

THE SIXTH CENSUS

ISSUE 108 – Oct to Dec 2025

FEDERAL PUBLIC DEFENDER'S OFFICE SOUTHERN DISTRICT OF OHIO

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TO HOW TO USE THIS PUBLICATION

You can read this publication to get a summary of each Court published case or take a deeper dive. To go further, we have added a link to the end of each summary. You can click this link to go to a more thorough outline of each case, if you need more information or context. Moreover, you can click the name of the case (in blue) to go to the Court's website to read the entire decision.

Note: although published decisions regularly address many issues the parties raised, the case is normally only given published status for one of those issues. Therefore, in most cases, we will only address that topic in this summary.

"The liberties of none are safe unless the liberties of all are protected." – William O. Douglas, Supreme Court Justice, 1939-1975

PRETRIAL MATTERS AND DISCOVERY

[United States v. Karasarides et al](#) 24-3545

The district court did not err in **denying the defendant's motion to sever his case from his co-defendants**. First, the defendant limited himself to plain error review by not renewing the severance motion at the close of evidence. Next, even though the defendant presented an affidavit from himself explaining that his co-defendant would have testified in his favor at separate trials, this did not satisfy the "high bar" of proving prejudice from a joint trial. [Read more here](#).

[United States v. Siefert](#) 24-5384

The defendant **waived for purposes of appeal any review on his conflict-of-interest claim**, where the issue was brought up before trial, the district court held a hearing, and the defendant knowingly and voluntarily waived the potential conflict. [Read more here](#).

[United States v. Escobar-Temal](#) 24-5668

The Second Amendment's reference to "the People" includes non-citizens with sufficient connections to the country that they can be considered part of the national community.



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*If we desire respect for
the law, we must first
make the law
respectable.* - Louis D.
Brandeis



18 U.S.C.A. § 922(g)(5)(A), which prohibits non-citizens who are unlawfully present from possessing firearms, is constitutional on its face and as applied to Escobar-Temal. [Read more here.](#)

SUPPRESSION

[United States v. Long](#) 24-3377

A sufficient nexus was established to support a probable cause search where the affidavit established the address to be searched was Long's home and Long was engaged in **continual and ongoing drug trafficking operations**. [Read more here.](#)

[United States v. Santos](#) 25-1051

A state trooper **did not improperly prolong a traffic stop** by asking the driver to step out of their vehicle and questioning them and patting them down, as it helped ensure officer safety. [Read more here.](#)

[United States v. Reed](#) 24-5135/24-5526

Without evidence that an agent's interpretation of a water emoji as a symbol for methamphetamine was **intentionally or recklessly false in an affidavit** for a warrant to seek a wiretap of co-defendant's phone, no *Franks* hearing was necessary. [Read more here.](#)

[United States v. Saine](#) 24-5638

The fact that a K9- or an officer- **could have smelled hemp or another legal cannabis substance** does not negate probable cause. [Read more here.](#)

PLEA

[United States v. Thomas](#) 24-2052

The district court did not plainly err during the plea colloquy by describing all of Thomas' relevant rights and then asking whether he understood them, nor did **the court violate Fed. R. Crim. P. 11(b)(1)(N) because of the prosecutor's failure** to explain exceptions to the appeal waiver where evidence showed Thomas understood the waiver. [Read more here.](#)

TRIAL AND EVIDENCE ISSUES

[United States v. Getachew](#) 24-3432

The district court did not err in **taking the jury verdict in the absence of the defendant**, who was on release pending trial and was not in the courthouse when the jury verdict was announced. The Court found that because Getachew could not prove prejudice, any error was harmless. [Read more here.](#)

[United States v. Riley](#) 24-1287

The district court **erred when it denied Riley’s pro se motion to replace counsel** without investigating the breakdown of the attorney-client relationship, based on Riley’s specific allegation that his counsel made a decision affecting the overarching aims of his representation without his knowledge or assent. [Read more here.](#)

