

No. _____

IN THE
Supreme Court of the United States

JENNIFER N. MURPHEY, INDIVIDUALLY AND BEHALF OF ALL OTHERS SIMILARLY
SITUATED

Petitioner,

v.

THE UNITED STATES OF AMERICA; MERRICK B. GARLAND, UNITED STATES ATTORNEY
GENERAL, UNITED STATES DEPARTMENT OF JUSTICE; ANNE MILGRAM,
ADMINISTRATOR OF THE UNITED STATES DRUG ENFORCEMENT ADMINISTRATION;
XAVIER BECERRA, SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN
SERVICES; ROBERT M. CALIFF, COMMISSIONER OF FOOD AND DRUGS, UNITED STATES
FOOD AND DRUG ADMINISTRATION; AND KRIS MAYES, ATTORNEY GENERAL OF THE
STATE OF ARIZONA,

Respondents.

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

PETITION FOR WRIT OF CERTIORARI

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pro se

QUESTIONS PRESENTED

1. Whether I have standing to challenge the 1961 Single Convention on Narcotic Drugs and the 1971 Convention on Psychotropic Substances, which are international treaties implemented by Congress into domestic law, and which carry the force of domestic law, are currently enforced by Respondents, and whereby, I am currently subject to said criminal enforcement.
2. Whether I stated plausible claims for relief that Respondents violate the United States and Arizona Constitutions when they:
 - a. Unlawfully probe into and investigate individual thoughts, feelings and desires for purposes of creating criminal legislation, and premise such legislation on an explicit desire to prevent and combat specific cognitive and emotional states, in violation of the First Amendment protections of Freedom of Thought; and
 - b. Deprive me of multiple protected liberty rights through inadequate, fundamentally unfair and unlawful procedures in violation of procedural due process requirements.
3. Whether my constitutional and statutory challenges to the CSA's federal regulations are questions of law for which the federal district court has original jurisdiction to review.

LIST OF PARTIES

All parties appear in the caption as they appeared in the court of appeals. However, the names of individual appointed leaders of some of the federal agencies have changed and are now as follows:

U.S. ATTORNEY GENERAL, DEPARTMENT OF JUSTICE—PAM BONDI

U.S. DRUG ENFORCEMENT ADMIN., ADMINISTRATOR—DEREK S. MALTZ

DEP'T OF HEALTH AND HUMAN SERVICES, SECRETARY—ROBERT F. KENNEDY JR.

U.S. FOOD AND DRUG ADMINISTRATION, COMMISSIONER—MARTY MAKARY

RELATED CASES

U.S. District Court for the District of Arizona:

Murphey v. U.S., et al., No. CV-22-01224-PHX-JJT. Judgement entered March 28, 2024.

U.S. Court of Appeals for the Ninth Circuit:

Murphey v. U.S., et al., No. 24-4085. Judgement entered April 7, 2025.

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PETITION FOR WRIT OF CERTIORARI

Jennifer N. Murphey respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

OPINIONS BELOW

The decision of the court of appeals (App. 1a-6a) is unpublished.

The decision of the district court (App. 7a-25a) is published at 726 F.Supp.3d 1039.

JURISDICTION

The Ninth Circuit entered judgment on April 7, 2025. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL, STATUTORY AND REGULATORY PROVISIONS

The First Amendment to the United States Constitution provides, in relevant part:

“Congress shall make no law . . . abridging the freedom of speech.”

The Fifth Amendment to the United States Constitution provides, in relevant part:

“No person shall be . . . deprived of life, liberty, or property, without due process of law.”

The following treaties, statutes and regulations are reproduced in the Appendix:

Single Convention on Narcotic Drugs, 1961, as amended, Mar. 25, 1972, preamble, 976 U.N.T.S. 105. (App. 26a)

Convention on Psychotropic Substances, preamble, Feb. 21, 1971, 1019 U.N.T.S.

175. (App. 27a)

Pub. L. No. 91-513, 84 Stat. 1236 (1970), preamble. (App. 28a)

21 U.S.C. § 801(7) (App. 29a-30a)

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21 C.F.R. § 1308.43 (App. 36a)

21 C.F.R. § 1308.46 (App. 36a)

STATEMENT OF THE CASE

1. War on Drugs Legislative Background:

In 1961, the United Nations (UN) adopted the Single Convention on Narcotic Drugs, which sets forth an evaluation and scheduling system through which the possession and distribution of specific categories of drugs are controlled. As a party to the Single Convention, the United States ratified the treaty in 1967. In 1970, while simultaneously declaring a “War on Drugs”, Congress amended the Public Health Service Act, to implement the Single Convention and carry out its obligations thereunder. Pub. L. No. 91-513, 84 Stat. 1236 (1970), App. 28a; *see also* 21 U.S.C.

