No. 26-____

IN THE
Supreme Court of the United States

JERLEN HORTON,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

Louis E. Grube, Esq.
Counsel of Record
Joseph Shell, Esq.
FLOWERS & GRUBE
Terminal Tower, 40th Floor
50 Public Square
Cleveland, Ohio 44113
(216) 244-9393
leg@pwfco.com

Counsel for Petitioner Jerlen Horton

QUESTION PRESENTED

Under 18 U.S.C. § 924(c)(1)(A), a person is prohibited from possessing a firearm "in furtherance of" a "drug trafficking crime." The question presented is: When the government's evidence shows only that a defendant possessed a firearm while on the premises where a drug-trafficking crime is being committed, is that evidence sufficient to show the defendant possessed the firearm for the purpose of furthering that crime?

PARTIES TO THE PROCEEDING

Petitioner is Jerlen Horton, a citizen of the United States of America. Respondent is the United States of America.

RELATED PROCEEDINGS

United States v. Horton, 6th Cir. No. 24-6073, judgment June 24, 2026 (rehearing and rehearing en banc denied August 11, 2026).

United States v. Horton, W.D. Ky. No. 3:22-cr-00037, judgment November 27, 2024.

United States v. Summers, 6th Cir. Nos. 25-5006, 25-5007, judgment June 24, 2026 (rehearing denied July 10, 2026).

United States v. Summers, W.D. Ky. Nos. 17-cr-000680, 22-cr-00037, judgment January 8, 2025.

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OPINIONS BELOW

The United States Court of Appeals for the Sixth Circuit's decision affirming Horton's conviction is unreported, and the judgment is reprinted in the Appendix to the Petition ("Pet. App.") at Pet. App. 1a. The Sixth Circuit's order denying rehearing en banc is unreported and is reprinted at Pet. App. 20a. The District Court's judgment is unreported and is reprinted at Pet. App. 12a.

STATEMENT OF JURISDICTION

The Court has jurisdiction under 28 U.S.C. § 1254(1). Horton is the defendant in a criminal case for which judgment has been rendered by a federal district court. Pet. App. 12a. Relevant here, a jury found Horton guilty of violating of 18 U.S.C. § 924(c). Horton timely appealed to the United States Court of Appeals for the Sixth Circuit, which affirmed his conviction on June 24, 2026. Pet. App. 11a. Horton timely petitioned the Sixth Circuit panel for rehearing or for rehearing en banc. The Sixth Circuit denied both requests on August 11, 2026. Pet. App. 20a.

STATUTORY PROVISION INVOLVED

Section 924(c)(1)(A)(i) of Title 18 of the United States Code provides:

> Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence of drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime[] . . . be sentenced to a term of imprisonment of not less than 5 years.

INTRODUCTION

The courts of appeals are ignoring 18 U.S.C. § 924(c)(1)(A)'s plain text. That statute punishes a person who carries a firearm for the specific purpose of furthering a drug crime. But the courts of appeals have read out that specific-purpose requirement, holding instead that possessing a gun for any purpose while committing a drug crime violates § 924(c)(1)(A). And while all courts of appeals end up at that incorrect conclusion, they get there in different ways. Some have adopted a multifactor test that purportedly reveals the reason a person possessed a gun; others infer that having a gun within one's reach is sufficient. Both approaches stretch § 924(c)(1)(A)'s plain text beyond its breaking point, relieving the government of having to prove a defendant's specific purpose for carrying a gun. To be sure, proving that purpose might be difficult. But such difficulty doesn't give courts license to ignore a statute's plain text. And here, a faithful application of Congress's chosen text reveals that the government proved only that Horton happened to carry a gun while at a place where drug crimes were happening—not that he did so for any specific purpose. The Court should therefore grant Horton's petition for a writ of certiorari and reverse the Sixth Circuit's decision.

STATEMENT OF THE CASE

Relevant to this appeal, Horton was indicted in April 2022 on seven counts of possessing narcotics with the intent to distribute them, conspiracy to commit the same, and possessing a firearm in furtherance of drug trafficking. Pet. App. 2a, 12a, 13a. The government alleged that Horton and several others used two properties in Louisville, Kentucky to traffic drugs: one on Matt Court; the other on Jeffrey Drive. One of Horton's original co-defendants, Alexis Stewart, lived at the Jeffrey Drive house with her two children.

The government conducted pole-camera surveillance of both properties. Pet. App. 2a. It first surveilled the Matt Court property as part of its investigation of one of Horton's other co-defendants, Chicoby Summers. The day the government installed the camera, Horton was recorded arriving at the Matt Court house with Summers. Several weeks later, after serendipitously seeing Summers and Horton arrive at Stewart's Jeffrey Drive house, the government set up a pole camera there, too. In a "handful" of the pole-camera videos—but not in all of them—Horton "can be seen with a firearm." Pet. App. 2a. The record contains no evidence that Horton does not always carry a firearm with him or, similarly, that the only times he carries a gun are when he's going to the Matt Court of Jeffrey Drive properties. Two months after it installed the first pole camera, the government searched both properties. It found drugs and drug-trafficking accessories at both locations, as well as six handguns at the Matt Court property. Pet. App. 1a–2a.