[United States v. Carpenter](#) 24-5656

18 U.S.C. § 2339B’s prohibition on providing “any ... service” to a terrorist organization covers translation services. **Carpenter’s translations of videos from one language to another provided an “expert service” to ISIS** that furthered its propaganda mission. [Read more here.](#)

[United States v. Clay](#) 23-3923/24-3038

Clay could not show **the incorrect jury instructions regarding willful violation of healthcare fraud** had seriously affected the fairness, integrity, or public reputation of judicial proceedings, where he had invited the instructional error and it was a close call as to whether an effect on his substantial rights was shown. [Read more here.](#)

[United States v. Page](#) 24-3871

Evidence at trial showed Page had carried out a scheme to defraud individuals of their money **by misrepresenting how his organization would use their donations** and this supported his wire fraud and money laundering convictions. [Read more here.](#)

SENTENCING

[United States v. Jackson](#) 24-6105

The Court settles **the standard of review as to challenges to perjury-based obstruction of justice sentencing enhancements**. The district court’s factual determinations that a defendant intentionally testified falsely about material matters will be reviewed for “clear error.” [Read more here.](#)

[United States v. Coleman](#) 23-5624

The concept of “**acceptance of responsibility**” in the Guidelines **refers to the “timely” acceptance of responsibility**. Therefore, defendant’s arguments that he was entitled to an acceptance of responsibility adjustment at his resentencing, five years after his initial sentencing, were rejected. [Read more here.](#)



[United States v. Jett](#) 24-166

The district court did not clearly err when it denied Jett’s acceptance-of-responsibility reduction at his sentencing for possession with intent to distribute methamphetamine **based on Jett’s possession and attempts to smuggle drugs into jail and his subsequent denial of his involvement.** [Read more here.](#)

[United States v. Matthews](#) 24-5587/24-6106

The Court provided interpretation of the “**knowingly misrepresented**” within the meaning of U.S.S.G. § 2D1.1(b)(13), holding that “A person ‘knowingly misrepresents’ fentanyl as another substance when he, being aware that the substance he distributes contains fentanyl, asserts or communicates to the person to whom he distributes that it is not.” [Read more here.](#)

[United States v. Vowels-Harper](#) 24-6126

Sentencing Guideline U.S.S.G. § 2G2.1(b)(4)(A) provides for a four-level enhancement if the material portrays “sadistic or masochistic conduct or other depictions of violence.” Where the victim appears pubescent, more than mere penetration is needed to meet the standard for enhancement. [Read more here.](#)

[United States v. Haile](#) 25-1039

The district court did not clearly err in applying several firearm-related sentencing enhancements where evidence supported the district court’s conclusion that Haile was **sufficiently involved in the underlying conduct** and any reasonably foreseeable acts done in furtherance of a joint criminal activity could be attributed to him for sentencing purposes. [Read more here.](#)

[United States v. Willis](#) 25-3038

District court did not erroneously double-count when it applied the “**drug premises**” enhancement, U.S.S.G. § 2D1.1(b)(12), at sentencing for maintaining a drug premises, despite the fact that the defendant was also convicted under 21 U.S.C. § 856(a)(1). [Read more here.](#)

[United States v. Evans](#) 23-3855

Evan’s **prior conviction under Ohio law for aggravated robbery with a deadly weapon**, when predicated on theft, categorically matches Guidelines extortion and thus constitutes a crime of violence. [Read more here.](#)

[United States v. Tooley](#) 24-5286

Tooley’s **second degree manslaughter conviction under Kentucky law was not a “crime of violence”** under the Sentencing Guidelines

and it was plain error for the district court to hold otherwise. [Read more here.](#)

[United States v. Owens](#) 25-5015

Whether **criminal contempt amounts to a felony for purposes of calculating a Sentencing Guidelines range** will depend on a case-by-case analysis. Sentencing courts should examine whether the misconduct constituting contempt is akin to conduct treated as felonious under the federal criminal code. [Read more here.](#)