§ 801(7), App. 29a-30a. Congress named the legislation the “Comprehensive Drug Abuse Prevention and Control Act of 1970” before later renaming it to the Controlled Substances Act (CSA). App. 28a. Congress adopted the UN’s drug schedules and a similar evaluation and scheduling process, while further creating criminal penalties for conduct prohibited under the Convention, such as simple possession. *Id.* A few months thereafter, the United States ratified the 1971 Convention of Psychotropic Substances. In 1978, Congress further amended the CSA to enact this Convention into domestic law. 21 U.S.C. § 801a, App. 30a.

The State of Arizona’s Controlled Substances Act (AZCSA), A.R.S. § 36-2501 *et seq.*, provides that the controlled substance schedules of the federal CSA shall be adopted by rule and such rules shall be amended, as necessary, to reflect any changes to the CSA schedules. The AZCSA provides no additional or state-specific procedures for reviewing or amending its schedules. App. 85a.

The type of drugs subject to control under the CSA and Conventions are limited to substances that affect the central nervous system (CNS) and are identified as having a “potential for abuse”. 21 U.S.C. § 811(a)(1), App. 31a. Meaning, under these laws, the government is only concerned with controlling possession of and access to substances that have the potential to affect our internal cognitive or emotional states. Once a substance is flagged as having the potential to affect those internal states, i.e. having “potential for abuse”, it then undergoes an evaluation to

confirm said potential and to determine placement into one of five schedules. *Id.* Once schedule placement is determined, the government proceeds with rulemaking to update the schedules, housed in the Code of Federal Regulations, and rely upon said schedules for its ongoing criminal enforcement actions. *Id.* at App. 31a-32a; *see also* 21 C.F.R. § 1308.46, App. 36a.

The CSA provides two separate sets of procedures for drug evaluation and scheduling: (1) procedures for drugs not scheduled by the UN, pursuant to the Conventions, whereby the Respondents perform their own evaluation and schedule placement decisions, pursuant to required findings and factors set forth in the CSA; and (2) procedures for drugs evaluated and scheduled by the UN, pursuant to the Conventions, whereby Respondents simply adopt and implement those decisions into the schedules without performing independent evaluations or making the findings required under the CSA. *Id.* Once a substance is added to the schedules, simple possession thereof is then criminalized accordingly. Respondents enforce the criminal provisions of the CSA in the same manner, regardless of whether the substance was evaluated and scheduled by the UN pursuant to the Conventions or by Respondents.

2. First Amendment Freedom of Thought Implications

The explicit purpose of the CSA and both Conventions is to “prevent and combat” the “serious evil” and immorality of drug abuse and its cognitive and

emotional effects on the individual consumer. *See* preambles at App. 26a-28a. Thus, for the thousands of drug evaluations over the past 60 years, the determination of how drugs will be scheduled, and thus, whether mere possession thereof will be criminalized, is largely based on how a product might make us think or feel should we consume it. *See* Am. Compl. ¶¶ 119-27, App. 76a-79a.

The UN, specifically the World Health Organization (WHO), and Respondents have each created investigation protocols that they use for every drug evaluation to identify and presume potential cognitive and emotional states that could occur in individuals who consume the substance under evaluation. *Id.* The evaluation procedures under the CSA and Conventions share a common theme and define “drug abuse” accordingly—both investigate, document, and define drug abuse as the thoughts, feelings and desires an individual might have before, during and after consuming a particular substance. Specifically, they investigate: (1) thoughts indicating individual motives for consuming a substance; (2) thoughts, moods and emotions that could occur upon consumption; and (3) thoughts, feelings and desires that might occur post-consumption. *Id.*

To investigate “potential for abuse”, the government and the World Health Organization go to extremely invasive and unlawful lengths to probe into our minds to predict our thoughts and feelings. They assign government employees to browse internet forums; they look for individual hobbies and personalities that indicate

creativity; they conduct studies on animals and humans to extract and document potential cognitive and emotional processes; they investigate how much one thinks about using drugs and consider how people react to normal adverse life events. They look for indications of non-conformist thoughts and individual desires to gain introspection or expand consciousness. They further look for euphoric thoughts or feelings, as indicated by “elevated mood”, “feeling abnormal” or relaxed, and “abnormal thinking”. Any indication of euphoria—defined as extreme joy or happiness—is deemed by Respondents as a “key observation” in determining potential for abuse. *Id.*

Their investigations into and findings of potential cognitive and emotional states encompass most of the drug evaluation process and serve as the primary basis for the determination of whether the harmless conduct of mere possession will be criminalized. *Id.* The government attempts to evade constitutional scrutiny by alleging that because they only criminalize conduct, the First Amendment’s prohibition of government intrusion into our minds is inapplicable. App. 20a. However, such conduct of merely holding in one’s hand a pill or plant is harmless and nowhere in its thousands of drug scheduling records does the government claim otherwise. Nor does the government claim that the act of consuming a product, such as inhaling smoke or swallowing a pill, is harmful.

