No.

In the Supreme Court of the United States

MICHAEL J. MADIGAN,
PETITIONER,

v.

UNITED STATES OF AMERICA,
RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The government prosecuted Michael Madigan, former Speaker of the Illinois House of Representatives, under the federal-program bribery statute, 18 U.S.C. § 666(a)(1)(B), on the theory that he corruptly promised to help a utility company in connection with future, unidentified legislation in exchange for a "stream of benefits" in the form of jobs for Madigan's political associates. The government also prosecuted Speaker Madigan under the honest-services fraud statutes, 18 U.S.C. §§ 1343 and 1346, on the theory that he separately promised to recommend a local politician to the governor-elect for a position on a state board in exchange for the politician's referring potential clients to Madigan and his son. For both sets of counts, the parties agreed to define the quid pro quo element by reference to the definition of "official act" in 18 U.S.C. § 201(a)(3).

The questions presented are:

1. Whether a public official acts "corruptly" under § 666(a)(1)(B) merely because he understands the alleged bribe-giver's intent to influence or reward the official in connection with his official duties.

2. Whether future, unidentified legislation affecting a company's financial struggles is a sufficiently specific "question or matter" under 18 U.S.C. § 201(a)(3).

3. Whether a legislator's alleged promise to make a job recommendation to a governor-elect constitutes an "official act" under 18 U.S.C. § 201(a)(3).

PARTIES TO THE PROCEEDINGS

Petitioner Michael Madigan was defendant in the district court and appellant in the Seventh Circuit.

Respondent United States of America was plaintiff in the district court and appellee in the Seventh Circuit.

STATEMENT OF RELATED PROCEEDINGS

This case arises from the following proceedings:

- *United States v. Madigan*, No. 25-2249 (7th Cir. Apr. 27, 2026) (affirming conviction)
- *United States v. Madigan*, No. 1:22-cr-00115 (N.D. Ill. July 15, 2025) (entering judgment of conviction)

There are no other proceedings in state or federal trial or appellate courts, or in this Court, directly related to this case within the meaning of this Court's Rule 14.1(b)(iii).

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Petitioner Michael J. Madigan respectfully petitions for a writ of certiorari to review the judgment of the U.S. Court of Appeals for the Seventh Circuit in this case.

OPINIONS BELOW

The court of appeals' opinion (Pet.App.1a) is reported at 173 F.4th 929. The district court's order denying the motion for acquittal and new trial (Pet.App.31a) is not reported.

JURISDICTION

The court of appeals entered judgment on April 27, 2026. Pet.App.1a. This Court has jurisdiction under 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

18 U.S.C. § 666(a)(1)(B) provides:

> Whoever … corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving any thing of value of $5,000 or more … shall be fined under this title, imprisoned not more than 10 years, or both.

18 U.S.C. § 201(a)(3) defines "official act" as "any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official's official capacity, or in such official's place of trust or profit."

18 U.S.C. § 1343 provides, in relevant part, that "[w]hoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire … communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice … shall be fined … imprisoned … or both."

18 U.S.C. § 1346 provides that, "[f]or the purposes of this chapter, the term 'scheme or artifice to defraud' includes a scheme or artifice to deprive another of the intangible right of honest services."

18 U.S.C. §§ 201, 666, 1343, and 1346 are reproduced in full, *infra*, Pet.App.241a-245a.

STATEMENT

This case arises from the prosecution of Michael Madigan, the longtime Speaker of the Illinois House of Representatives. The novel bribery theories the government zealously pursued against Speaker Madigan stretch federal bribery law in ways that threaten to criminalize and chill lawful interactions between state and local officials and their constituents. Speaker Madigan's case presents three exceptionally important, recurring questions.

First, the decision below cements a longstanding circuit split over the definition of "corruptly" in the oft-prosecuted federal-program bribery statute, 18 U.S.C. § 666(a)(1)(B). That statute makes it a crime for state and local officials to "corruptly solicit[,] demand[,] … or accept[] … anything of value" "intending to be influenced or rewarded in connection with" government business. 18 U.S.C. § 666(a)(1)(B); *see Snyder v. United States*, 603 U.S. 1, 8 (2024). The Second, Ninth, and Eleventh Circuits define "corruptly" to require that the official intend to violate the law by receiving what he understands is an illegal benefit or to employ illegal means to obtain the benefit. Two other circuits have endorsed the same definition in the analogous bank bribery statute (18 U.S.C. § 215), and two circuits' model jury instructions adopt a similar construction of § 666. The Solicitor General offered a similar definition—"consciousness of wrongdoing"—when § 666 last came before this Court. U.S. Br. 38-39, *Snyder v. United States*, No. 23-108 (S. Ct. filed Mar. 11, 2024). The Court did not address this question in *Snyder*.

Against this weight of authority, the Seventh Circuit stands alone. In the Seventh Circuit, an official's corrupt intent turns not on his own purpose of engaging in unlawful activity but on his understanding of the *bribe-giver's* intent. Pet.App.8a. That definition improperly writes the "corruptly" mens rea out of the statute. The Second Circuit has recognized this split, *see United States v. Ford*, 435 F.3d 204, 212-14 (2d Cir. 2006), as did the district court below, Pet.App.125a n.47. Only this Court can resolve the disagreement.

Second, the decision below created a circuit split over the bounds of the "stream-of-benefits" or "as-opportunities-arise" theory of bribery, by which the government alleges that an official agrees to take actions over time in exchange for an ongoing "stream of benefits" from the alleged bribe-giver. As defined in 18 U.S.C. § 201(a)(3), an "official act" constitutes, as relevant here, a decision or action on a "question" or "matter." The parties to this case agreed to use that statute to define the required quid pro quo. Applying *McDonnell v. United States*, 579 U.S. 550 (2016), the Second, Sixth, Eleventh, and D.C. Circuits have recognized that, in "stream-of-benefits" or "as-opportunities-arise" prosecutions, § 201 requires that the official agree to act on a *specific* question or matter. In contrast to that consensus, the government tried this case on the premise, rejected by other circuits, that unidentified future legislation is a legally sufficient "question" or "matter."

Third, in *McDonnell*, this Court interpreted § 201(a)(3)'s definition of "official act" to include an official's use of his position to "exert pressure on another official" or to "advise another official, knowing or intending that such advice will form the basis for an 'official act' by another official"—but to exclude mere expressions of support. 579 U.S. at 574. Lower courts have struggled to administer that distinction, and the decision below eviscerates the distinction altogether by treating an alleged, vague promise to make a job recommendation to a member of another branch of government as an official act.