APPEAL AND POST CONVICTION MATTERS

[United States v. Patterson](#) 24-1571

In a supervised release revocation proceeding, **the “seriousness” of the violative conduct is a permissive factor** for the district court’s consideration in determining the length of sentence to impose. [Read more here.](#)

[United States v. Roper](#) 24-5834

District courts **may consider an individual's mental health history as a factor supporting an above-Guidelines term** of supervised release. [Read more here.](#)

[United States v. Sims](#) 25-3229

When revoking a term of supervised release, **district courts may consider the length of a related state-court sentence.** [Read more here.](#)

[United States v. Williams](#) 25-3241

The district court did not clearly err in finding that any deficiency in Williams's medical care **did not amount to extraordinary and compelling circumstances warranting his compassionate release.** [Read more here.](#)

[United States v. Dale](#) 23-1050/23-1069/23-1070/23-1071

The First Step Act’s sentence-reduction authority covers cases that fall under the sentencing-package doctrine. Under this doctrine, a district court may reduce a sentence for a non-covered offense when it was “packaged” with a covered offense for sentencing purposes. [Read more here.](#)

THE EXTENDED VERSIONS

[United States v. Getachew](#) 24-3432

The district court did not err in taking the jury verdict in the absence of the defendant, who was on release pending trial and was not in the courthouse when the jury verdict was announced. The Court found that because Getachew could not prove prejudice, any error was harmless.

“We need not decide whether the district court committed error in receiving the verdict because Dr. Getachew cannot show that his absence affected his substantial rights. To succeed under this standard, a defendant must demonstrate ‘a reasonable probability that, but for the error, the outcome of the proceeding would have been different [] Dr. Getachew cannot make that showing. By the time the jury returned to the courtroom, it had already reached a verdict, and there was no role for him to play with respect to the soon-to-be-delivered verdict. No evidence thus shows, or even suggests, that the defendant’s absence had the potential to change the verdict.” [Go back](#)

[United States v. Coleman](#) 23-5624

The concept of “acceptance of responsibility” in the Guidelines refers to the “timely” acceptance of responsibility. Therefore, defendant’s arguments that he was entitled to an acceptance of responsibility adjustment at his resentencing, five years after his initial sentencing, were rejected.

The Court found that the history and language of U.S.S.G. § 3E.1. all confirmed that the Sentencing Commission was concerned with the clear, timely demonstration of acceptance. The Court noted that other mitigating factors, such as post-sentence rehabilitation, more directly captured Coleman’s arguments. Thus, the acceptance adjustment was unavailable for resentencings. [Go back](#)

[United States v. Patterson](#) 24-1571

In a supervised release revocation proceeding, the “seriousness” of the violative conduct is a permissive factor for the district court’s consideration in determining the length of sentence to impose.

While this is not a listed or “mandatory” factor, consideration of the nature of the violative conduct dovetail with the court’s interest in addressing the “breach of trust,” which is a permissible factor. The Supreme Court’s decision in *Esteras v. United States*, 145 S. Ct. 2031 (2025) does not prohibit such consideration. While the court is prohibited from considering the seriousness of the original counts of conviction, nothing prohibits a court from considering the seriousness of the violative conduct. [Go back](#)

[United States v. Karasarides et al](#) 24-3545

The district court did not err in denying the defendant’s motion to sever his case from his co-defendants. First, the defendant limited himself to plain error review by not renewing the severance motion at the close of evidence. Next, despite the fact that the defendant presented an affidavit from himself explaining that his co-defendant would have testified in his favor at separate trials, this does not satisfy the “high bar” of proving prejudice from the joint trial.

The Court also found that the “spillover” evidence against his co-defendant did not result in an unfair trial, or warranted the “extreme remedy” of severance. The Court also hinted that there was an intracircuit conflict as to whether the failure to renew the motion to sever at the close of evidence might be a total bar to appellate review, but left that debate for another day. [Go back](#)

[United States v. Siefert](#) 24-5384

The defendant waived for purposes of appeal any review on his conflict of interest claim, where the issue was brought up before trial, the district court held a hearing, and the defendant knowingly and voluntarily waived the potential conflict.

