Case No. 26-_____

SUPREME COURT OF THE UNITED STATES

Markell Young,

Petitioner,

vs.

United States of America,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

Jeffrey P. Nunnari, Esq.
Ohio Reg. No. 0059691
3130 Executive Parkway
Suite 415
Toledo, Ohio 43606
(419) 578-9246
jp59691@yahoo.com
www.jeffreynunnarilaw.com
Counsel for Petitioner

I. QUESTION PRESENTED

Whether a conviction under 18 U.S.C. § 924(c) may stand when the district court instructed the jury that it first had to find beyond a reasonable doubt that the defendant committed the charged predicate offense—here, aiding and abetting murder in aid of racketeering charged in Count 2—but the jury acquitted the defendant of that predicate offense.

II. PARTIES TO THE PROCEEDING

Petitioner is Markell Young.

Respondent is the United States of America.

III. RELATED PROCEEDINGS

United States v. Markell Young, No. 1:21cr10112, United States District Court for the Western District of Tennessee, judgment entered January 16, 2025.

United States v. Markell Young, No. 25-5053, United States Court of Appeals for the Sixth Circuit, judgment entered September 9, 2026.

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VI. OPINIONS BELOW

The opinion of the United States Court of Appeals for the Sixth Circuit is reported at 2025 Fed. App. 0503N (6th Cir.) and reproduced at App. A. The judgment of the United States District Court for the Western District of Tennessee is reproduced at App. B.

VII. JURISDICTION

The court of appeals entered its judgment on September 9, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

VIII. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Section 924(c)(1)(A) provides, in pertinent part:

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 . . . 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 as specified].

18 USCS § 924 (2024).

Section 924(c)(3)(A) defines a "crime of violence" as a felony that has as an element the use, attempted use, or threatened use of physical force against another's person or property. *Delligatti v. United States*, 604 U.S. 423 (2025).

Section 2(a) provides that a person who aids, abets, counsels, commands, induces, or procures an offense against the United States is punishable as a principal. 18 USCS § 2.

The relevant portions of 18 U.S.C. § 1959(a) are reproduced at App. D.

IX. STATEMENT OF THE CASE

After an eleven-day trial, a jury considered charges against Petitioner Young and codefendants Ferguson and Powell arising from an alleged murder in aid of racketeering.

The indictment charged Young with: conspiracy to commit murder in aid of racketeering, in violation of 18 U.S.C. § 1959(a)(5) (Count 1); aiding and abetting murder in aid of racketeering, in violation of 18 U.S.C. § 1959(a)(1) (Count 2); aiding and abetting the use of a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. § 924(c) (Count 3); and aiding and abetting death through use of a firearm, in violation of 18 U.S.C. § 924(j) (Count 4).

The jury acquitted Young on Counts 1, 2, and 4. It convicted him only on Count 3.

For Count 3, the district court instructed the jury that it first had to determine that Young committed the offense charged in Count 2. The court specifically instructed that the jury must find, beyond a reasonable doubt, that the defendant committed the crime charged in Count 2, aiding and abetting the murder.

Young's acquittal on Count 2 therefore followed the jury's rejection of the very predicate finding that the district court instructed was necessary for conviction on Count 3. Yet the court entered judgment on Count 3. Young challenged the Count 3 conviction in the court of appeals. He maintained that the verdict could not stand because the jury was instructed to find him guilty of the Count 2 predicate offense before it could convict him of the firearm offense but instead acquitted him on Count 2. The court of appeals affirmed.

X. REASONS FOR GRANTING THE PETITION

A. The decision below presents a recurring and fundamental question concerning the effect of a jury instruction that expressly makes one charged offense a prerequisite to conviction on another.

Section 924(c) makes it a discrete offense to use or carry a firearm during and in relation to a qualifying crime of violence or drug-trafficking crime. *Barrett v. United States*, 607 U.S. 128, 135 (2026). Its text requires a relationship between the firearm conduct and a qualifying predicate offense. 18 USCS § 924 (2024).

The jury here was not left to decide Count 3 under an abstract or unspecified predicate. The district court expressly identified Count 2—Young's charged aiding-and-abetting murder offense—as the predicate the jury had to find beyond a reasonable doubt before returning a Count 3 conviction.

That instruction made the Count 2 finding an express prerequisite to the Count 3 verdict. The jury then acquitted Young of Count 2. The resulting Count 3 conviction cannot be squared with the trial court's own instruction defining what the jury had to find to convict.

The question warrants this Court's review because it concerns more than a logical tension between separately charged counts. It concerns a conviction entered notwithstanding the jury's acquittal on a factual and legal finding that the court told the jury was indispensable to that conviction.

