

No. 23-1034

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

RONALD BRUCE MYERS,

Defendant-Appellant.

Appeal from the
United States District Court
for the Eastern District of Washington
Honorable Mary K. Dimke Presiding

**Brief of Amici Curiae National Consumer Law Center and
Federal Defenders of San Diego, Inc., *et al.*,
in Support of Petition for Rehearing En Banc**

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STATEMENT OF INTEREST OF AMICI AND DISCLOSURE STATEMENT

National Consumer Law Center has worked since 1969 for consumer justice and economic security for low-income and other disadvantaged people in the United States. Through its Criminal Justice Debt and Reintegration Project, it advocates for the rights of incarcerated consumers, as well as their friends and family members, who typically foot the bill.

Federal Defenders of San Diego, Inc., is the institutional defender representing indigent defendants in the Southern District of California. Federal Defenders represents thousands of clients every year, including in cases involving restitution and fines, and is intimately familiar with the real-world workings of the federal prison system.

Family Assistance Program is a nonprofit in the High Desert, San Bernardino, and Morongo Basin areas that works with people exiting prison to build stronger families.

Fines and Fees Justice Center is a national center for advocacy, information, and collaboration to address the unjust and harmful imposition and enforcement of fines and fees in federal, state, and local courts systems. FFJC works to create a justice system that treats individuals fairly, ensures public safety, and is funded equitably.

Juvenile Law Center fights for rights, dignity, equity, and opportunity for youth and works to reduce the harm of the child welfare and justice systems, limit their reach, and ultimately abolish them.

Prison Policy Initiative is a national nonprofit research and advocacy organization. Its work producing research to expose the broader harms of mass incarceration gives it keen insight into the many economic harms of incarceration.

Returning Home Foundation is a nonprofit based in Orange County with the mission of educating and creating public awareness about issues that affect recidivism of previously incarcerated persons who are returning home.

United Church of Christ, a mainline protestant denomination, established its Media Justice Ministry in 1959 to advocate for equitable, affordable, and accountable media and technology to promote a just world for all.

Worth Rises is a national nonprofit organization working to end the exploitation of incarcerated people and their loved ones. Through its federal, state, and local campaigns, Worth Rises has gained deep visibility into the cost of incarceration on impacted populations.

Amici affirm that no publicly held corporation owns stock in them. No counsel for either party authored this brief in whole or in part. No party, party's counsel, or other entity contributed money to preparing this brief. All parties have consented to this brief's filing.

SUMMARY OF ARGUMENT

This case is not a one-off. If the majority opinion is not taken en banc, it would affect many, *many* more cases than this Court might realize. This brief explains how. It focuses on how much money goes into prison from friends and family—and how that money gets used.

As an example: It costs five cents a minute to use the federal prison electronic messaging system. Phone calls are six cents a minute. Video calls are sixteen cents a minute. Keeping in touch can quickly add up to \$100 a month for people in federal prison; over the course of a decade, that’s \$12,000 for keeping in touch alone. It’s family and friends who cover this cost. Prison wages start at 12 cents an hour.

Without this real-world backdrop, the *Myers* panel majority permits the government to take \$1,233.73 accumulated over nine years from “small, periodic deposits from family and friends.” *United States v. Myers*, 136 F.4th 917, 921 (9th Cir. 2025). It holds this accumulated \$1,233.73 to be covered by a restitution and fines payment mandate for when a person “receives substantial resources from any source, including inheritance, settlement, or other judgment, during a period of incarceration.” 18 U.S.C. § 3664(n); *see Myers*, 136 F.4th at 920.

Among other problems, this holding sets up a world where *no one*—incarcerated people, family, and friends alike—can put enough money on the books to keep up with the expense of being in prison. Without that money, prisons lose one of the strongest tools of

rehabilitation: sustained family contact. They also lose one of the strongest tools of “inmate management”: sustained family contact.

As Judge McKeown’s dissent in *Myers* explains, the federal restitution statute does not actually create these problems. The statute’s “most logical interpretation” is to mandate defendants turn over money sent from family and friends only when it is “substantial at the time of receipt.” *Myers*, 136 F.4th at 929 (McKeown, J., dissenting). Besides, the restitution statute already has another backstop “should an inmate accrue substantial resources.” *Id.* at 931. When a defendant develops a “material change in . . . economic circumstances that might affect the defendant’s ability to pay restitution,” the court and victims can seek adjustment of the payment schedule and immediate payment. *Id.* (quoting 18 U.S.C. § 3664(k)).