Defense counsel's law firm had represented one of the alleged corporate victims of defendant's healthcare fraud scheme. Prior to trial, the Government brought this potential conflict of interest to the district court's attention. At a hearing on this issue, and with knowledge of the dangers of the potential conflict, the defendant chose to waive the conflict to keep counsel. Because of this, the defendant had no right to argue on appeal that his counsel suffered from a conflict of interest. [Go back](#)

[United States v. Vowels-Harper](#) 24-6126

Sentencing Guideline U.S.S.G. § 2G2.1(b)(4)(A) provides for a four-level enhancement if the material portrays "sadistic or masochistic conduct or other depictions of violence." When the victim appears pubescent, more than mere penetration is needed to meet the standard for enhancement.

The Court focused on the enhancements three terms: sadistic, masochistic, and "depictions of violence." The Court determined that for the enhancement to apply to a pubescent minor, "courts may not rest on the generalization that all penetration of a pubescent minor is humiliating or painful." Further, "we reject a rule that all foreign-object penetrations of a pubescent minor are sadistic." Rather, a "fact bound" analysis, and not generalities, are required for imposition of the enhancement. [Go back](#)

[United States v. Jackson](#) 24-6105

The Sentencing Guidelines require application of the obstruction of justice enhancement if an individual commits perjury at trial. U.S.S.G. § 3C1.1 cmt. n.4(B). Thus, a district court's perjury determination is what supports the lawfulness of the enhancement. Determining whether perjury occurred requires assessing "case-specific historical facts," and "rendering conclusions about demeanor and credibility," which are determinations the district court is better positioned to make. The Court's historical review in perjury cases has been whether the district court observed the required procedures and made the factual findings as to falsity, willfulness, and materiality. If those findings are present, clear-error review will apply to both the conclusion that the individual committed perjury and the factual findings underlying that conclusion.

In Jackson's case, the district court followed the required procedures and its three-part findings that Jackson had committed perjury were not clearly erroneous. [Go back](#).

[United States v. Jett](#) 24-1667

Jett argued that the district court based its denial of the acceptance-of-responsibility reduction on irrelevant conduct. But the Court has upheld similar decisions denying the reduction to individuals who engaged in conduct similar to the offense of conviction while awaiting the entry of a plea or sentencing. The district court may consider an individual's conduct after indictment when determining whether they have accepted responsibility. [Go back](#).

[United States v. Riley](#) 24-1287

With the passage of Amendment 821 in 2023, Riley received a lower amended guideline range and requested the assistance of counsel for resentencing. The government and Riley's counsel jointly recommended a sentence of 144 months and the district court accepted that recommendation. Shortly after, Riley filed a motion with the district court "in his pro-se litigant capacity" and alleged that his attorney had agreed to his sentence without his knowledge or consent. Riley asked the district court to reconsider his sentence. The district court denied Riley's motion on the grounds that it constituted improper hybrid representation.

The Court found the “clear thrust” of Riley’s motion was that he wanted to proceed pro se because his counsel had agreed to a specific disposition of his § 3582 motion without his consent. Thus, the district court was on notice of Riley’s dissatisfaction with his counsel, and the district court was obligated to make an appropriate inquiry into this matter and determine what further action was necessary. [Go back.](#)

[United States v. Dale](#) 23-1050/23-1069/23-1070/23-1071

The Court determined that both the text and context of the statute support an interpretation of Section 404 of the First Step Act (FSA) that encompasses the sentencing package doctrine. In determining whether the doctrine applies to allow for the resentencing of offenses not covered by the FSA (when resentencing for a covered offense), the inquiry focuses on whether there is reason to believe that at the time of sentencing, the two sentences were interdependent.