This case is the ideal vehicle to resolve these splits and clarify federal bribery law. The government prosecuted Speaker Madigan under § 666 for engaging in an alleged bribery conspiracy with the utility company ComEd. Unlike virtually every other bribery case the federal government has prosecuted, neither Speaker Madigan nor any of his family members received even a cent from ComEd. Instead, ComEd hired political associates of Speaker Madigan. The government alleged that Speaker Madigan conspired to exchange these hirings for action on future legislation of interest to ComEd during a near-decade-long period (2011 to 2019).

Corporations routinely hire politically connected individuals and lobbyists, sometimes acting on recommendations of public officials. And, of course, legislators routinely act on legislation of interest to corporations. That is why § 666 requires the government to prove that an official "corruptly" agreed to a quid pro quo—*i.e.*, that the official understood that his actions were wrong or unlawful. But the jury here was told that Speaker Madigan could be found to have acted corruptly if he understood ComEd's intent to influence him.

Moreover, the government did not tie specific hirings to promised official action on specific legislation. Instead, the government prosecuted the case on the nebulous theory that ComEd offered a "stream of benefits" to Speaker Madigan's associates so that Madigan would act favorably on legislation of interest to ComEd when such legislation (*whatever its topic*) arose. The Seventh Circuit affirmed the resulting convictions, holding that Speaker Madigan's supposed promise to "help ComEd" with its "struggle to control its energy rates" across a decade constituted a valid "official act" under § 201(a)(3). Pet.App.21a.

In a distinct set of counts, the government also prosecuted Speaker Madigan under the honest-services fraud statutes, 18 U.S.C. §§ 1343 and 1346, based on a series of conversations between Madigan and an FBI cooperator. The government alleged that Speaker Madigan committed bribery by agreeing to recommend the FBI cooperator to the incoming governor for a position on an Illinois state board that Madigan did not control, purportedly in exchange for the cooperator's referring potential clients to Madigan and his son. The Seventh Circuit affirmed the conviction on the ground that the alleged promise to make a recommendation constituted an "official act" under § 201(a)(3). Pet.App.27a-28a. That conclusion collapses the distinction between expressions of support and official acts that this Court drew in *McDonnell*. This case presents a clean vehicle to clarify the confusion wrought by *McDonnell*.

The decision below threatens to throw a wrench into the everyday mechanics of state and local government for countless officials and their constituents. Criminal laws carrying 10- and 20-year maximum sentences always demand uniformity—but especially so when local governance is at stake. The Court should grant the petition.

A. Statutory and Factual Background

1. Every year, the federal government prosecutes roughly 100 individuals under 18 U.S.C. § 666, the nation's most prosecuted public-corruption statute.[1] Section 666

[1] *See* U.S. Dep't of Just., Bureau of Just. Stat., FY 2013-2023 Number of Defendants in Cases Filed: 18 U.S.C. § 666, https://bjs.gov/fjsrc.

makes it a felony punishable by up to 10 years' imprisonment for state or local officials to "corruptly solicit[,] demand[,] … or accept[] … anything of value …, intending to be influenced or rewarded in connection with" government business. 18 U.S.C. § 666(a)(1)(B). Section 666 equally applies to private individuals who bribe officials. 18 U.S.C. § 666(a)(2).

In addition, as here, the federal government oftentimes prosecutes bribery offenses involving state or local officials as honest-services fraud, 18 U.S.C. §§ 1341, 1343, 1346. As occurred in *McDonnell*, 579 U.S. at 562-63, parties typically agree to define the required quid pro quo under these statutes by reference to the definition of an "official act" in 18 U.S.C. § 201(a)(3). Here, the parties agreed to apply § 201's "official act" definition to the § 666 offenses as well. Pet.App.7a.

2. This case arises from the federal government's prosecution of petitioner Michael Madigan. Madigan, now 84 years old, served as Speaker of the Illinois House of Representatives for more than three decades. As relevant here, the government claimed that Speaker Madigan engaged in two different bribery schemes.

a. First, the government alleged that Speaker Madigan engaged in a bribery conspiracy with ComEd, a utility company. Because Madigan never received anything of value directly from ComEd, and because Madigan oftentimes worked against ComEd's legislative interests, the government pursued a vague "stream of benefits" theory of bribery spanning nearly a decade.

Between 2011 and 2019, the Illinois Legislature from time to time took up legislation of interest to ComEd, its parent company Exelon, and other utility companies in Illinois. Pet.App.2a-3a. Some of the legislation involved, in part, the rates that ComEd could charge customers. But the legislation also involved issues such as investments in infrastructure, support for nuclear plants owned by ComEd's parent company, and support for low-income customers, among other things. Pet.App.15a-17a.

In May 2011, before the alleged bribery conspiracy even began, the Legislature passed a bill that, among other things, replaced traditional ratemaking with a "formula rate" designed to provide predictable energy rates. Pet.App.54a-56a. Speaker Madigan supported the bill—again, before the alleged bribery conspiracy. Pet.App.55a. The governor vetoed the bill, and the Legislature overrode the veto in October 2011. Pet.App.14a.

Additional legislation followed in 2013 and 2016. Pet.App.21a. In 2016, the Legislature passed a bill that extended the formula rate and concerned other legislative items of interest to ComEd's parent company, Exelon, including support for underperforming nuclear plants. Pet.App.21a. Speaker Madigan did not vote for the 2016 legislation. Pet.App.17a. Additional legislation affecting utility companies was proposed in 2018 and 2019. Pet.App.18a.

The government did not contend that Speaker Madigan directly received even a cent from ComEd over this decade. Instead, it alleged that ComEd provided benefits to Madigan by hiring five of his political associates as lobbying consultants (one in August 2011, two in 2012, one in 2017, and one in 2018), and by hiring a law firm with connections to Madigan to perform legal services for ComEd. The government presented evidence that the lobbying consultants, paid on a monthly retainer basis, ultimately performed little or no services. Pet.App.2a.

b. Separately, the government alleged that Speaker Madigan accepted a bribe from Alderman Daniel Solis in 2018. Solis—who was secretly cooperating with the FBI—told Speaker Madigan he was interested in a position on a state board. Pet.App.3a. Speaker Madigan lacked authority to appoint or nominate individuals to state boards, which were controlled by the governor. D. Ct. Dkt. 370 at 5846. Instead, Speaker Madigan said he would "take a note down." Pet.App.26a; D. Ct. Dkt. 471-3 at 396. In a later conversation, Speaker Madigan said that "if [he] recommended [Solis]," Madigan "would go to Pritzker"—then only a candidate for governor. Pet.App.26a; D. Ct. Dkt. 471-3 at 456. Later in that conversation, Solis offered to continue referring potential clients to Speaker Madigan's law firm, but Speaker Madigan responded, "Don't. Don't worry about it."[2] Pet.App.26a; D. Ct. Dkt. 471-3 at 457.

