the paramour after the trip. The decision below provides the government with a powerful tool to target and prosecute individuals for mere "general transgressions of morality," as opposed to acts that include "the characteristics of true kidnapings." *Id.*

D. This case provides an excellent vehicle to resolve the question presented. Chapman objected before, during, and after trial to the government's legal theory—that deception alone suffices to prove holding—and the district court overruled those objections. *See, e.g.*, Pet. App. 36a. Chapman then raised the issue on appeal, and the Ninth Circuit squarely ruled that "deception is sufficient to establish holding." Pet. App. 20a n.3 (cleaned up); *see also* Pet. App. 18a. The issue is therefore well preserved for this Court's review.

Although the Ninth Circuit reversed and remanded for a new trial based on the improper juror colloquy, that poses no obstacle to review. Chapman raised the question presented in part through a sufficiency of the evidence claim. That claim, if successful, would result in acquittal, which is a more expansive form of relief than a new trial. In turn, the Ninth Circuit's ruling on the juror issue doesn't moot the question presented here, which remains a live dispute at a minimum as to the sufficiency claim. Notably, the decision below nowhere suggests that even if its legal ruling were erroneous—i.e., even if deception alone fails to prove holding—the government nevertheless presented sufficient evidence to establish holding. Thus, if Chapman were to succeed on the question presented in this Court, the Ninth Circuit on remand might well find the evidence insufficient when applying a proper legal standard.

In any event, without this Court's review, the decision below will likely govern jury instruction disputes at a retrial. Chapman's jury instruction claim therefore continues to provide a live controversy, and review of the question presented remains appropriate.

Conclusion

This Court should grant the petition.

Dated November 3, 2026.

Respectfully submitted,

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