In Dale and his co-defendant’s cases, the district court reduced their sentences for the covered drug conspiracy and the uncovered homicide convictions, finding that it had authority to do so under the sentencing-package doctrine. Finding the record unclear as to how each case falls within the doctrine, the Court remanded the case. [Go back.](#)

[United States v. Evans](#) 23-3855

O.R.C. § 2911.01(A)(1), predicated on theft § 2913.02, requires an offender to “obtain or exert control over either the property or services” of another and since “one cannot display, brandish, indicate possession of, or use a deadly weapon in the context of committing a theft offense without conveying an implied threat to inflict physical harm,” this threat satisfies the coercive element of Guidelines extortion. [Go back.](#)

[United States v. Long](#) 24-3377

The probable cause nexus for the search warrant of Long’s home was supported by the Court’s “known drug dealer” precedents and precedents involving drug transactions taking place outside a suspect’s home. In “known drug dealer” cases, probable cause exists when an affidavit establishes: (1) that the address to be searched is the home of the suspect, and (2) the suspect is engaging in continual and ongoing drug trafficking operations. In Long’s case, officers knew the home to be searched was Long’s residence since he provided the address to the Ohio Adult Parole Authority. Officers also established an ongoing and continuous operation that tied to the home. There was evidence of regular travel to and from stash houses to carry out drug deals and officers had observed an apparent drug deal in front of Long’s home. [Go back.](#)

[United States v. Matthews](#) 24-5587/24-6106

U.S.S.G. § 2D1.1(b)(13)(A) enhances an individual’s base offense by four levels if he “knowingly misrepresented or knowingly marketed” fentanyl as another substance. First the Court determined what it means to “knowingly misrepresent” or “knowingly market”: “A person ‘knowingly misrepresents’ fentanyl as another substance when he, being aware that the substance he distributes contains fentanyl, asserts or communicates to the person to whom he distributes that it does not.” And “[a] person ‘knowingly markets’ fentanyl as another substance when he sells or advertises it as something else despite his awareness that the substance contains fentanyl.”

Under these definitions, Matthews had knowingly misrepresented the contents of the pills he distributed. He served as the source of supply and the pills he supplied were pressed to look like oxycodone pills, but he knew they were fentanyl pills. One cooperating witness stated that Matthews had represented the pills he sold as “Percocet 30 mg.” As for his co-defendant, Livingston, he had sold “substantial” distribution quantities of the pills marked to look like oxycodone, while knowing they contained fentanyl. [Go back.](#)

[United States v. Thomas](#) 24-2052

Rule 11(b) and caselaw do not require the “seriatim approach” when discussing the waiver of relevant rights during the plea colloquy. The prosecutor’s failure to explain the exceptions to the appeal waiver did not violate Rule 11(b)(1)(N) where evidence shows Thomas understood the waiver. He acknowledged that he had been given the plea agreement

weeks before the hearing, that he discussed the provisions with his counsel, he understood everything in the agreement, and was not confused by any of the terms. [Go back.](#)

[United States v. Tooley](#) 24-5286

The Supreme Court in *Borden v. United States*, 593 U.S. ____ (2021), incorporated a mens rea requirement when analyzing “violent felonies,” determining that purposeful and knowing acts will suffice while reckless conduct will not. When Tooley was convicted of second-degree manslaughter, Kentucky law stated: “[a] person is guilty of manslaughter in the second degree when he wantonly causes the death of another person...” Kentucky defined “wantonly” as: being “aware of and consciously disregard[ing] a substantial and unjustifiable risk...” Similarly, *Borden* explained that a person acts recklessly when they “consciously disregard[] a substantial and unjustifiable risk.”