So, why does the government criminalize such harmless conduct? And why are people being imprisoned by the millions and branded criminals for such harmless private conduct? The answer—to prevent and combat drug abuse—is explicitly stated in the text of the CSA and Conventions and is directly evidenced through thousands of drug evaluations and scheduling decisions. “Drug abuse” is not defined by conduct or acts. “Drug abuse” is defined as specific cognitive and emotional states that could occur internally should we consume the substance in our possession. And “potential for abuse” refers to the likelihood those internal states could be experienced by consumers. App. 76a-79a. Thus, the criminalization of mere private possession of a controlled substance is based almost entirely on the government’s explicit desire to prevent certain internal thoughts and feelings it identifies as unfavorable or as a “serious evil”.

3. Procedural Due Process Implications

Interestingly, the government deviates from its declared purpose of preventing and combating specific cognitive and emotional states when it evaluates and schedules drugs from pharmaceutical companies. For pharmaceutical drugs, the evaluation and scheduling process is delegated to the FDA, who further delegates the abuse potential assessment to the pharmaceutical companies themselves. App. 55a-56a. The DEA is then bound, in many regards, by the FDA’s drug evaluations when determining schedule placement. *Id.* This raises significant procedural due

process concerns considering the FDA's drug division is 75% funded by the pharmaceutical companies whose drugs it evaluates and recommends for schedule placement. *Id.* Consequently, with a direct financial interest in approving drug applications submitted by its funders, the FDA approves those applications approximately 90% of the time. And with a direct financial interest in recommending schedule placement allowing for the legal distribution of pharmaceutical drugs, it makes such recommendations nearly 100% of the time. *Id.*

Comparing the government's evaluation and schedule placement procedures of pharmaceuticals versus non-pharmaceuticals presents a night and day difference and an extreme bias favoring its funders. *See* Am. Compl. ¶¶ 25-77, App. 46a-61a. In its evaluations of pharmaceuticals, the government intentionally omits or ignores hundreds of studies about the harm of CNS pharmaceuticals, including millions of instances of drug-induced disease and death, toxicity, high addiction rates and fatal withdrawals. Further, in its schedule placement decisions, the government explicitly disregards and biasedly applies the findings and factors statutorily required under the CSA and falsely declares that these drugs are safe for use and less harmful than drugs on more restrictive schedules. *See* 21 U.S.C. § 812 (required schedule findings).

Moreover, both the UN, pursuant to the Conventions, and Respondents, use decades-old information, fail to consider new evidence of harm, and consistently fail

to provide any rationale or meaningful nexus tying drug evaluations to ultimate schedule placement decisions, for both pharmaceuticals and non-pharmaceuticals, alike. App. 46a-61a, 67a-72a. Further, the Conventions are devoid of any required findings, descriptions, standards, or anything else that guide or justify schedule placement decisions, thereby providing the UN entities full discretion with no accountability and no required rationale for its schedule placement decisions. App. 70a.

Thus, unlike non-pharmaceuticals, the government makes an exception for pharmaceuticals with regard to the CSA's alleged purpose of preventing drug abuse or otherwise protecting public health. This has resulted in the mass marketing and drugging of the population with deadly, toxic, highly addictive drugs that are known to numb the mind and emotions of consumers. And these are permitted to be marketed and legally distributed through inadequate and unconstitutional procedures, all to the direct financial benefit of the Respondents. App. 55a-56a.

The Respondents have effectively created a monopoly on mental healthcare, whereby consumers are limited to choosing pharmaceutical products that are often more harmful than non-pharmaceuticals or otherwise face criminal consequences. Accordingly, Respondents are directly responsible for the implementation and enforcement of unprecedented criminal legislation that punishes consumers and

imprisons millions of humans for the harmless act of choosing and simply possessing non-FDA approved products.

4. This Action and the Proceedings Below

This action arises under the Constitution, laws and treaties of the United States, 42 U.S.C. § 1983, and the Constitution and laws of the State of Arizona. On January 25, 2023, I filed my First Amended Complaint (FAC) in the United States District Court for the District of Arizona, invoking jurisdiction under 28 U.S.C. §§ 1331, 1343(a)(3), 1346 and 1367, and 5 U.S.C. § 702.