This Court should grant the petition for rehearing en banc to adopt Judge McKeown’s plain-language reading of the statute. Granting the petition would not only avoid a circuit split, as Mr. Myers’s petition explains. Granting the petition would also avoid truly widespread effects across the federal prison system.

ARGUMENT

I. The panel opinion will have a wide-reaching impact: Each family member sends about \$2,500 into prison every year to cover basic costs.

Every year, the immediate family members of incarcerated people send about \$5.6 billion in direct payments to prisons. Brian Elderbroom

et al., *We Can't Afford It: Mass Incarceration and the Family Tax*, 4, 27 (June 2025).¹ That breaks down into a much larger amount per person than this Court might realize.

A. Family and friends send thousands of dollars because it gets used to cover essential costs.

Family members send an average of about \$2,500 into prison accounts for every incarcerated loved one, every year. *Id.* at 25.² They send several thousand dollars a year for a simple reason: “Being in jail or prison is expensive.” Consumer Financial Protection Bureau (“CFPB”), *Justice-Involved Individuals and the Consumer Financial Marketplace*, 14 (Jan. 2022)³; *accord* Federal Communications

¹ Available at <https://www.wecantaffordit.us/>. This number comes from a nationally representative survey conducted in September 2023 by a nonprofit alongside researchers at Duke University and University of Chicago. The team surveyed about 1,600 people with at least one family member in local, state, or federal custody for three or more months in the past year. *Id.* at 3–4, 46–50. The results are consistent with similar prior research. *See, e.g.,* Saneta deVuono-powell *et al.*, *Who Pays? The True Cost of Incarceration on Families*, Ella Baker Center, 29–30 (2015), available at <https://ellabakercenter.org/who-pays-the-true-cost-of-incarceration-on-families/>.

² “Individuals with a loved one in prison or jail for more than three months spend an average of \$4,195 per incarcerated family member, to stay in touch with and take of their loved one in jail or prison every year.” Elderbroom *et al.* at 6. About 60.5% (a little over \$2,500) goes toward “[c]ommunication and direct support (commissary, packages, and other direct payments).” *Id.* at 25. The rest goes toward childcare (20.6%) and visiting (18.9%). *Id.* at 25; *see id.* at 26–33.

³ Available at <https://www.consumerfinance.gov/data-research/research-reports/justice-involved-individuals-consumer-financial-marketplace/>.

Commission (“FCC”), *In re Incarcerated People’s Communications Services*, Dkt. Nos. 23-62, 12-375 (July 22, 2024).⁴

The average annual \$2,500 goes toward incarcerated family members’ purchase of clothes, food, and toiletries from prison commissaries. *Id.* at 29. These are not extravagances. The typical federal Bureau of Prisons (“BOP”) commissary sells shelf-stable food like canned fish, beans, ramen, and chips; writing materials like paper, pens, and envelopes; hygiene items like toothbrushes, deodorant, denture containers, and soap; pharmacy items like Tylenol, antacids, ChapStick, and reading glasses; warm clothing like thermal shirts, hats, and gloves; and religious items like rosaries and prayer rugs.⁵

These items are almost always more expensive than they would be outside of prison. See Elizabeth Weill-Greenberg & Ethan Corey, *Locked In, Priced Out: How Prison Commissary Price-Gouging Preys on the Incarcerated*, *The Appeal* (Apr. 17, 2024) (developing a database of

⁴Available at <https://www.fcc.gov/document/fcc-caps-exorbitant-phone-video-call-rates-incarcerated-persons-their-families>.

⁵ Most federal prisons’ commissary lists are available online. See, e.g., FPC Alderson Commissary List, available at <https://www.bop.gov/locations/institutions/ald/>; FCI Texarkana Commissary List, available at <https://www.bop.gov/locations/institutions/tex/>; FPC Yankton Commissary List, available at <https://www.bop.gov/locations/institutions/yan/>.

prison commissary prices from 46 states)⁶; *see also* Stephen Raher, *The Company Store and the Literally Captive Market: Consumer Law in Prisons and Jails*, 17 UC Law SF Race & Econ. L.J. 3, 16–17 (2020).