Since wantonness under Kentucky law is functionally identical to recklessness as defined in *Borden*, a crime requiring a mens rea of wantonness under Kentucky law is not a “crime of violence” under the Sentencing Guidelines. And because this conclusion comes from binding precedent, it was plain error for the district court to hold otherwise. [Go back.](#)

[United States v. Haile](#) 25-1039

Haile argued that he played a limited role in the carjacking offenses he pled guilty to. But ample record evidence supported the district court’s conclusion that Haile was one of the carjackers. Haile’s phone number was linked to the vehicles targeted on Lyft, his cell site data placed him at each scene, he had several weapons and stolen vehicles at his house, he admitted facilitating each carjacking and acknowledged his intent to cause serious bodily harm to the victims. It was reasonably foreseeable that one of his partners would brandish a firearm and injure a driver during a carjacking. Thus, the district court did not plainly error in applying the relevant enhancements under U.S.S.G. § 2B3.1(b). [Go back.](#)

[United States v. Carpenter](#) 24-5656

Carpenter was charged with one count of attempting to provide material support or resources to a terrorist organization pursuant to 18 U.S.C. § 2339B for his translation of ISIS propaganda videos. Carpenter argued translation was not covered by the statute, but the Court found that “service” encompasses “concerted activity in support of another,” and that was what Carpenter did when he helped ISIS make their propaganda videos available to those who only speak English. Although the federal statute does not list “translation” as an example of prohibited services, the list is not exclusive, and translation is akin to “expert assistance” and “financial services.” Therefore, Carpenter’s translation work violated 18 U.S.C. § 2339B. [Go back.](#)

[United States v. Roper](#) 24-5834

The sentencing guidelines recommended the five-year mandatory minimum term of supervised release (“SR”) for Roper’s failure to register as a sex offender. The district court imposed a 20-year term based on mental health and public safety concerns. Roper argued that mental illness could not be a factor relied on to extend a criminal sentence and that such concerns for mental health should be seen only as mitigating. But the SR sentencing factors allow consideration of an individual’s mental health and district courts are within their discretion to weigh mental illness as they see fit. [Go back.](#)

[United States v. Owens](#) 25-5015

Ms. Owens was charged with criminal contempt under 18 U.S.C. § 401(3) for failure to report to prison as ordered. Under the guidelines for “contempt”, the Commission directs courts to “apply the most analogous guideline” if the offense is a felony, but if the offense is not a felony, then a base offense level of 6 should apply. The Court recognized Owens’ offense did not recite any maximum sentence for contempt, so looking to the “misconduct” underlying the offense, the Court determined it was identical to 18 U.S.C. § 3146. This federal law provides that knowingly “fail[ing] to surrender for service of sentence pursuant to a court order” is punishable for a term of years, and in Ms. Owen’s case, ten. Accordingly, Owen’s contempt offense was a felony for purposes of calculating her guidelines range. [Go back.](#)

[United States v. Sims](#) 25-3229

In the context of revocation of supervised release, the length of Sims's state sentence was a relevant consideration both because his conduct underlying the sentence formed the basis of the supervised-release violation, and because the district court was required under U.S. Sentencing Guidelines Manual § 7B1.3(f) to consider how the federal term would interact with its state counterpart. *Esteras* does not prohibit a district court from considering the seriousness of a related state-court sentence and § 3553(a)(2)(B) and (C), permit consideration of any perceived inadequacy of such a sentence. [Go back.](#)

[United States v. Williams](#) 25-3241

The district court did not commit clear error in concluding that alleged lack of adequate treatment for Williams' thrombophilia did not constitute extraordinary and compelling circumstance warranting compassionate release. [Go back.](#)

[United States v. Escobar-Temal](#) 24-5668

Mr. Escobar-Temal was charged with violating 18 U.S.C. § 922(g)(5)(A) after police found firearms in his home. At the first step of the *Bruen* analysis, the government attempted to argue that Mr. Escobar-Temal was not part of “the People” that the Second Amendment applied to, but the Court rejected this argument holding “history and tradition” reveal that the phrase “the People” encompassed individuals who voluntarily came to this country and consented to be governed by the Constitution and its laws. Mr. Escobar-Temal came to the U.S. thirteen years ago, lived in the same community for almost a decade where he established a family, worked as a flooring contractor, and had no criminal convictions. His ties to the national community were sufficient to make him part of “the People” under the Second Amendment.