On March 28 and April 18, 2023, the State and federal Respondents, respectively, filed Motions to Dismiss. On March 23, 2024, the District Court issued an Order granting the Respondents' Motions. App. 7a-25a. The court granted standing to challenge the CSA and AZCSA, but denied me standing to challenge the Conventions, and dismissed all my claims with prejudice. Invoking jurisdiction under 28 U.S.C. § 1291, I timely appealed the decision to the Ninth Circuit, who affirmed the district court's ruling. App. 1a-6a. The claims that were on appeal are provided in the Questions Presented section of this Petition.

REASONS TO GRANT THE WRIT

For over 55 years the legislation implementing the so-called War on Drugs has endured unchecked and unquestioned. It has led to millions of deaths, disease,

broken spirits and families, and has caused the U.S. to be the top incarcerator in the world. Its impact on this country, society and the human spirit is catastrophic.

Through hundreds of hours of research and analysis, I learned the processes used by the government and the UN to evaluate and schedule drugs. What I discovered raised significant and valid concerns that this unprecedented criminal legislation has been enforced unlawfully and unconstitutionally for decades. Thus, through a 56-page complaint, I presented an unprecedented analysis of this legislation, including numerous references to government documents spanning sixty years, a thorough explanation of the procedures used under both the CSA and the Conventions, and a rational nexus tying the alleged facts to claims that are firmly grounded in and supported by this Court's prior decisions.

Yet, the lower courts dismissed all my claims in decisions that leave me questioning whether my complaint was even read. In its decision, the Ninth Circuit either ignored or deviated so far from relevant Supreme Court precedent, failed to conduct any meaningful analysis of my claims, ignored the hundreds of well-researched facts, and often wrote only one or two sentences for each claim to justify its dismissal thereof.

The Ninth Circuit's insurmountable bar to justice and failure to conduct a meaningful analysis is especially grievous given the importance of this subject matter and the lives at stake. The question of whether the destruction of this 55-year

alleged war is the result of unlawful government action deserves review by the courts in a lawful, just and meaningful manner.

I. The Ninth Circuit’s Decision Directly Conflicts with and Deviates so far from this Court’s Prior Decisions and Established Pleading Standards

A. The Ninth Circuit Created a New Rule for Challenges to Treaties that Directly Conflicts with this Court’s Prior Decisions

The Ninth Circuit denied me standing to challenge the Conventions by creating a new rule that treaties must be self-executing to be judicially enforceable in our domestic courts. App. 4a. The Ninth Circuit’s new rule directly conflicts with Supreme Court precedent which provides that treaties become domestic law and challengeable in our domestic courts when Congress enacts implementing statutes. *See Medellín v. Texas*, 552 U.S. 491, 505 (2008). Its new rule also conflicts with the Second Circuit. *See Flores v. S. Peru Copper Corp.*, 414 F.3d 233, 257 (2d Cir. 2003) (“[A] treaty that . . . has been executed through an Act of Congress . . . gives rise to rights legally enforceable in our courts.”).

Each Convention challenged was implemented by Congress through separate amendments to the CSA. The 1970 amendment was specifically designed, in part, to meet the United States' obligations under the 1961 Single Convention, whereby Congress enacted a drug evaluation and scheduling system mirroring that of the Single Convention and adopted the UN drug schedules. App. 28a-30a. In 1978, Congress further amended the CSA to implement the 1971 Convention on

Psychotropic Substances and the schedule of drugs, thereunder. App. 30a. Moreover, as alleged, both the CSA and its related Regulations set forth unique scheduling procedures for substances controlled under the Conventions. 21 U.S.C. § 811(d)(1), App. 32a; *and* 21 C.F.R. § 1308.46, App. 36a.

Further supporting its denial of standing, the Ninth Circuit made a finding of fact in direct opposition to what I alleged. This directly conflicts with *Twombly*, which requires the Court to “accept as true all of the factual allegations contained in the complaint.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 572 (2007) (internal quotes omitted). Specifically, the Ninth Circuit found that my injury would not be redressable because the Conventions do not impose criminal penalties. App. 4a. This finding is untrue and contrary to my factual allegations for two reasons.

First, I alleged in my Complaint that Respondents enforce criminal penalties for substances controlled under the Conventions and I am subject to that enforcement. Am. Compl. ¶ 136, App. 83a-84a. As provided above, Respondents enforce the criminal provisions of the CSA in the same manner, regardless of whether the substance was scheduled by the UN pursuant to the Conventions or by Respondents. Further, it is through Congressional implementation of the Conventions that criminal penalties for possession of substances scheduled thereunder are imposed. In fact, many of the millions of arrests in the U.S. for simple possession over the past 55 years have been for substances scheduled by the UN

pursuant to the Conventions. Further, I alleged that the substances I admit to possessing, and which serve as the basis for my standing to challenge the CSA and AZCSA, were scheduled by the UN under both Conventions and were adopted and scheduled by the U.S. accordingly. *Id.* Therefore, the injury-in-fact the lower courts found I have and as sufficient basis to challenge the CSA, equally applies to the Conventions.