After Governor Pritzker won the election in November 2018, Speaker Madigan met with the governor and recommended other individuals for state board positions. But Speaker Madigan never recommended Solis for any position. Even if Speaker Madigan had made a recommendation, no evidence proved the governor would have acted on it. The executive director of Governor Pritzker's transition team testified that the governor's office did not think that it was necessary to act on a particular recommendation from Speaker Madigan, and Madigan's recommendations were successful only about half the time. Pet.App.28a.

[2] Because Illinois legislators work part-time, as is common for state legislators, Madigan also maintained a private law practice. Pet.App.32a.

B. Procedural History

1. In March 2022, a grand jury indicted Speaker Madigan on twenty-two counts. As relevant to the alleged ComEd scheme, the charged offenses included conspiracy to commit federal-program bribery and to falsify ComEd's books and records and circumvent ComEd's internal controls in violation of 18 U.S.C. § 371 (Count 2); federal-program bribery in violation of 18 U.S.C. § 666 (Counts 4 and 6); and a Travel Act violation under 18 U.S.C. § 1952(a)(3) (Count 5). Pet.App.32a-35a. As relevant to the alleged Solis scheme, the indictment charged wire fraud in violation of 18 U.S.C. §§ 1343 and 1346 (Counts 8-10) and Travel Act violations (Counts 12-14). *Id.* Approximately half the charged counts involved alleged bribery schemes as to which the jury acquitted Madigan or hung. Pet.App.33a-37a.

While the case was pending, this Court decided *Snyder v. United States*, 603 U.S. 1 (2024), holding that § 666 proscribes only quid pro quo bribery and not gratuities. The district court offered the government the opportunity to supersede, but the government declined. D. Ct. Dkt. 121; D. Ct. Dkt. 123.

2. As to ComEd, the government invoked at trial the so-called "stream-of-benefits" theory of bribery. According to the government, ComEd conferred a "stream of benefits" on Speaker Madigan over nearly a decade by hiring his political associates. In exchange, it argued, Speaker Madigan agreed to help ComEd in the Illinois Legislature. The government disclaimed any need to identify the specific legislation—*i.e.*, the specific question or matter—that ComEd intended to influence by hiring Speaker Madigan's associates. As it told the jury in closing: "What does matter is whether Madigan knew these benefits were being showered on him in exchange for his

official action on *future* legislation." D. Ct. Dkt. 392 at 9949 (emphasis added). It likewise argued that ComEd's payments to subcontractors were intended to keep Speaker Madigan "positively disposed to ComEd's legislative agenda." *Id.* at 9985.

Regarding the meaning of "corruptly" in § 666, Speaker Madigan proposed an instruction consistent with those given in other circuits: "A person acts corruptly when that person acts with the knowledge that his conduct is unlawful." D. Ct. Dkt. 183 at 99. The district court instead instructed the jury that it could find that Speaker Madigan acted "corruptly" if he "acted with the understanding that a 'thing of value' is to be exchanged for an 'official act' with the intent to influence or reward a State agent in connection with his official duties" or "[i]n other words," "the defendant understood the conspiracy involved a 'this for that' exchange of a 'thing of value' for an official action." Pet.App.230. The court also told the jury: "The government need not prove … that the defendant knew that the law prohibited his conduct." Pet.App.229a-230a. Later, when denying Speaker Madigan's motion for a new trial, the district court recognized that its definition diverged from the definition the Second Circuit adopted in *United States v. Ford*, 435 F.3d 204 (2d Cir. 2006), but held that conflicting Seventh Circuit cases bound the court. Pet.App.125a n.47.

The jury returned a mixed verdict, declining to convict on more than half of the counts. The jury acquitted Speaker Madigan of seven counts and failed to reach a verdict on six others. Pet.App.33a-35a. As relevant here, the jury convicted Speaker Madigan on Counts 2, 4, and 6, alleging conspiracy to engage in federal-program bribery and federal-program bribery related to ComEd, as well as

Counts 8, 9, and 10, alleging wire fraud related to the Solis recommendation.[3]

The district court sentenced Speaker Madigan to 90 months' imprisonment on the ComEd § 666 counts and a concurrent 90 months' imprisonment on the Solis counts, Pet.App.4a, and imposed a $2.5 million fine—$250,000 per count of conviction, D. Ct. Dkt. 453 at 7. In explaining the sentence, the court emphasized the ComEd scheme's eight-year duration and its scope. D. Ct. Dkt. 445 at 38-42. Speaker Madigan appealed.

3. The Seventh Circuit affirmed. Pet.App.2a. As relevant here, the court held that Speaker Madigan's argument on the "corruptly" instruction was foreclosed by that court's precedent holding that "someone acts 'corruptly' under § 666(a)(1)(B) when he understands that the bribe-giver intends to influence or reward him in connection with his official duties." Pet.App.8a. The court rejected Speaker Madigan's argument that *Snyder* undermined the rationale of that precedent. Pet.App.9a.

On the stream-of-benefits issue, the court of appeals recognized that *McDonnell* "suggests" that the jury was required to find that Speaker Madigan promised, "at the time the bribe was accepted," "to take official action on a

[3] The jury also convicted Madigan of four counts under the Travel Act, 18 U.S.C. § 1952(a)(3). Speaker Madigan argued below that the Illinois bribery statutes on which the government based this count lack a quid pro quo element and thus do not match the generic definition of bribery. *See United States v. Shen Zhen New World I, LLC*, 115 F.4th 1167, 1182-84 (9th Cir. 2024). The Seventh Circuit did not resolve this argument because it found any error harmless in light of the § 666 and wire fraud convictions. Pet.App.28a-30a. If either set of convictions is vacated, the Seventh Circuit would need to revisit this issue on remand.

specific and focused question or matter." Pet.App.7a (quoting *United States v. Silver*, 948 F.3d 538, 569 (2d Cir. 2020)). But the court concluded the government had proved a promise to take action on a specific question or matter. According to the court, ComEd's "struggle to control its energy rates" qualified as a specific question or matter on which Madigan promised to take action. Pet.App.21a. In the court of appeals' view, the jury could "connect[] th[e] dots" across nearly a decade of legislation addressing various aspects of Illinois energy policy and find that Speaker "Madigan agreed to help ComEd gain control over its rates." Pet.App.21a-22a.