After a week-long jury trial in July 2024, and after the district court denied Horton's motion for a judgment of acquittal on the gun charge, the jury found Horton guilty on all relevant charges. Pet. App. 4a, 12a–13a. Horton was sentenced to 366 months in prison, including a sixty-month, consecutive term for the firearm conviction. Pet. App. 14a.

The Sixth Circuit affirmed, holding that Horton possessed his gun in furtherance of drug trafficking because he had the gun on him "while at two drug dens." Pet. App. 5a. Relying primarily on its decision in *United States* v. *Maya*, 966 F.3d 493 (6th Cir. 2020), the Sixth Circuit explained that the government can show a defendant possessed a firearm "for the purpose" of furthering drug trafficking via evidence the defendant "owned a gun to protect the drugs, the proceeds of drug sales, or the dealer himself." Pet. App. 5a (cleaned up). Here, it held that a rational juror could conclude Horton had a gun on him to protect himself at the "drug dens" because he was on video "disposing of drug precursors at the same properties where [he] w[as] caught

on video carrying the gun[]." Pet. App. 5a. That fact "suggest[ed]" to the Sixth Circuit that the properties "were important locations for the drug trafficking conspiracy" and would "thus likely be the target of violence from rival traffickers." Pet. App. 5a. And because, if attacked, "most drug traffickers would not call the police" for help, a juror could "easily conclude" Horton carried a gun to protect himself at both properties. Pet. App. 5a–6a.

Horton petitioned the Sixth Circuit panel to rehear the case or for the en banc court to hear the case, arguing that, despite the panel's reliance on *Maya*, its decision conflicted with *Maya*'s rationale. In *Maya*, the Sixth Circuit explained that a person could not be convicted under 18 U.S.C. § 924(c) on the "mere fact that a gun was located at the same place as a drug crime." 966 F.3d at 501. Horton argued that, per *Maya*, the statute's "in furtherance" language required the government to establish a "nexus" between his possessing a gun and the specific purpose of possessing it to further a drug crime, a burden of which the government was relieved by the panel's "inferential leap from Horton['s] merely having a gun to his purpose for or use of that gun." The Sixth Circuit denied both requests on the grounds that the panel's decision had "fully considered" the "issues raised in the petition" and that no Sixth Circuit judge requested a vote to hear the case en banc. Pet. App. 20a.

REASONS TO GRANT THE PETITION

The circuit courts of appeals are ignoring the plain text of 18 U.S.C. § 924(c)(1)(A). The statute makes it a crime for a person to "possess a firearm" "in furtherance" of a drug-trafficking crime. 18 U.S.C. § 924(c)(1)(A). That phrase, "in furtherance of," appears in roughly 750 federal statutes. *See United States* v. *Young*, 722 F. Supp. 3d 1213, 1218, n.3 (D.N.M. 2024). Courts have concluded that "in furtherance of" means to promote, help, assist, or advance the underlying conduct

or goal. *E.g.*, *Maya*, 966 F.3d at 499–500; *Young*, 722 F. Supp.3d at 1218–19 (collecting cases). They have also explained that, at minimum, the government must prove some "nexus" between a person's possessing a gun and the underlying drug crime. *E.g.*, *United States* v. *Kent*, 531 F.3d 642, 652 (8th Cir. 2008). Accordingly, a person cannot be convicted under § 924(c)(1) for simply possessing a gun while near drugs or drug-trafficking activity. *See, e.g.*, *Maya*, 966 F.3d at 501 ("The mere fact that a gun was located at the same place as a drug crime does not—by itself—suffice to show the required purpose to aid the crime."). The government must show that the specific reason the person had a gun was to promote, help, assist, or advance drug trafficking. *See* § 924(c)(1); *Maya*, 966 F.3d at 500 ("This language thus reaches individuals who possess a firearm for the purpose of aiding or furthering a . . . drug-trafficking crime.").

That specific-purpose requirement has been swallowed by two approaches infecting the circuit courts of appeals. The first is a multifactor test that ultimately reduces to the mere presence of a gun near drug-trafficking activity. *See United States* v. *Ceballos-Torres*, 218 F.3d 409, 414–15 (5th Cir. 2000). Those factors include the type of drug activity being conducted, how accessible the gun is, what kind of gun it is, whether the gun is stolen or otherwise unlawfully possessed, whether the gun is loaded, the gun's "proximity to drugs or drug profits," and the general circumstances surrounding the gun's discovery. *See id.*; *United States* v. *Snow*, 462 F.3d 55, 62, n.6 (2d Cir. 2006); *United States* v. *Sparrow*, 371 F.3d 851, 853 (3d Cir. 2004).

Those factors fail to isolate the statute's specific-purpose requirement. *See United States* v. *Krouse*, 370 F.3d 965, 968 (9th Cir. 2004) (rejecting the *Ceballos-Torres* factors because they "do not help distinguish possession for the promotion of drug trafficking from possession for other, perhaps legitimate, purposes"). Assume a person illegally possesses a stolen, loaded gun, and carries it with them at all times.