Second, I allege a separate set of facts for my Constitutional challenges to the Conventions. App. 67a-79a. Thus, should the CSA be found unconstitutional, that would not automatically extend to the Conventions or Congress' implementation thereof, and could, thereby, leave my injury unredressed.

By creating a new rule for treaty challenges and making a finding of fact contrary to what I alleged, the Ninth Circuit's ruling effectively made this significant piece of international criminal legislation untouchable and blocked me from challenging domestic law pursuant to which I am subject to criminal enforcement. Accordingly, Supreme Court review is warranted and respectfully requested.

B. The Ninth Circuit Applied a Rigorous and Insurmountable Pleading Standard Barring Access to Justice and in Direct Conflict with this Court's Prior Decisions

The U.S. Supreme Court upholds a liberal pleading standard and repeatedly warns against raising barriers that block well-founded constitutional claims before the chance for discovery. The rules provide, "All pleadings shall be construed as to

do substantial justice,” Fed. R. Civ. P. 8(f), and “[n]o technical forms of pleading . . . are required.” Fed. R. Civ. P. 8(e)(1). A plaintiff must allege “enough facts to state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. Importantly, all reasonable inferences must be drawn in favor of the non-moving party and all alleged facts must be accepted as true. *Id.* at 581.

1. I Stated Plausible Claims for Relief of Violations of the First Amendment Protections of Freedom of Thought

The prohibition of government abridgment of Freedom of Thought is among the strictest of First Amendment protections. Unlike abridgement of speech or expression, where this Court permits limited exceptions, it has firmly stated that there is *no* justification that permits the government to enter the private, sacred and intimate realm of unexpressed human thought and emotion to either create or use as a premise for criminal legislation. The barrier prohibiting such intrusion is absolute and impenetrable. This Court has interpreted this prohibition in two distinct ways, both of which were alleged.

a. I adequately alleged that the government investigates our internal thoughts to create criminal legislation in violation of our Freedom of Thought.

On multiple occasions, this Court has found that the First Amendment strictly prohibits *any* consideration, investigation, or probing into personal thoughts to create criminal legislation, or otherwise deny freedoms, privileges, or benefits. Government actions counter thereto, regardless of any offered justification are

unconstitutional. *See Speiser v. Randall*, 357 U.S. 513, 535-36 (1958) (concurrency) (“[W]hat one thinks or believes . . . [has] the full protection of the First Amendment. It is only his actions that government may examine and penalize.”); *Schneider v. Smith*, 390 U.S. 17, 25 (1968) (“The First Amendment's ban against Congress ‘abridging’ freedom of speech . . . create[s] a preserve where the views of the individual are made inviolate.”); and *Baird v. State Bar of Ariz.*, 401 U.S. 1, 7 (1971) (“[W]hatever justification may be offered, a State may not inquire about a man's views or associations solely for the purpose of withholding a right or benefit because of what he believes.”).

Accordingly, a plausible Freedom of Thought claim exists when one alleges that (1) the government probes into our thoughts, (2) for purposes of creating criminal legislation (3) in violation of the First Amendment’s protection of Freedom of Thought; and (4) when such allegation is supported by sufficient facts.

Here, I stated a plausible claim for relief that Respondents’ actions are constitutionally prohibited and, thus, violate the First Amendment. Specifically, I set forth numerous facts alleging the following: (1) the government and UN created an entire investigation protocol to identify and predict thoughts, moods, desires, and emotions that might arise in individuals surrounding the consumption of a particular substance; (2) they have used and continue to use this investigation protocol for every drug evaluation under both the CSA and Conventions; (3) the findings

produced pursuant to these unlawful investigations are used to determine whether the private harmless conduct of possession will be criminalized; (4) these investigation protocols and findings serve as the primary and foundational basis for the resulting scheduling decisions and criminalization of private possession.; and (5) as a result, my protected freedoms of thought and belief are deterred and chilled through the execution and enforcement of the CSA, AZCSA and Conventions. App. 76a-79a, 83a-84a, 88a.

It is further worth noting that, in my Complaint, I quoted direct statements that I found in government documents used to determine when personal possession of substances will be criminalized, wherein the government explicitly references specific thoughts, feelings, and desires it identifies as unfavorable for us. App. 77a-79a. Such statements should never be found in documents relied upon to create criminal legislation, and their mere existence in government records should suffice to raise a plausible claim under the First Amendment.

b. I adequately alleged that the CSA and Conventions are premised on the government's explicit desire to prevent or control the contents of our minds in violation of our Freedom of Thought.