B. The decision below extends the inconsistent-verdict rule beyond its justification.

This Court has held that a defendant generally may not overturn a conviction merely because it is inconsistent with an acquittal on another count. *United States v. Powell*, 469 U.S. 57, 65 (1984). The Court has explained that an apparently inconsistent verdict may reflect mistake, compromise, or jury lenity, and that a reviewing court ordinarily cannot determine whether the jury's acquittal or conviction departed from its true conclusions. *Id*.

That rule is sound where separate counts are submitted without an instruction making guilt on one count a necessary predicate to guilt on another. In that circumstance, the jury's different dispositions may not reveal which conclusion was the product of error, compromise, or lenity. *Dunn v. United States*, 284 U.S. 390, 393 (1932). But that premise does not fit this case. The district court told the jury precisely what it had to find to convict Young on Count 3: that Young committed the crime charged in Count 2, aiding and abetting murder. The jury then returned a formal acquittal on Count 2. The jury's Count 2 acquittal thus did not merely coexist with a conviction on a related count. It rejected the predicate finding the court explicitly required for Count 3.

Powell itself recognized that its rule addressed claims resting on irreconcilable verdicts, including a conviction on a compound offense and an acquittal on an allegedly predicate offense. But *Powell* did not address a case in which the trial court's instructions specifically conditioned conviction on one count upon a finding that the defendant committed another charged count, and the jury simultaneously acquitted the defendant of that required offense.

Nor does *Bravo-Fernandez* resolve this issue. There, the Court explained that *Powell* governs genuinely irreconcilable conviction-and-acquittal verdicts because inconsistency makes it impossible to determine what the jury necessarily decided. *Bravo-Fernandez v. United States*, 580 U.S. 5, 8 (2016). Here, however, the instructions identify the required finding, and the acquittal reveals that the jury did not return a guilty verdict on that required predicate count.

C. This Court should clarify the relationship between a jury instruction that adds a required finding and a conviction that the jury's verdict negates.

In *Musacchio v. United States*, this Court held that an appellate sufficiency challenge ordinarily is measured against the statutory elements of the charged offense, rather than an instruction that mistakenly adds an element. *Musacchio v. United States*, 577 U.S. 237,

242 (2016). The Court reasoned that sufficiency review asks whether the evidence permitted a rational jury to find the essential statutory elements beyond a reasonable doubt. *Id*.

Young's claim is not simply that the evidence was insufficient under an erroneously heightened instruction. His claim is that the jury did not render the finding that the district court expressly required as a condition of conviction. The verdict on Count 2 establishes that the jury acquitted Young of the predicate offense that the Count 3 instruction required it to find beyond a reasonable doubt.

This distinction matters. A reviewing court's assessment of whether evidence could establish statutory elements is different from determining whether a judgment may rest on a verdict returned contrary to the express condition imposed by the court's instructions. The former asks whether the Government's proof was legally adequate. The latter asks whether the jury returned the finding the court required before it could convict.

Federal aiding-and-abetting law treats an aider and abettor as a principal only when the person deliberately helps bring about the offense and intends to facilitate it. *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280, 291 (2025). The district court

identified Count 2 as the offense Young had to be found to have committed before the jury could convict him on Count 3. Once the jury acquitted Young of that charge, the court could not simultaneously treat the jury as having made the required predicate finding.

D. Review is necessary to preserve the jury's role and the integrity of the verdict.

A jury's acquittal is a formal disposition of the charge submitted to it. The jury acquitted Young of aiding and abetting murder in aid of racketeering and of aiding and abetting death through use of a firearm. The only conviction was Count 3, which the court instructed depended on a finding that Young committed the Count 2 offense.

Permitting that conviction to stand deprives the instruction of operative force. It also permits a conviction premised on a finding the jury was expressly told to make but did not make.

This Court should grant review and hold that, where the trial court instructs the jury that it must first find the defendant committed a specific charged predicate offense beyond a reasonable doubt, a conviction that depends upon that finding cannot stand after the jury acquits the defendant of the specified predicate offense.

XI. CONCLUSION

The petition for a writ of certiorari should be granted. The judgment of the United States Court of Appeals for the Sixth Circuit should be vacated, and the case should be remanded for further proceedings consistent with this Court's decision.

Respectfully submitted,

/s/Jeffrey P. Nunnari
Jeffrey P. Nunnari
Ohio Reg. No. 0059691
3130 Executive Parkway
Suite 415
Toledo, Ohio 43606
(419) 578-9246
jp59691@yahoo.com
www.jeffreynunnarilaw.com
Counsel for Petitioner