Some of the time, the person is at a house known for drug activity, doing drug-trafficking things, such as "disposing of drug precursors." *See* Pet. App. 5a. Other times, the person is running everyday errands, such as grocery shopping, or going to the movies. No matter the activity, the person has the gun on them. Most of *Ceballos-Torres*'s factors are satisfied: the gun is always accessible, stolen, unlawfully possessed, and loaded. *See Ceballos-Torres*, 218 F.3d at 414–15.

While some of those facts might be the basis for some other gun crime, they reveal no specific purpose for which the person is carrying the gun, as required to convict under § 924(c)(1)(A). They certainly don't suggest the person is carrying it specifically to aid or further drug trafficking. Those facts show instead that the person carries a gun for general protection and happens to be involved in drug trafficking. And that conduct is not covered by § 924(c)(1)(A): "[S]ection 924(c)(1)(A) does not punish possessing a gun for the general purpose of mitigating dangers as they arise in one's career as a drug dealer." *United States* v. *Brown*, 724 F.3d 801, 802 (7th Cir. 2013). *But see United States* v. *Bell*, 477 F.3d 607, 614 (8th Cir. 2007) (affirming a conviction under § 924(c)(1)(A) in part because a police officer testified that "drug dealers often possess firearms to protect themselves and their drugs"). Ultimately, the problem with the *Ceballos-Torres* factors, even the ones aimed at illegal gun possession, is that they cannot filter out instances of lawful gun possession protected by the Second Amendment to the United States Constitution.

The second approach dispenses with the *Ceballos-Torres* factors but still reduces to criminalizing mere possession of a gun near drugs. The Ninth Circuit, for example, has held that so long as a gun is "within strategic reach" of the defendant, his possession "would typically be characterized as 'in furtherance of' the drug crime." *United States* v. *Mahan*, 586 F.3d 1185, 1188 (9th Cir. 2009). Under a similar approach, the Eleventh Circuit upheld a conviction under § 924(c)(1)(A) where the defendant kept a gun in a nightstand in the same bedroom where drugs and money

were kept in a closet, because the gun's "accessibility" "established a sufficient nexus between the firearm and the drug trafficking crime." *United States* v. *Molina*, 443 F.3d 824, 830 (11th Cir. 2006). Both reveal that courts continue to criminalize mere possession of a gun near drugs without actual evidence the defendant had the gun for the purposes of furthering a drug crime. Thus, even without *Ceballos-Torres*'s factors, the circuit courts of appeals have moved away from § 924(c)(1)(A)'s plain text.

The Sixth Circuit's decision here exemplifies the problem. The evidence showed Horton with a gun in his pocket or waistband "while at two drug dens" where "scales, massive quantities of drugs, and ledgers" were found. *See* Pet. App. 5a–6a. He was seen at those locations "disposing of drug precursors." *See* Pet. App. 5a. There is therefore no question that he had a gun at a place where drug trafficking was taking place. But that's not a crime under § 924(c)(1)(A). *See Brown*, 724 F.3d at 802. And the government produced no other evidence suggesting Horton carried a gun for the purpose of furthering that drug trafficking, as opposed to some other general, non-drug-related purpose.

The Sixth Circuit filled that evidentiary gap with mere speculation. It asserted that Horton's disposing drug precursors "at the same properties" where he carried a gun "suggests that those properties were important locations for the drug trafficking conspiracy." *See* Pet. App. 5a. From there, the court leapt to the conclusion that those "locations would thus likely be the target of violence from rival traffickers." *See* Pet. App. 5a. But the government produced no evidence that Horton carried a gun with him every time he went to either drug den, undermining the Sixth Circuit's claim that Horton's gun possession suggested a key location for the conspiracy. The government also produced no evidence the drug locations were near any "rival traffickers" or that such rivals had threatened Horton or anyone else of violence at those locations. All the government proved here was that Horton had a gun on him at a drug-

trafficking location, which is not enough to meet § 924(c)(1)(A)'s demand that the government show Horton had the gun for the specific purpose of aiding, advancing, or furthering the drug conspiracy.

Horton's conduct therefore doesn't fall within the textual boundaries of § 924(c)(1)(A) as drawn by Congress. The circuit courts' blurring of those boundaries explodes § 924(c)(1)(A)'s application to otherwise lawful gun possession—or at least to possession the government failed to prove was unlawful. That fuzzy approach threatens to distort what the phrase "in furtherance" means not only in § 924(c)(1)(A) but across the over 700 federal statutes in which it appears. The Court should accept review to reorient the analysis around the text and limit § 924(c)(1)(A)'s application to instances where, unlike here, the government proves a person carried a gun specifically "in furtherance" of a drug crime.

CONCLUSION

The petition for a writ of certiorari should be granted.

November 9, 2026

Respectfully submitted,

Louis E. Grube
Counsel of Record
Joseph Shell
FLOWERS & GRUBE
Terminal Tower, 40th Floor
50 Public Square
Cleveland, Ohio 44113
(216) 244-9393
leg@pwfco.com