Alternately, the Supreme Court has interpreted the First Amendment's protection of Freedom of Thought to mean the government cannot "constitutionally *premise* legislation on the desirability of controlling a person's private thoughts." *See Stanley v. Georgia*, 394 U.S. 557, 566 (1969) (emphasis added). In *Stanley*, the

government criminalized the mere private possession of material the government deemed obscene in its expressed interest of protecting the consumer's mind. *Id.* at 565. The Court found that this was an assertion that the government has the right to control the moral content of a person's thoughts. *Id.* It further found that First Amendment rights include the rights to beliefs, thoughts, emotions, and sensations, and to be let alone and satisfy one's intellectual and emotional needs in the privacy of his own home. *Id.* at 564-65. The Court held that the First Amendment prohibits criminalizing the mere private possession of material the government finds offensive and that the government's power does not extend to possession in the privacy of one's own home. *Id.* at 568; *see also Ashcroft v. Free Speech Coal.*, 535 U.S. 234 (2002) (Invalidating a law criminalizing possession of material in the government-asserted interest of protecting one's mind.).

Accordingly, an additional Freedom of Thought claim exists when one alleges that (1) the government makes the private conduct of possession of material or products a crime; (2) it does so in the expressed interest of protecting, controlling or otherwise preventing the contents of one's mind, and (3) when such allegation is supported by sufficient facts.

Here, I stated an additional plausible claim for relief under the First Amendment. I alleged Respondents criminalize the private conduct of mere possession of certain products, for the explicit purpose of "preventing and

combating” certain cognitive and emotional states it deems undesirable, which creates a chilling effect and violates the Constitution. This allegation was adequately supported by numerous objective facts. App. 76a-79a, 83a-84a, 88a.

The government’s primary purpose for criminalizing mere private possession of substances scheduled under the CSA and Conventions is clear, explicit and stated within the laws themselves: to “prevent and combat” the “serious evil” and immorality of “drug abuse” and its cognitive and emotional effects on individuals. App. 26a-28a. Moreover, before this legislation was renamed to the Controlled Substances Act, it was named the “Comprehensive Drug Abuse Prevention and Control Act of 1970.” App. 28a. As described herein, “drug abuse”, which the government seeks to prevent and control, refers to cognitive and emotional states of individuals. I further alleged that this unlawful purpose is evidenced through the drug evaluation process, which is primarily focused on investigating and predicting the personal thoughts, moods, and emotional states that could arise in individuals should they consume the substance under evaluation. App. 76a-79a.

c. The Ninth Circuit improperly dismissed my Freedom of Thought claims without any analysis or application of the pleading standards.

Without any analysis whatsoever or reference to relevant Supreme Court precedent or the pleadings standards, within just two mere sentences, the Ninth Circuit dismissed my Freedom of Thought claims, wholesale. App. 5a. This was

disheartening and shocking as I never foresaw the possibility that such significant claims, supported by numerous facts derived from decades of records, and direct government statements discussing specific thoughts and emotions it seeks to prevent, could be dismissed without any court analysis or indication they were even read or considered.

The Ninth Circuit created an insurmountable pleading barrier that no claimant could possibly overcome. This denial of being heard in any meaningful manner is a significant injustice to us all, especially when the courts, who are bound to uphold the Constitution, often serve as our only avenue to prosecute unlawful government action and vindicate our basic human rights.

2. I Stated a Plausible Claim for Relief of Procedural Due Process Violations

In my Complaint, I alleged that the drug evaluation and scheduling procedures of both the CSA and Conventions, result in the deprivation of multiple liberty rights, are inadequate and fundamentally unfair and, thus, violate procedural due process requirements. App. 88a-89a. The district court dismissed these claims after admitting it did not understand them (App. 19a-20a), and the Ninth Circuit affirmed stating that I had not alleged “sufficient facts to support a finding of inadequate process” (App. 5a-6a).

Again, the Ninth Circuit disregarded well-established law for pleading standards. At this stage, the court was not permitted to make the finding of fact of

whether the processes are, in fact, adequate. Rather, it was only permitted to find whether I stated sufficient facts showing such claim is plausible. The Ninth Circuit's finding directly conflicts with *Twombly*'s plausibility standard and its requirements that the court accept my alleged facts as true and make any inferences in my favor. *Twombly*, 550 U.S. at 556-57.