And, to underline the point, these commissary purchases are overwhelmingly essential. In a recent national survey of formerly incarcerated people, friends and family members, and correctional staff, the number one problem with food in custody was getting enough of it. Nineteen out of every twenty respondents “reported that they did not have enough food to feel full.” They were “hungry between meals.” Leslie Soble *et al.*, *Eating Behind Bars: Ending the Hidden Punishment of Food in Prison*, Impact Justice, 9, 49 (2020).⁷

As one formerly federally incarcerated woman says, when explaining why she now sends money into prison for another family member: “I’ll go without sometimes, so I can make sure I can accept a phone call from him. . . . I try and put some type of money on his book so he can have soup or something he can eat. I know what it’s like to go to bed hungry.” Meg Anderson, *The true cost of prisons and jails is higher than many realize, researchers say*, NPR (June 3, 2025).⁸

⁶ Available at <https://theappeal.org/locked-in-priced-out-how-much-prison-commissary-prices/>.

⁷ Available at <https://impactjustice.org/innovation/food-in-prison/?eType=EmailBlastContent&eId=6b6c759c-1f8d-4d86-8602-c92de4b8c908#report>.

⁸ Available at <https://www.npr.org/2025/06/03/nx-s1-5413282/true-cost-of-prisons-and-jails-higher-than-many-realize>.

Another big chunk of the annual \$2,500 from family goes toward communications. For every minute a person in BOP custody spends reading or writing an electronic message, he is charged five cents. *See* U.S. Department of Justice, Office of the Inspector General, *Audit of the Federal Bureau of Prisons' Monitoring of Inmate Communications to Prevent Radicalization*, 21 (2020).⁹ Video calls, in prisons in which they are available, are sixteen cents per minute. *See* BOP, *FBOP Updates to Phone Call Policies and Time Credit System* (Oct. 4, 2024).¹⁰

Phone calls also add up. As of earlier this year, certain people in federal prison who participate in programming receive 300 free minutes a month, or about 10 free minutes a day. *Id.* Otherwise, phone calls are six cents a minute. *Id.*¹¹

If a person in federal prison makes two 15-minute phone calls a day—perhaps one to their child, and another to their mother, or sibling, or partner—that adds up to \$650 per year on the phone alone. Add in 20

⁹ Available at <https://oig.justice.gov/reports/audit-federal-bureau-prisons-monitoring-inmate-communications-prevent-radicalization>.

¹⁰ Available at <https://www.bop.gov/news/20241004-fbop-updates-to-phone-call-policies-and-time-credit-system.jsp>.

¹¹ This price may increase. The phone and video call prices the BOP announced late last year, of six and sixteen cents per minute, were the maximum per-minute prices for those services set by the FCC in recent rulemaking. The FCC has since postponed the effective date of its rules by two years. *See* Wanda Bertram, *FCC postpones its groundbreaking 2024 rules, allowing excessive phone and video rates to continue*, Prison Policy Initiative (July 2, 2025), available at <https://www.prisonpolicy.org/blog/2025/07/02/fcc-reversal/>.

minutes a day to read and write electronic messages; that’s another \$360 per year. And, of course, video calls are more.

Electronic messages, phone calls, and video calls *particularly* add up in the federal prison system, which reaches from Hawaii to Puerto Rico. Given the high concentration of federal prisons in the southern and eastern parts of the country, *see* BOP, *Map of our locations*,¹² Amici regularly have clients sent thousands of miles away from the Ninth Circuit. Many do not see their family in person for the entire duration of their imprisonment. Indeed, one-third of all people incarcerated in the BOP are incarcerated more than 500 miles away from home. *See* U.S. Department of Justice, *First Step Act Annual Report*, 33 (June 2024).¹³

The cost of keeping in touch with someone in custody “has potentially life-altering impacts on prisoners and their families.” FCC, *In re Incarcerated People’s Communications Services*, *supra*, at 16 n.95. Before the FCC, one woman explained that “after spending \$120 in just two weeks to maintain contact with both her teenage son and her ex-husband behind bars, [she] was forced to make the difficult choice between the two, as she struggled to pay exorbitant phone rates and could only afford one of their accounts.” *Id.* at 16. Families spend thousands of dollars a year for “the importance of being able to hear, ‘I love you mommy’ and respond ‘I love you too, baby.’” *Id.* at 17 n.106.