On the Solis counts, the Seventh Circuit held that the evidence proved that Speaker Madigan intended to exert pressure on or advise Governor Pritzker to appoint Solis—even though Madigan and Pritzker were in separate branches of government, Madigan never said he would do more than express support for an appointment, and Madigan never made the recommendation. Pet.App.27a-28a.

REASONS FOR GRANTING THE PETITION

This petition presents an ideal vehicle for resolving two entrenched circuit splits and an important question about the scope of § 201(a)(3)'s "official act" definition that has confused federal courts—all of which affect public officials and the constituents they serve.

First, the circuits are divided over the definition of "corruptly" in 18 U.S.C. § 666. The Second, Ninth, and Eleventh Circuits have endorsed language similar to what Speaker Madigan proposed below—*i.e.*, that the official "acted with the bad purpose of accomplishing either an unlawful end or result, or a lawful end result by some unlawful method or means." *See, e.g.*, *United States v. Ng*

Lap Seng, 934 F.3d 110, 142 (2d Cir. 2019). The Seventh Circuit, by contrast, defines "corruptly" only as acting "with the understanding that something of value is to be offered or given to reward or influence" an official "in connection with his official duties." *United States v. Hawkins*, 777 F.3d 880, 882 (7th Cir. 2015).

Second, the circuits have diverged over the reach of the "stream-of-benefits" or "as-opportunities-arise" theory of bribery. The Second, Sixth, Eleventh, and D.C. Circuits have held that § 201(a)(3)'s definition of official act, as construed in *McDonnell*, requires that an official agree to act on a concrete, circumscribed "question or matter" at the time of the alleged bribery agreement. The Seventh Circuit's decision below breaks from that consensus, holding that an official's promise to help a company with its "struggle to control its energy rates" is an "official act." Pet.App.21a.

Third, the lower courts have expressly noted their confusion on how to distinguish between an expression of support that does not constitute an official act, on the one hand, and pressure or advice that constitutes an official act under § 201(a)(3), on the other hand. The decision below permits conviction for an (alleged) promised recommendation that never happened—providing no basis for a jury to find anything more than a lawful agreement to express support.

All three questions are critically important, recurring, and cleanly presented. The Court should grant the petition.

I. The Decision Below Conflicts with This Court's Precedent and Deepens Lower-Court Disagreement over Federal Bribery Law

A. The Circuits Are Divided Regarding the "Corruptly" Element of Federal-Program Bribery

Section 666(a)(1)(B) makes it a crime to "corruptly solicit[] or demand[] … , or accept[] or agree[] to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions" of a covered entity valued over $5,000. In *Snyder v. United States*, this Court recognized that the statute contains two distinct intent elements: the official must act (1) "corruptly" and (2) "intending to be influenced and rewarded." 603 U.S. 1, 10-11 (2024). Although the definition of "corruptly" was not before the Court in *Snyder*, the government argued that "corruptly" means "consciousness of wrongdoing." U.S. Br. 38-39, *Snyder v. United States*, No. 23-108 (S. Ct. filed Mar. 11, 2024) ("U.S. *Snyder* Br.").

Both before and after *Snyder*, the circuits have split on how they define the term. The Second, Ninth, and Eleventh Circuits have endorsed instructions resembling the government's position in *Snyder*. In *Ng Lap Seng*, the Second Circuit defined "corruptly" under § 666 as "the bad purpose of accomplishing either an unlawful end or result, or a lawful end or result by some unlawful method or means." 934 F.3d at 142 (quotation omitted). Like the government in *Snyder*, *see* U.S. *Snyder* Br. 38-39, the Second Circuit cited as support *Arthur Andersen LLP v. United States*, 544 U.S. 696 (2005), which held that an instruction on "corruptly" in 18 U.S.C. § 1512(b) "failed to convey the requisite consciousness of wrongdoing." *Id.* at 706.

The Ninth and Eleventh Circuits agree with the Second Circuit in § 666 cases. *See Martinez-de Ryan v. Whitaker*, 909 F.3d 247, 250 (9th Cir. 2018) ("An act is done 'corruptly' if it is performed voluntarily, deliberately, and dishonestly, for the purpose of either accomplishing an unlawful end or result or of accomplishing some otherwise lawful end or lawful result by an unlawful method or means." (quoting *United States v. McNair*, 605 F.3d 1152, 1188, 1193 (11th Cir. 2010)); *see also McNair*, 605 F.3d at 1193 ("[i]t is acting 'corruptly'—dishonestly seeking an illegal goal or a legal goal illegally—that separates permissible from criminal").

This consensus expands to half the circuits when including cases defining "corruptly" in the analogous bank bribery statute (18 U.S.C. § 215), *see United States v. Brunson*, 882 F.2d 151, 154 n.2 (5th Cir. 1989); *United States v. Denny*, 939 F.2d 1449, 1451 (10th Cir. 1991),[4] and § 666 pattern instructions, *see Model Criminal Jury Instructions* § 6.18.666A1B-2 (3d Cir. 2022 ed.); *Pattern Jury Instructions for Criminal Cases* § 2.33B (p. 175) (5th Cir. 2024 ed.).[5]

[4] This Court has observed that § 215 "mirrors" § 666. *Snyder*, 603 U.S. at 12 n.4; *see also id.* at 30 (Jackson, J., dissenting) ("§ 666 was meant to track § 215").