For procedural due process claims, I need only allege deprivation of a protected liberty interest through inadequate process, and support such allegation with sufficient facts. *See Bd. of Regents v. Roth*, 408 U.S. 564, 569-73 (1972). As the determination of what process is due in any given situation tends to be case specific, the courts consider elements such as the nature of the liberty at stake, the government function involved, and whether the deprivation would have occurred had due process been given. *See respectively, Cafeteria Workers v. McElroy*, 367 U.S. 886, 895 (1961); *Forbes v. Woods*, 71 F. Supp. 2d 1015, 1018 (D. Ariz. 1999) (“[W]here a statute imposes criminal penalties, the standard of certainty that due process requires is higher.”) (internal quotation omitted); and *Nelson v. Colorado*, 137 S. Ct. 1249, 1261 n.2 (2017).

In my Complaint, I alleged over 80 paragraphs of facts, wherein: (1) I thoroughly analyzed and described the procedures used by Respondents and the UN; (2) I explained how the procedures were inadequate, bias, arbitrary or otherwise fundamentally unfair; (3) I explicitly tied the inadequate procedures to the resulting

deprivation of multiple protected liberty rights; and (4) I directly alleged that the drug schedules would look vastly different and the deprivations of liberty would not occur if fair and adequate process is used. App. 44a-61a, 67a-76a, 80a-84a.

Although there are too many inadequacies to list here, the most notable that I alleged include: (1) a financial conflict of interest among decision makers, whereby Respondents receive a direct financial benefit from their schedule placement and criminalization decisions; (2) Respondents' explicit disregard for and statutory violations of the CSA's scheduling requirements; and (3) lack of any process to challenge the drug scheduling decisions that are made pursuant to the Conventions and criminally enforced by Respondents. *Id.* Any of these three, alone, should suffice to allege a plausible claim of inadequate process, especially given that these processes result in criminal legislation responsible for mass imprisonment.

Next, because both lower courts indicated they could not understand my due process claim, but dismissed anyway, I will attempt to clarify through a hypothetical with hope the same does not happen here, in the court of last resort. Let's consider *Stanley*, described above, where private possession of published material the government deemed obscene and harmful to one's mind was criminalized. *Stanley v. Georgia*, 394 U.S. 557 (1969). Let's say the government made an exception, providing that such obscene material was lawful to possess, so long as it was obtained from publishers who pay fees to the government. And let's say when

evaluating material from those publishers, the government hides and ignores readily available evidence of obscenity or cognitive harm. Then, without articulating how material from publishers who fund the government is less obscene or harmful than material from publishers who do not, it legalizes possession of the former while criminalizing possession of the latter. The result would be imprisonment of consumers, apparently not to protect their minds—an unlawful premise on its own—but to incentivize them to obtain obscene harmful material from government funders to avoid punishment. Given the resulting deprivation of freedom in this hypothetical, such government procedures should raise significant due process concerns.

Through detailed explanation, I alleged the same here, just for a different type of product. However, here, the results of the unlawful government procedures are catastrophic and deadly. Prescription drugs are the third leading cause of death in the U.S., behind heart disease, which is often caused by prescription drugs. When the government schedules pharmaceuticals as legal to be distributed and possessed, under § 812, it falsely declares that these drugs are safe for use and less harmful than drugs on more restrictive schedules. *See* 21 U.S.C. § 812 (required schedule findings), App. 33a-34a. As alleged, it makes such declarations while intentionally ignoring and omitting evidence that proves otherwise. These actions are to the direct detriment of the American people who often trust that controlled FDA-approved drugs have been thoroughly analyzed for their safety and health benefits. App. 73a.

Finally, the processes used here result in a widespread deprivation of freedom and have remained unquestioned for decades.

The Ninth Circuit's requirement that I allege *more* facts and prove my allegations beyond plausibility effectively created an insurmountable and unlawful pleading standard warranting Supreme Court review.

3. My Constitutional and Statutory Challenges to the CSA Regulations are Questions of Law for which the District Court has Original Jurisdiction to Review

In my Complaint, I allege that the CSA Regulations are the result of the unlawful and unconstitutional government actions described herein, are arbitrary, capricious, an abuse of discretion, not in accordance with law, and unconstitutional and, thus, should be set aside in accordance with the Administrative Procedure Act (APA). App. 91a. The challenged regulations, 21 C.F.R. § 1300.01 *et seq.*, house the continuously amended Schedules of Controlled Substances (§§ 1308.11 –.15), the rulemaking procedures by which schedule changes, additions, or deletions are made (§ 1308.43), and provide the administrative procedures by which control required under the Conventions is implemented (§ 1308.46).

The Ninth Circuit dismissed my challenge to these regulations, finding the district court lacked subject matter jurisdiction because 21 U.S.C. § 877—an exclusive jurisdiction provision of the CSA—obligates me to assert my APA claims directly to the appellate courts. App. 4a.

