U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT

Nos. 20-3216, 20-3242, & 25-2003

UNITED STATES

v.

RACE MINER
Appellant in 20-3216, 25-2003

&

BEN WOOTTON,
Appellant in 20-3242, 25-2003

Appeal from U.S. District Court, M.D. Pa.
Judges John E. Jones and Jennifer P. Wilson; Nos. 1:17-cr-00143-003, 1:17-cr-00143-002

Before: BIBAS, CHUNG, and MASCOTT, *Circuit Judges*
Argued: June 25, 2026; Filed: August 27, 2026

NONPRECEDENTIAL OPINION*

CHUNG, *Circuit Judge*. Race Miner and Ben Wootton ("Defendants") were convicted of crimes related to false statements made to the Environmental Protection Agency ("EPA") and the Internal Revenue Service ("IRS"). They raise three issues on appeal. First, they claim that an intervening change in the law rendered the jury instructions legally erroneous and thus entitles them to a new trial. Second, they assert that the same legal development rendered the evidence insufficient as to a subset of the charges and seek

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* This disposition is not an opinion of the full Court and, under I.O.P. 5.7, is not binding precedent.

judgment of acquittal accordingly. Third, they claim that the Government withheld evidence regarding two EPA officers in violation of *Brady v. Maryland*, 373 U.S. 83 (1963), and seek new trial on this independent basis. We will affirm both judgments of conviction as well as the District Court's order denying Defendants' *Brady*-based motion for new trial.

I. BACKGROUND[1]

Appellants are Miner, the founder of Keystone Biofuels, Inc. ("Keystone"), and his successor, Wootton. Miner and Wootton's offenses arise from Keystone's submissions to two government programs: (1) the EPA's Renewable Fuel Standard ("RFS") program, which incentivizes renewable fuel production; and (2) the IRS's Biodiesel Mixture Credit ("BMC") program, which incentivizes fuel blending.

A. The Renewable Fuel Standard Program

The RFS program incentivizes the production of renewable fuel by issuing Renewable Identification Numbers (RINs) to producers.[2] RINs have value as they can be sold to gasoline and diesel fuel refiners, who use them to satisfy certain regulatory requirements.[3] Each RIN corresponds to a particular volume of renewable fuel produced.[4] To generate a

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1 Because we write for the parties, we recite only the facts pertinent to our decision.

2 40 C.F.R. § 80.1426(a)(1) (July 2010). 40 C.F.R. § 80.1426 and other regulations as well as statutes cited herein were amended on multiple occasions during the relevant period. None of the amendments, however, affects our decision. *See, e.g.*, 40 C.F.R. § 80.1426(a) (September 2010); 40 C.F.R. § 80.1426(a) (December 2010); 40 C.F.R. § 80.1426(a) (2011); 40 C.F.R. § 80.1426(a) (2012).

3 40 C.F.R. § 80.1406(a)–(b) (2010); 40 C.F.R. § 80.1407 (2010); 40 C.F.R. § 80.1427 (2010).

4 40 C.F.R.§ 80.1426(a)(3) (July 2010); 40 C.F.R. § 80.1425 (July 2010).

RIN, a producer must report to the EPA certain information related to the particular batch of renewable fuel.[5] Biodiesel is a type of renewable fuel.[6] By regulation, Biodiesel means "a mono-alkyl ester that meets [American Society for Testing and Materials ("ASTM")] D6751."[7] ASTM D6751 is incorporated into the regulations by reference.[8]

Two sections of ASTM D6751 are relevant here. First, Section 1.2, under the heading "Scope," states:

> This specification prescribes the required properties of diesel fuels at the time and place of delivery. The specification requirements may be applied at other points in the production and distribution system when provided by agreement between the purchaser and the supplier.

A2431. Second, Section 4 of ASTM D6751, titled "Requirements," provides that biodiesel:

> shall be mono-alkyl esters of long chain fatty acids derived from vegetable oils and animal fats [and] … shall conform to the detailed requirements shown in Table 1.

A2432–33. ASTM D6751 Table 1 provides technical standards for biodiesel's various physical and chemical properties and designates modes of testing for each. *Id.* at A2433**.**

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[5] 40 C.F.R. § 80.1452(b) (2010).