[5] The Fourth Circuit held before *Snyder* that this definition was inadequate where the jury was not also instructed on the quid pro quo requirement. *See United States v. Jennings*, 160 F.3d 1006, 1022 (4th Cir. 1998); *see also United States v. Suhl*, 885 F.3d 1106, 1114 n.5 (8th Cir. 2018) (citing *Jennings* with approval). The Sixth Circuit has said that "corruptly" covers any "act done with an intent to give some advantage inconsistent with official duty and the rights of others." *United States v. Abbey*, 560 F.3d 513, 520 n.7 (6th Cir. 2009) (quoting *United States v. Aguilar*, 515 U.S. 593, 616 (1995) (Scalia, J., concurring in part and dissenting in part)). The First and Fifth Circuits held before *Snyder* that the statute's use of "corruptly" is evidence that it

The Seventh Circuit, by contrast, has charted its own path. The Seventh Circuit's pattern instructions define corruptly differently than in any other circuit: a "person acts corruptly when that person acts with the understanding that something of value is to be offered or given to reward or influence him in connection with his … official … duties." Seventh Circuit Pattern Criminal Jury Instructions 299-300 (2025 ed.). The circuit first approved this definition in *Hawkins*, 777 F.3d at 881-82, and has reiterated the instruction four times, including in the decision below. *See* Pet.App.8a-9a; *United States v. Cui*, 163 F.4th 1072, 1087 (7th Cir. 2026); *United States v. Mullins*, 800 F.3d 866, 870-71 (7th Cir. 2015); *United States v. Blagojevich*, 794 F.3d 729, 736 (7th Cir. 2015).

The Second Circuit has expressly recognized the conflict. In *Ford*, the Second Circuit vacated a § 666(a)(1)(B) conviction against an alleged bribe recipient where the district court had used the Seventh Circuit's pattern instructions to define "corruptly." *See* 435 F.3d at 211-14. The Second Circuit concluded that the Seventh Circuit's definition was wrong because it collapsed "corruptly" with the separate "intending to be influenced or rewarded" element in a way that improperly focused on the *bribe-giver's* intent. *See id.* The district court in this case acknowledged the conflict between the Second and Seventh Circuits when denying Speaker Madigan's motion for a new trial. Pet.App.125a-26a & n.47.

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covers only bribery and not gratuities. *See United States v. Hamilton*, 46 F.4th 389, 396-99 (5th Cir. 2022); *United States v. Fernandez*, 722 F.3d 1, 23-24 (1st Cir. 2013). The remaining circuits have not addressed the definition in the context of § 666.

The decision below further cemented the longstanding split, which will persist absent this Court's intervention.

B. The Circuits Are Divided on the Proper Application of *McDonnell* to the Stream-of-Benefits Theory of Bribery

The federal courts of appeals are intractably divided over a question of fundamental importance to federal bribery law: under what circumstances a supposed "stream-of-benefits" or "as-opportunities-arise" bribery agreement satisfies the definition of an "official act" under § 201(a)(3). Setting aside the Seventh Circuit, every circuit to have addressed the issue since *McDonnell* has held that § 201(a)(3) demands meaningful specificity. As the Court explained in *McDonnell*, the parties must identify, at the time of the alleged agreement, a concrete question or matter that is "the kind of thing that can be put on an agenda, tracked for progress, and then checked off as complete." 579 U.S. at 570.

In *McDonnell*, the government argued that the governor's "promotion of a particular business" was a sufficiently specific question or matter. U.S. Br. 49, *McDonnell v. United States*, No. 15-474 (S. Ct. filed Apr. 6, 2016). But this Court defined the questions or matters presented in *McDonnell* in far narrower terms: (1) "whether researchers at any of Virginia's state universities would initiate a study of Anatabloc"; (2) "whether the state-created Tobacco Indemnification and Community Revitalization Commission" would "allocate grant money for the study of anatabine"; and (3) "whether the health insurance plan for state employees in Virginia would include Anatabloc as a covered drug." 579 U.S. at 570-71.

The Second, Sixth, Eleventh, and D.C. Circuits have explicitly understood § 201(a)(3), as construed in *McDonnell*, to demand specificity. In *United States v. Silver*, 948 F.3d 538 (2d Cir. 2020), the Second Circuit vacated the defendant official's conviction because the instructions permitted conviction if the official "understood that, as a result of the bribe, he was expected to exercise official influence or take official action *for the benefit of the payor* and, at the time the bribe was accepted, intended to do so as specific opportunities arose." *Id.* at 559 (emphasis in original). The Second Circuit held that the instruction was erroneous: "the jury should have been instructed that … the Government must prove that, at the time the bribe was accepted, [the official] promised to take official action *on a specific and focused question or matter* as the opportunities to take such action arose." *Id.* at 568 (emphasis added).

The Second Circuit explained that permitting conviction based on a promise to act "for the benefit of the payor" would mean that "any official who accepts a thing of value and then later acts to the benefit of the donor, in any manner, could be vulnerable to criminal prosecution," casting a pall over "the most prosaic interactions." *Id.* at 558. The court specifically reasoned that "shaping and supporting real estate legislation" was not a "properly defined question or matter" because such a "broad formulation" does not qualify as "the kind of thing that can be put on an agenda, tracked for progress, and then checked off as complete." *Id.* at n. 22 (quoting *McDonnell*, 579 U.S. at 570); *see also United States v. Reichberg*, 5 F.4th 233, 247-48 (2d Cir. 2021); *United States v. Mangano*, 128 F.4th 442, 473 (2d Cir. 2025).

United States v. Burnette, 65 F.4th 591 (11th Cir. 2023), involved a jury instruction stating that "it is sufficient if the payment is made in exchange for favorable treatment on any not-yet-known matter that might later come up for a vote." *Id.* at 601. In a concurring opinion by all three Eleventh Circuit judges, the judges observed that the instruction may well have been erroneous under *McDonnell*. *See id.* at 613 (Jordan, Rosenbaum, and Newsom, JJ., concurring). But, on plain-error review, the Eleventh Circuit affirmed on the ground that any error did not affect the defendant's substantial rights because the evidence established a quid pro quo related to "two specific [real estate] development projects." *Id.* at 603 (opinion for the court).

In the concurring opinion, the three judges cited the Second Circuit's decision in *Silver* with approval and elaborated that under *McDonnell* a legislator's promise to "vote for his benefactor on some unspecified, future project that might someday come before him" is too "hazy a promise" to "form the basis of a bribery conviction." *Id.* at 614 (concurring op.); *see also United States v. Roberson*, 998 F.3d 1237, 1251 (11th Cir. 2021) ("*McDonnell* specified that the 'question or matter' to be influenced must be identified").