¹² Available at <https://www.bop.gov/locations/map.jsp>.

¹³ Available at <https://www.bop.gov/inmates/fsa/reports.jsp>.

Putting the cost of food and telecommunications together, it is easier to see how families and friends each wind up sending thousands of dollars in direct payments to prisons every year.

For example, here's an average annual budget in New York state prison, based on survey data from five to six years ago:

Table 1. Average annual prison budget.

Item/category	Amount spent
Commissary	\$1,249
Tobacco	\$257
Clothes	\$130
Phone/mail	\$1,972
Fines	\$110
Total	\$3,718

Tomaso Bardelli *et al.*, *Surviving austerity: Commissary stores, inequality and punishment in the contemporary American prison*, 25 *Punishment & Soc.* 1, 8 (2022).¹⁴

Individual interviews broke this budget down. “[P]articipants spent [an] average of \$164 per month to stay in touch with their family and friends.” *Id.* at 7. After that, “[w]hile budgeting strategies varied, most people agreed that one needed to spend at least \$50 on food every other week to supplement paltry meals served by the prison mess hall to avoid feeling constantly hungry.” *Id.* at 7–8. As a result, “everyone

¹⁴ The only obvious difference between this budget and one in federal prison is that tobacco is banned in the BOP. *See* BOP, Program Statement 1640.05, *Smoking/No Smoking Areas* (Jan. 7, 2015), available at www.bop.gov/policy/progstat/1640_005.pdf.

reported needing support from friends and family on the outside.” *Id.* at 9.

That need comes at a cost: To pay for calls and visits, one in three families with an incarcerated loved one goes into debt while their loved one is locked up. *See deVuono-powell, et al., Who Pays? The True Cost of Incarceration on Families, supra*, at 30. That is because the expense of prison falls disproportionately on people who are already struggling financially. *See CFPB, Justice-Involved Individuals and the Consumer Financial Marketplace, supra*, at 3. Expenses also fall disproportionately on women. *See deVuono-powell, et al., supra*, at 30. These are generally mothers, wives, and daughters trying to stay connected to their loved ones while also meeting their family’s basic needs. They are already spending more on childcare because of their incarcerated family member’s absence. They are already spending more to travel to visit their family member in prison. *See Elderbroom et al., We Can’t Afford It, supra*, at 25–32.

As one family member reflects, “When I got my first job at 16, making \$7.25 an hour, I became my dad’s primary financial support. While my friends were thinking about going to the movies, I was thinking about how much I could afford to send him.” *Id.* at 10. “Supporting my dad meant too many choices of either/or—like being able to travel . . . for my twin brother’s boot camp graduation so he had at least one family member there to celebrate his accomplishment. That

month, I couldn't put money on the phone. I couldn't send my dad a care package. I couldn't add to his commissary." *Id.*

B. Prison wages do not cover the cost of being incarcerated.

Family members and friends send thousands of dollars in to prison every year for a single reason: The gap between the cost of food and phone calls in prison, on the one hand, and what people in federal prison can make in wages, on the other.

A typical federal prison job pays between 12 cents and 40 cents an hour. *See BOP, Work Programs.*¹⁵ People incarcerated within the BOP working these jobs maintain the facility itself—doing groundskeeping, laundry, warehouse work, cleaning, and food preparation. Under one in ten people can earn more within the BOP's manufacturing program. Those coveted jobs pay between 23 cents and \$1.15 per hour. *See BOP, UNICOR.*¹⁶ As a result, the vast majority of people in federal prison can earn no more than \$100 per month through full-time work. And, of course, due to disability and illness, some people can't work, and so earn nothing at all.

Consider the experience of a highly paid incarcerated worker with three jobs, 64-year-old Ricardo Ferrell. He works four-hour shifts

¹⁵ Available at https://www.bop.gov/inmates/custody_and_care/work_programs.jsp.