However, the Ninth Circuit's dismissal directly conflicts with Supreme Court precedent providing that federal district courts have original jurisdiction over an action involving constitutional or statutory determinations and that courts are the sole arbiters of questions of law. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 372 (2024); and *McNary v. Haitian Refugee Center, Inc.*, 498 U.S. 479, 492-94 (1991) (finding that a court of appeals would not have an adequate record as to alleged unconstitutional practices and would lack a district court's factfinding and record-developing capabilities). Further, the *McNary* court looked to an exclusive jurisdiction statute, similar to § 877, and found it was meant for single agency determinations, not challenges to unconstitutional practices and policies used by the agency preceding rulemaking. 498 U.S. at 492-93.

Here, I allege unconstitutional administrative practices and policies used by the Respondents and the UN when making their ongoing scheduling decisions which manifest in the regulations. Therefore, my APA claim is reviewable by the district court and was improperly dismissed by the Ninth Circuit in direct conflict with this Court's prior decisions.

II. The Question of Whether the War on Drugs is Enforced Unconstitutionally is of Significant National Importance and this Action is the First of its Kind

This action comprehensively questions, for the first time in history, one of the most significant pieces of U.S. criminal legislation. As alleged with intricate detail in my complaint, the so-called War on Drugs has inflicted an unprecedented amount

of harm upon individuals and society, alike. It is responsible for the mass drugging of the population with lethal, highly addictive, and toxic pharmaceuticals, and has caused the U.S. to become the world's leading incarcerator. Its devastation has impacted virtually every American household.

For over 55 years, the CSA and Conventions have gone largely unquestioned and unchecked. We became complacent and were programmed to blindly accept a system that insists a prescription label endorsed by the FDA, and condoned by the DEA, is the sole determinant of safety and well-being, and that those who step outside this commercial system are the true enemy and deserve to be punished.

The government's method of punishing consumers under the CSA is unprecedented. No other law exists whereby the consumers of allegedly harmful products are punished, while manufacturers are not only protected, but are granted safe passage and security by the very government it funds. This system does not protect public health—it enforces compliant consumerism. It criminalizes the harmless conduct of simply holding in one's hand a product without a government-issued label.

From where I stand, after extensive research and analysis, I see the government and pharmaceutical companies in bed together, with mutual seduction each promising the other security, control and profit, through a collaboration designed to alter healthcare consumerism in their favor. The government entices big

pharma with an exclusive legal market guaranteeing the mass distribution of its drugs, along with a personal federal security force ensuring consumers stay within this market or otherwise face life-altering punishment. In return, big pharma entices the government with a share of its profits and an entire population made malleable and submissive through products designed to numb the minds, emotions and consciousness of consumers, and create life-long dependency.

It is also critically important to consider why the First Amendment so strictly prohibits the government from investigating our thoughts and emotions for purposes of controlling or otherwise punishing us. When the government declares that certain thoughts, moods, desires, and emotions are bad for us and then labels us as criminals for having such human experiences, the effect on the human psyche and spirit is devastating. So many good humans walk around with their head held low, ashamed and deemed by society as worthless, all because the government has told them, and convinced others to agree, that their intimate internal world is so bad that they deserve to be punished and removed from society. This legislation has created millions of criminals, simply for how their minds work and how they privately experience their human existence. The upholding of these strict constitutional prohibitions is paramount to reviving the diminished spirit of the American people.

Everything I stated in this Petition, and the pleadings preceding it, is backed by extensive research and thorough analysis of government records, properly cited

in a well-pleaded and unprecedented complaint. Whether this devastating 55-year legislation has been enforced through unlawful or unconstitutional means must be questioned, on behalf of all of us. Yet, I have been denied the opportunity to even have my claims analyzed or be heard in any meaningful manner. If, upon meaningful review, the Court determines there is no violation, so be it. But the right to question in the first place, to prosecute unlawful government conduct, is guaranteed.

The beauty of our Constitution, specifically the Bill of Rights, is that it primarily serves as a declaration of prohibited government acts and, through *Marbury v. Madison*, the courts serve as the only avenue through which we, the people, can prosecute unlawful government actions. Thus, on behalf of those who have died, those who suffer still, and those who will if this continues unchecked, I stand as prosecutor of what might be one of the most dangerous unlawful government conduct in our history. I am not asking this Court to create new rights or carve out new doctrines. I am asking the Court to uphold firmly established law protecting our most basic and fundamental human rights, where the lower courts failed to do so.

Thus, as my sole remaining avenue, I now kneel before this Court with deep honor and respect for your role as guardians and protectors of the Supreme Law of the Land and of its people, and pray that you recognize the historic and national importance of this matter and grant my petition.

CONCLUSION

Based on the forgoing, this Court should grant a writ for certiorari.

Dated: July 1, 2025

Respectfully submitted:

Petitioner/pro se