The Sixth and D.C. Circuits have reached the same conclusion. *See United States v. Hills*, 27 F.4th 1155, 1179 (6th Cir. 2022) (citing *Silver* for proposition that *McDonnell* invalidated "convictions for bribery schemes that are akin to payment of a retainer for services yet to be determined," but affirming where evidence showed agreement to take action on specific matters like "whether to allow flex-time schedules" or whether to "make adjustments to incentive bonuses"); *United States v. De Moya*, --- F.3d ---, 2026 WL 1955627, at *4-5 (D.C. Cir. 2026) (holding that instruction permitting conviction on a "course of conduct" theory was "in tension" with *McDonnell*, but affirming because evidence showed that "[d]iscrete payments were exchanged for discrete adjustments of specific tax obligations").

Under these circuits' approach, a "question or matter" defined as broadly as future legislation affecting a company's financial struggles would not satisfy § 201(a)(3). The Seventh Circuit, by contrast, defined the relevant "question or matter" at such a high level of generality—ComEd's "struggle to control its energy rates"—that a promise to help a company with unidentified future legislation touching a company's economic interests would constitute an "official act." Neither the government nor the court of appeals cited any other circuit defining a "question" or "matter" at that level of generality.

C. Lower Courts Are Confused About How To Distinguish Between Lawful Support and Unlawful Pressure or Advice

Finally, the decision below conflicts with *McDonnell*'s holding that mere expressions of support do not qualify as official acts under § 201 unless the official agrees to exert pressure or provide advice intended to form the basis for a concrete government decision. 579 U.S. at 572-75. To be clear, Speaker Madigan denies that he ever promised to recommend Solis. But even if he did, treating a promised *recommendation* for a position in a separate branch of government as an official act erases the line between support and advice—particularly where the alleged promise was vague and the recommendation was never made.

Lower courts have grappled—and candidly acknowledged their struggle—to administer *McDonnell*'s distinction between lawful "support" and unlawful "pressure or advice." In *United States v. Fattah*, the Third

Circuit explained that courts may struggle to determine "just how forceful a strongly worded letter of recommendation must be" before it becomes criminal "pressure or advice." 914 F.3d 112, 156 (3d Cir. 2019). The Eleventh Circuit in *Roberson* likewise described the line between expressing support and advising as "opaque." 998 F.3d at 1254. A Virginia district court applying *McDonnell* warned that, without sufficient clarity, a jury could improperly treat "attending a meeting, calling an official, or expressing support" as official acts. *United States v. Jefferson*, 289 F. Supp. 3d 717, 739 (E.D. Va. 2017).

Since *McDonnell*, defendants have urged lower courts to adopt administrable rules—proposing, for example, that "advice" be limited to formal advisory relationships or that "pressure" require supervisory authority. But courts have rejected such arguments on the grounds that *McDonnell* does not expressly adopt them—leaving courts at sea in construing § 201(a)(3). *See, e.g.*, *United States v. Lee*, 919 F.3d 340, 355-56 (6th Cir. 2019); *Roberson*, 998 F.3d at 1251-52; *United States v. Mangano*, 2022 WL 2872670, at *3-4 (E.D.N.Y. 2022); *United States v. Sittenfeld*, 522 F. Supp. 3d 353, 375 (S.D. Ohio 2021). The result is a standard that provides no ex ante guidance to public officials and turns entirely on after-the-fact characterizations of informal advocacy.

Notably, Judge Nalbandian of the Sixth Circuit has observed that *McDonnell* "left in place equally broad (and questionable) theories in the particular influence scenarios" and questioned whether "any public official who tries to influence another public official takes an 'official act' herself, regardless of the relationship between the two officials." *Lee*, 919 F.3d at 360 (Nalbandian, J., concurring). He noted that "it would make sense to look for a limiting principle" to cabin the "broad implications of the 'influence' or 'advice' theories," but acknowledged that "the Supreme Court has not recognized" one, "leaving the broader implications of *McDonnell* in place." *Id.*

The decision below exemplifies this confusion. If courts with an actual communication before them cannot agree on where support ends and pressure or advice begins, the problem becomes insoluble when the advocacy never occurred. The result is a standard that no judge can coherently instruct upon, no jury can meaningfully apply, and no public official can conform his conduct to in advance.

II. The Questions Presented Are Exceptionally Important, Recurring, and Squarely Presented

1. The questions presented implicate three recurring issues that pose grave risks to legitimate political conduct and threaten to expose state and local officials and their constituents to lengthy prison sentences based on the happenstance of which circuit they live in.

a. The "corruptly" mens rea element marks the line between lawful political activity and federal bribery. As courts and jurists have explained, the "corruptly" element ensures that liability turns on the official's intent, not merely on the donor's purpose or on the ordinary exchange of political support, access, and goodwill. *See Roberson*, 998 F.3d at 1247 n.13 ("corruptly" "serves as a backstop against convicting legislators who do not realize their conduct may cross sometimes obscure legal lines"); *United States v. Sittenfeld*, 128 F.4th 752, 794 (6th Cir. 2025) (Murphy, J., concurring) ("corruptly" defined as consciousness of wrongdoing would "perform … additional work" in cases where the quid is not obviously "wrongful" like a "stack of cash"), *cert. granted, judgment vacated*, No. 25-49, 2026 WL 922550 (U.S. Apr. 6, 2026).

Commentators have questioned the Seventh Circuit's treatment of "corruptly," observing that the instruction given below "largely just reiterates the elements of the offense" rather than giving the term independent meaning. *See* Celeste Bott, *Madigan Ruling May Offer High Court New Bribery Test*, Law360 (May 18, 2026).

The consequences of the Seventh Circuit's approach are far-reaching. A politician's job often includes soliciting and/or accepting valuable things—campaign contributions, volunteer services, endorsements, internships for college students, etc.—from constituents with vocal desires regarding how the official should act. Officials also routinely make promises to the public about what they will do in office to warrant support. Federal law permits state officials to accept gratuities, goodwill gifts, and political favors. *Snyder*, 603 U.S. 1; *McDonnell*, 579 U.S. 550; *Blagojevich*, 794 F.3d 729. In this context, "corruptly," as traditionally defined to include consciousness of wrongdoing, is necessary to limit criminal liability to true bribes.