¹⁶ Available at https://www.bop.gov/inmates/custody_and_care/unicor_about.jsp.

monitoring men who are under suicide watch. Before that, he does his first work assignment; after, he “tutor[s] guys on the unit with their reading and writing.” Mr. Ferrell explains about his suicide watch job, “When I first sit down, I do a silent prayer for [an] individual in the cell. And every 15 minutes I document.” He explains, “I find the job to be therapeutic. . . . Not only do I help these individuals, by doing this, I’m helping myself. I’m in here for taking someone else’s life. Now I’m saving people’s lives.” Beth Schwartzapfel, *Prison Money Diaries: What People Really Make (and Spend) Behind Bars*, The Marshall Project (August 4, 2022) (reporting first-person accounts of what people in prison earned, spent, and saved over 30 days around the country).¹⁷

He makes between \$250 and \$350 a month—more than almost everyone in federal custody—and it is barely enough. He notes, “The two primary things I spend on are: my phone credit account and commissary store purchases.” He explained significant recent increases in commissary prices due to inflation. “[T]he same crunch being felt by ordinary folks in society is magnified for those inside because of the low wages paid for prison labor.” *Id.*

¹⁷ Available at <https://www.themarshallproject.org/2022/08/04/prison-money-diaries-what-people-really-make-and-spend-behind-bars>.

C. People in custody try to save for reentry costs like security deposits, food, clothing, and transportation.

Finally, “the availability of financial resources” is a key component of reentry planning. BOP, *Proposed Rule: Inmate Financial Responsibility Program*, 88 Fed. Reg. 1331 (Jan. 10, 2023).¹⁸ People need money upon release from prison. They must immediately pay for necessities—security deposits for housing, not to mention food, clothing, and transportation to job interviews. Having saved money is essential. People leaving prison, by definition, have criminal records and time out of the workforce, making reentry into employment more challenging. *See, e.g.*, Kira Nikolaides, *Collateral Consequences of Conviction: Barriers to Employment*, Berkeley J. Crim. L. Blog (Aug. 31, 2022).¹⁹ Ensuring that people have funds available when they leave incarceration is the bare minimum for supporting successful reentry.

In fact, Congress passed legislation seven years ago *requiring* the BOP to better protect incarcerated people’s resources for reentry. The First Step Act now mandates that people incarcerated in federal prisons have 15 percent of their compensation from certain jobs “reserved . . . and made available to assist” them with reentry. 18 U.S.C. § 4126(c)(4).²⁰

¹⁸ Available at <https://www.govinfo.gov/content/pkg/FR-2023-01-10/pdf/2023-00244.pdf>.

¹⁹ Available at <https://www.bjcl.org/blog/collateral-consequences-of-conviction-barriers-to-employment>.

²⁰ The BOP has yet to implement this reform through regulation.

But under the panel opinion, saving just \$1,233.73 from a decade of family contributions to assist with reentry will be impossible. The meager amounts incarcerated people are able to save for reentry over the years—that is, any slim margin between the high cost of essentials, on the one hand, and their extremely paltry wages and what their loved ones send them, on the other—would be subject to seizure.

D. Putting this real-world information together highlights the widespread harm the panel opinion would impose.

Families send an average of \$2,500 into prison every year to cover the costs of keeping in touch, staying hygienic, eating, and reentering the community. These are basic costs incarcerated people are unable to cover themselves, as they make cents on the hour. So how could \$1,233.73—less than one-half of that annual amount from family—accumulated over nine years from “small, periodic deposits from family and friends,” constitute “substantial resources from any source, including inheritance, settlement, or other judgment”? *Myers*, 136 F.4th at 920–21 (quoting 18 U.S.C. § 3664(n)).

It simply can't. This Court should take this case en banc to prevent the panel opinion's incorrect, detached-from-the-real-world interpretation of the restitution and fines statute from having wide-reaching effects.

II. If the panel opinion is not taken en banc, the Bureau of Prisons will have significantly fewer tools for rehabilitation and “inmate management.”

There is another real-world consequence looming. If \$1,233.73 accumulated from friends and family over nine years constitutes “substantial resources” that can be taken from an incarcerated person’s account to pay that person’s restitution and fines, family and friends will be discouraged from sending incarcerated people enough money to make phone calls, buy food, and reenter the community. That economic reality could have a devastating effect on both rehabilitation efforts and “inmate management.”

First, calls and electronic messages are some of the most effective tools for rehabilitation available in the federal prison system—a system in which in-person visitation is often not possible due to long distances between prison and home.