As to *Bruen*'s second step, § 922(g)(5)(A) was consistent with the Nation's historical tradition of firearm regulation and did not violate the Second Amendment on its face or as applied to Mr. Escobar-Temal. [Go back.](#)

[United States v. Santos](#) 25-1051

State trooper's questioning of the driver outside of her vehicle did not unreasonably prolong the traffic stop where the trooper had reasonable suspicion of danger to the officer or others. The Trooper noticed the passenger had made several nervous glances at trooper's vehicle before the stop, had made furtive movements when asked for identification, was a felon, and just received information that he could be armed and dangerous. Thus, the trooper's request for the driver to step out of the vehicle and answer some questions was permissible in the context of officer safety. [Go back.](#)

[United States v. Willis](#) 25-3038

The district court did not erroneously double-count when it applied the “drug premises” enhancement, U.S.S.G. § 2D1.1(b)(12), at sentencing for maintaining a drug premises, despite the fact that the defendant was also convicted under 21 U.S.C. § 856(a)(1). In 1986 Congress passed a statute criminalizing Willis's conduct and in 1987 the Sentencing Guidelines provided a base offense level. Then in 2010, Congress directed the Sentencing Commission to “ensure an *additional increase* of at least 2 offense levels if ... the defendant maintained an establishment for the manufacture or distribution of a controlled substance, as generally described in [21 U.S.C. § 856],” and the Commission obeyed. Since Congress's intent is clear, the double-counting is permissible. [Go back.](#)

[United States v. Clay](#) 23-3923/24-3038

Clay was convicted of “knowingly and willfully” committing healthcare fraud pursuant to 18 U.S.C. § 1347. The jury instructions he stipulated to at trial provided that “[a]n act is done ‘knowingly and willfully’ if it is done voluntarily and intentionally, and not because of mistake or some other innocent reason.” The Court had recently determined a similar instruction was incorrect in *United States v. Singh*, 147 F.4th 652. Rather, an individual acts “knowingly” when he has “knowledge of the facts that constitute the offense” and the government must prove the individual acted with knowledge that his conduct was unlawful. Thus, the error was plain. But the Court found the evidence presented at trial made it a

“close call” as to whether Clay had shown the error affected his substantial rights. As to the last plain error prong, the circumstances of the case weighed against exercising the Court's discretion since Clay had affirmatively invited the instructional error. [Go back.](#)

[United States v. Reed](#) 24-5135/24-5526

In support of a wiretap of Mr. Swanagan’s phone, a DEA task force officer (TFO) referenced Facebook (FB) conversations between Mr. Swanagan and an individual who was recently arrested for drug trafficking. The TFO interpreted the use of a water emoji in those FB conversations to symbolize methamphetamine. Mr. Swanagan argued that the emojis had a sexual connotation, provided dictionary support, and the government conceded the water emoji could have other meanings. But the possible ambiguity does not amount to reckless or intentional falsity, especially when considering the affidavit’s other use of “water” in a context where any sexual connotation would not make sense. Thus, Swanagan did not make the requisite preliminary showing for a *Franks* hearing. [Go back.](#)

[United States v. Saine](#) 24-5638

Florida v. Harris’s presumption that a K9's positive alert provides probable cause still applies when a state has legalized marijuana in some forms and those substances’ smells are indistinguishable from marijuana. Since probable cause focuses on probabilities, it does not require the elimination of alternative innocent explanations. The Court has already determined that human officers smelling marijuana can provide probable cause for an arrest even when certain types of cannabis are legal. Moreover, in Saine’s case, the totality of the circumstances justified the search. [Go back.](#)

[United States v. Page](#) 24-3871

The government presented sufficient proof at trial that Page carried out a scheme to defraud donors of their money on Facebook by misrepresenting that his organization (BLMGA) would use those donations to combat racial and social injustice. When FB users had contacted Page asking about how their donations would be used, Page gave several assurances that their money would be used for the movement. But evidence showed Page had used these funds for personal use/ activities unrelated to the organization. This was enough to show the record wasn’t devoid of evidence to uphold Page’s wire-fraud and money laundering convictions. [Go back.](#)