By affirming an instruction that allowed the jury to find corrupt intent based on Speaker Madigan's understanding of ComEd's intent—while telling the jury that the government need not prove that Speaker Madigan knew his conduct was unlawful—the Seventh Circuit left ordinary political interactions exposed to federal bribery liability without requiring proof that the official knew he was crossing the line.

b. The stream-of-benefits question is equally important because an overbroad "question or matter" standard risks criminalizing lawful efforts to curry favor over time. Federal prosecutors routinely resort to "stream-of-benefits" and "as-opportunities-arise" theories of bribery when they do not have, and cannot prove, a discrete quid pro quo.[6] Scholars have warned that the "principal danger" of these theories is that they "invite[] slippage" from a quid pro quo requirement to a mere "favoritism" standard. *See, e.g.*, Albert W. Alschuler, *Criminal Corruption: Why Broad Definitions of Bribery Make Things Worse*, 84 Fordham L. Rev. 463, 480-81 (2015). Jurors may identify quid pro quo corruption in common political behavior, raising First Amendment, due process, and separation-of-powers concerns. *See* Christopher Robertson et al., *The Appearance and the Reality of Quid Pro Quo Corruption: An Empirical Investigation*, 8 J. Legal Analysis 375 (2016). For these reasons, the Second Circuit has warned that, absent a requirement that the official promise action on a specific question or matter, "any official who accepts a thing of value and then later acts to the benefit of the donor, in any manner, could be vulnerable to criminal prosecution." *Silver*, 948 F.3d at 558-59, 568.

The decision below exemplifies those concerns. Observers have noted that the court of appeals' formulation of the relevant "question or matter"—ComEd's general interests in rates—raises precisely the concern this Court attempted to address in *McDonnell*. *See* Celeste Bott, *Madigan Ruling May Offer High Court New Bribery*

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[6] *See, e.g.*, *United States v. Mangano*, 128 F.4th 442 (2d Cir. 2025); *United States v. Burnette*, 65 F.4th 591 (11th Cir. 2023); *United States v. Roberson*, 998 F.3d 1237 (11th Cir. 2021); *United States v. Silver*, 948 F.3d 538 (2d Cir. 2020); *United States v. Kincaid-Chauncey*, 556 F.3d 923 (9th Cir. 2009).

Test, Law360 (May 18, 2026) (quoting former federal prosecutors asking "[i]f there's not a bill or an appointment specified, what is the official act?").

Tellingly, the government itself struggled to articulate the at-issue question or matter below. At trial, it told the jury only that ComEd exchanged jobs for "official action on future legislation." D. Ct. Dkt. 392 at 9949. On appeal, the government defined the "question" or "matter" as "regulations directed at companies providing electric service to Illinois residents." U.S. C.A. Br. 23. At oral argument, the government repackaged the "question" or "matter" as legislation affecting ComEd's "bottom line." C.A. Or. Arg. at 19:15-19:30. And the Seventh Circuit adopted yet another formulation—ComEd's "struggle to control its energy rates." Pet.App.21a. A "question or matter" that the government cannot consistently describe is not the kind of thing that can "be put on an agenda, tracked for progress, and then checked off as complete." *McDonnell*, 579 U.S. at 570.

The decision below, if left to stand, would produce far-reaching repercussions for public officials, constituents, and lobbyists. Conferring benefits on officials to curry favor on future legislation is what lobbyists do every day. As the Court recognized in *United States v. Sun-Diamond*, the law must preserve the distinction between lobbying—lawful attempts to gain favor—and bribery—unlawful attempts to buy action on *specific questions or matters*. 526 U.S. 398, 405-06 (1999); *see also Silver*, 948 F.3d at 567. Every regulated company has an ongoing interest in future legislation affecting its bottom line. These same companies donate to politicians and regularly hire lobbyists and other politically connected individuals. The Seventh Circuit's approach allows federal prosecutors to redefine lobbying after the fact as bribery by alleging an agreement to act on a vague "question or matter."

c. The official-act question on the Solis counts is equally important because it defines the boundary between ordinary political advocacy and federal criminal liability. Public officials routinely recommend candidates for public positions, make referrals, express support, and contact other decisionmakers about appointments. Section 201(a)(3)'s "official act" definition protects those ordinary interactions unless the official agrees to exert pressure or provide advice intended to form the basis for a concrete government decision. *McDonnell*, 579 U.S. at 572-75.

Commentary has recognized that *McDonnell*'s pressure-or-advice language leaves prosecutors room to reframe access-and-influence theories as official-act cases. *See Recent Case, Federal Corruption Statutes—Bribery—Definition of "Official Act"*—McDonnell v. United States, 130 Harv. L. Rev. 467, 475 (2016). If prosecutors can treat promised advocacy to an official in another branch of government as an official act without proof of an actual communication that crossed the line into pressure or advice, *McDonnell*'s limiting rule will provide little protection in the mine run of alleged bribery cases.

2. This case is the ideal vehicle for resolving these questions.

As noted above, the district court rejected Madigan's proposed definition of "corruptly" because the court felt bound by Seventh Circuit precedent. *Supra* p.12. And, based on the district court's view of Seventh Circuit law, it told the jury the opposite of the view that prevails in other circuits: "The government need not prove, however, that the defendant knew that the law prohibited his conduct." Pet.App.229a.

Here, as in many cases, the erroneous instruction likely mattered. This was a close case, as the jury's split verdict demonstrates. The alleged quids and quos were not obviously improper. Speaker Madigan received no payment from ComEd. Legislators regularly make job recommendations for constituents. Some of Speaker Madigan's legislative actions benefited ComEd, but others did not. *See, e.g.*, D. Ct. Dkt. 356 at 3354. For each of Speaker Madigan's legislative actions—many of which resulted from extensive negotiations among various interested parties—the government did not dispute that he had ample independent political and institutional reasons to act as he did. A jury would rightfully doubt whether this ambiguous evidence showed that Speaker Madigan knew that his conduct was unlawful.

This case is likewise the ideal vehicle for clarifying the outer bounds of the stream-of-benefits theory of bribery. The question presented is a legal one relating to the sufficiency of the evidence: whether a company's "struggle to control its energy rates," Pet.App.21a—can qualify as the type of "focused" question or matter required under § 201(a)(3). This is the same kind of legal question this Court resolved in *McDonnell*. *See* 579 U.S. at 579. As in *McDonnell*, after resolving this legal question, the Court could remand for the court of appeals to reconduct the sufficiency analysis under the proper standard. *See id.*

Similarly, this case is an ideal vehicle to clarify what constitutes unlawful advice under § 201(a)(3) because it is undisputed that Speaker Madigan never made the recommendation. Because the recommendation never materialized, the jury had no basis to find that it would have constituted unlawful pressure or advice as opposed to a lawful expression of support. This case therefore presents the clean legal question whether a jury may infer criminal pressure or advice from a supposed promise to make a recommendation.