Those who maintain contact with their families during incarceration are much more likely to reenter successfully. *See Leah Wang, Research Roundup: The positive impacts of family contact for incarcerated people and families*, Prison Policy Initiative (Dec. 21, 2021).²¹ As one researcher has summarized, “*Every* known study that has been able to directly examine the relationship between a prisoner’s legitimate community ties and recidivism has found that feelings of

²¹ Available at https://www.prisonpolicy.org/blog/2021/12/21/family_contact/.

being welcome at home and the strength of interpersonal ties outside prison help predict postprison adjustment.” Joan Petersilia, *When Prisoners Come Home: Parole and Prisoner Reentry*, 245–46 (Oxford Univ. Press 2003) (emphasis in original).

The BOP itself urges friends and family to “[s]tay in touch,” explaining, “[s]tudies show that when inmates maintain relationships with friends and family, it greatly reduces the risk they will recidivate.” BOP, *Stay in touch*.²² The FCC likewise acknowledges the “wide-ranging and well-documented” benefits of keeping in touch, including “lowering rates of recidivism and increasing likelihood of successful reentry into society after release.” FCC, *In re Incarcerated People’s Communication Services*, *supra*, at 18–19. Having the funds to stay in touch “allow[s] the preservation of essential family ties, keep[s] vital family connections alive by enabling incarcerated people to parent their children and connect with their spouses, and helping families stay intact.” *Id.* at 20.

Second, access to phone calls and commissary goods are essential components of “inmate behavior management planning,” *i.e.*, a prison’s policy toolkit to keep everyone inside a prison safe. When prisons offer incarcerated people options to meet their physical and social needs—through buying food at commissary, and through making regular phone

²² Available at <https://www.bop.gov/inmates/communications.jsp>.

calls and sending regular electronic messages—they find themselves with “easier inmates to manage.” Scott Hoke & Randy Demory, *Inmate Behavior Management: Guide to Meeting Basic Needs*, National Institute of Corrections, U.S. Dep’t of Justice, 8 (2014).²³

As the BOP explains, “telephone privileges” are a “part of its overall correctional management.” BOP, *Inmate Telephone Regulations*, Program Statement 5264.08, 1 (Feb. 11, 2008).²⁴ “Maintaining pro-social/legal contact with family and community ties is a valuable tool in the overall correctional process.” *Id.* The positive results from commissary can be even more pronounced. As one incarcerated person puts it, “When you’re in prison, there are two things you’re always looking forward to: the day you get out and the day you get commissary.” Bardelli *et al.*, *supra*, at 17.

There is also a flip side. As experts in prison management explain, when a jail “reduces or overly restricts” pro-social programs like “access to affordable telephones” and visitation, “inmates will find other ways to express their social and emotional needs.” Hoke & Randy, *supra*, at 12. “The alternative expressions, such as increased gang behavior, schools of crime, graffiti, inappropriate sexual behavior, and aggression, will likely be unwelcome and difficult to manage.” *Id.*

²³ Available at <https://www.ojp.gov/ncjrs/virtual-library/abstracts/inmate-behavior-management-guide-meeting-basic-needs>.

²⁴ Available at https://www.bop.gov/policy/progstat/5264_008.pdf.

Indeed, when people in prison lack access to their friends and family, violent incidents and contraband problems go up. *See Wang, Research Roundup, supra*; *see also* FCC, *In re Incarcerated People’s Communication Services, supra*, at 20 (explaining the lack of the ability to communicate with the outside world can increase unlawful behavior and incidence of mental illness in prison, as incarcerated people lose hope of reengaging with society and loved ones).

Again, there is no need for this Court to create a world in which the BOP faces these problems. Contrary to the panel opinion, the federal restitution statute’s plain language does not permit the taking of small deposits accumulated from friends and family under the provision requiring turnover of “substantial resources from any source, including inheritance, settlement, or other judgment.” 18 U.S.C. § 3664(n). It does not permit the taking of small deposits, sent from people who are not convicted of any crime to their loved ones, for the purpose of covering the basic costs of being in prison.

Instead, as Judge McKeown’s dissent persuasively explains, this provision “applies only to resources that are substantial at the time of receipt.” *Myers*, 136 F.4th at 932 (McKeown, J., dissenting). This Court should grant the petition for rehearing en banc to avoid far-reaching effects on the federal prison system—effects the panel, without an understanding of the real-world economics of federal prisons, may have never understood.

CONCLUSION

This Court should grant the petition for rehearing en banc.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE
9th Cir. Case Number 23-1034

I am the attorney.

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