Finally, if the questions presented are resolved in Speaker Madigan's favor, he would be entitled to acquittal, a new trial, and/or resentencing on these counts. The definition of "corruptly" governed all the § 666 counts, and the definition of the at-issue question or matter drove both the Seventh Circuit's assessment of the sufficiency of the evidence on the bribery object of the conspiracy count, Pet.App.21a-22a, and the sentence imposed by the district court, *see supra* p.12. On the Solis-related counts, a ruling that the government did not prove an official act would require acquittal on the honest-services wire fraud convictions. And while the jury also convicted Speaker Madigan on several Travel Act counts, the Seventh Circuit did not resolve the merits of Madigan's challenge to those counts, finding the error harmless due to the other convictions. *See supra* n.3.

Even if Speaker Madigan does not prevail across the board, any favorable ruling for Speaker Madigan on one or more questions presented would likely require resentencing. *See, e.g.*, *Pepper v. United States*, 562 U.S. 476, 507 (2011); *United States v. Edwards*, 869 F.3d 490, 504-05 (7th Cir. 2017); *Blagojevich*, 794 F.3d at 743; *United States v. Hernandez*, 141 F.3d 1042, 1056 (11th Cir. 1998). Moreover, vacatur of any count also would reduce the $2.5 million fine paid ($250,000 per count).

III. The Decision Below Is Incorrect

1. The Seventh Circuit's idiosyncratic definition of "corruptly" is wrong for several reasons. First, it fails to give "corruptly" independent meaning, thus eliminating

this key mens rea element from the statute. As this Court recognized in *Snyder*, "corruptly" and "intending to be influenced or rewarded" are distinct mens rea elements. *See* 603 U.S. at 11 ("Section 666 shares the defining characteristics of §201(b)'s bribery provision: the corrupt state of mind *and* the intent to be influenced in the official act" (emphasis added)); *accord Sittenfeld*, 128 F.4th at 794 (Murphy, J., concurring) (after *Snyder*, "corruptly" should be interpreted to "perform … additional work"). The "intending to be influenced or rewarded" element conveys the statute's quid pro quo requirement. *See Ford*, 435 F.3d at 211. The Seventh Circuit's definition of "corruptly" merely restates—incompletely—that element. In so doing, the Seventh Circuit's approach robs "corruptly" of its core function—*i.e.*, "separat[ing] permissible from criminal" exchanges. *McNair*, 605 F.3d at 1188.

Second, the Seventh Circuit's definition conflicts with the term's historical meaning. The term "corruptly" is "normally associated with wrongful, immoral, depraved, or evil." *Arthur Andersen*, 544 U.S. at 705. When used "in criminal laws," the term "has a longstanding and well-accepted meaning" that includes the concept of intentional "wrongdoing." *United States v. Aguilar*, 515 U.S. 593, 616-17 (1995) (Scalia, J., concurring) (citing approvingly, in obstruction case under 18 U.S.C. § 1503, instruction that "[a]n act is done corruptly if it's done voluntarily and intentionally to bring about either an unlawful result or a lawful result by some unlawful method"); *accord United States v. Fischer*, 64 F.4th 329, 353 (D.C. Cir. 2023) (Walker, J., concurring in part) (at common law, "in bribery cases, the mere payment of a fee to an official for a benefit was not enough—the bribe payer had to know he was seeking an unlawful benefit"), *vacated on other grounds*, 144 S. Ct. 2176 (2024).

Third, the "corruptly" instruction conflates the "corruptly" element with the distinct "intending to be influenced or rewarded" element. *See Ford*, 435 F.3d at 213 & n.5. In *Ford*, the Second Circuit criticized the Seventh Circuit's pattern instructions on the ground that "they appear to have told the jury that the 'corruptly' requirement was fully satisfied by the recipient's knowledge of the donor's intent and omitted any reference to the recipient's intent in accepting the thing of value." *Id.* at 211. The court observed that the Seventh Circuit's instruction appeared to "have been taken from language in various appellate opinions discussing quid-pro-quo arrangements in the context of Hobbs Act prosecutions," which was erroneous because § 666(a)(1)(B), by contrast to other bribery statutes, requires that the official "take the proffered thing of value 'intending to be influenced.'" *Id.* at 213 n.5.

2. Legislation of generalized interest to a company is not a "question or matter" under § 201(a)(3). Under that provision, as construed in *McDonnell*, the question or matter must be "relatively circumscribed—the kind of thing that can be put on an agenda, tracked for progress, and then checked off as complete." 579 U.S. at 570.

As noted above, in *McDonnell*, the government argued that the governor's "promotion of a particular business" was the at-issue question or matter. *Supra* p.18. This Court did not accept that articulation, instead agreeing with the Fourth Circuit that the sufficiently specific questions or matters presented in *McDonnell* were more precise. *See supra* p.18; 579 U.S. at 570-71.

ComEd's open-ended, multi-year "struggle to control its energy rates," Pet.App.21a, is nothing like the specific questions this Court identified in *McDonnell*. It is the opposite of circumscribed. It could not be put on an agenda or checked off as complete, because it was an enduring policy interest that spanned numerous bills considered by the Legislature over nearly a decade (many of which involved many other issues and many other constituents' interests as well). It is capacious enough to cover virtually any energy-related regulation in Illinois (and elsewhere). The government's expansive definition swept in any legislation affecting utility companies across a wide range of policy areas and negotiated across a wide range of policymakers. The government simply assumed that anything Speaker Madigan did relating to such legislation must have resulted from its vaguely defined quid pro quo—even when he actively opposed ComEd's interests in significant respects. If such a vague matter qualifies, then any legislator who accepts anything of value from a constituent and years later votes on legislation affecting that constituent will be vulnerable to prosecution.

3. The official-act ruling on the Solis counts is incorrect. Section 201(a)(3) requires a decision or action on a concrete matter, or pressure or advice intended to form the basis for such a decision. *McDonnell*, 579 U.S. at 567, 572. Even if the government's view of the facts were correct, a promised recommendation to another branch of government that was never made, never communicated, and never reduced to words cannot satisfy that standard.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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