[6] *See* 40 C.F.R. § 80.1401 (2010)

[7] 40 C.F.R. § 80.1401 (2010). The Government cites this definition of biodiesel, 40 C.F.R. § 80.1401, contained in subpart M of the RFS regulations. Defendants cite a different definition of biodiesel, 40 C.F.R. § 80.1101(h)(3), contained in subpart K of the RFS regulations. The regulations dictate that Subpart M applies "for all renewable fuel produced on or after July 1, 2010, for all RINs generated on or after July 1, 2010," and that Subpart K does not apply to renewable fuel or RINs generated on or after the same date. 40 C.F.R. § 80.1400 (July 2010). Here, the relevant RINS were all generated in 2012. Therefore, 40 C.F.R. § 80.1401 governs.

[8] 40 C.F.R. § 80.1468(b)(4) (2010).

In sum, a biodiesel producer may obtain a RIN through the RFS program by meeting the standards set forth in ASTM D6751. At issue in this case is whether the definition of "biodiesel" contained in the RFS regulations is ambiguous, when read in connection with ASTM D6751, as to *when* a producer must satisfy the standards of Table 1 relative to generating RINs.

B. The Biodiesel Mixture Credit

During the relevant period, the BMC was available to a taxpayer "producing any biodiesel mixture for sale or use in a trade or business of the taxpayer."[9] A biodiesel mixture was defined as a mixture of biodiesel and diesel fuel, sold by the taxpayer for use as fuel or used by the taxpayer as fuel.[10] Biodiesel, in turn, referred to "the monoalkyl esters of long chain fatty acids derived from plant or animal matter," which "meet … the requirements of [ASTM] D6751."[11] A taxpayer who satisfied the BMC requirements but owed no taxes was entitled to a subsidy equal in value to the credit earned.[12] In order to claim the BMC credit or subsidy, a taxpayer had to submit IRS form 8849, A519-20, and a Certificate for Biodiesel.[13]

C. The Charges

Miner and Wootton each faced nine charges. Count One alleged that they each entered into an agreement to violate 18 U.S.C. § 1001. Specifically, the Government alleged that

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9 26 U.S.C. § 6426(c)(1) (2008).

10 26 U.S.C. § 6426(c)(3) (2008).

11 26 U.S.C. § 6426(c)(5) (2008); 26 U.S.C. § 40A(d)(1) (2008).

12 26 U.S.C. § 6427(e)(1), (3) (2008).

13 26 U.S.C. § 6426(c)(4) (2008).

Miner and Wootton conspired to make a false statement to the EPA by generating RINs for fuel that did not meet ASTM D6751 ("off-spec" fuel), and thereby conspired to commit an offense against the United States in violation of 18 U.S.C. § 371. A1031. Count Two alleged that they each conspired to defraud the IRS, in violation of the same statute, by fraudulently claiming credits under the BMC program. The Government alleged that the claims were fraudulent in that the Forms 8849 and accompanying Certificates for Biodiesel contained false statements. The Government charged three types of falsity, only one of which is at issue here; specifically that, contrary to assertions in accompanying documents, the biodiesel fuel contained in the mixture was off-spec. Counts Three through Eight alleged that Defendants violated 18 U.S.C. § 1001 and made six false statements in 2012 to EPA by representing that the biodiesel for which a RIN was generated was up-to-spec, when actually, the biodiesel was off-spec. And Count Nine alleged that Defendants aided and abetted the preparation and presentation of a false BMC claim for the 2011 tax year in violation of 26 U.S.C. § 7206(2). The Government charged that this claim was false for two reasons, including that the related fuel was off-spec.

D. Jury Trial

At trial, Miner and Wootton requested a jury instruction to explain ASTM D6751, § 1.2. Their proposed instruction stated, in relevant part, that "if the purchaser and supplier agree, ASTM can be met at a time other than at the 'time and place of delivery.'" Dist. Ct. Dkt. No. 165 at 44. The District Court declined to provide this instruction or to instruct on ASTM D6751 at all, and the jury found Miner and Wootton guilty on all counts. The jury rendered a general verdict of guilty on Counts Two and Nine, without indicating upon which theory of falsity their verdict was based. Defendants appealed. While their appeals were pending, they learned of information that they believed was withheld in violation of *Brady v. Maryland*, 373 U.S. 83 (1963), and we remanded for the District Court to resolve Defendants' motion for relief thereunder. The District Court held that no *Brady* violation occurred and denied Defendants' subsequent motion for reconsideration. Defendants' appeal from the denial of its motion for new trial under *Brady*, and for reconsideration thereof, has been consolidated with their appeals from their judgements of conviction.

II. DISCUSSION[14]

A. The District Court did not Err by Declining to Instruct the Jury on ASTM D6751.[15]

1. <u>Post-trial Change in the Law: *United States v. Harra*</u>[16]

After Defendants first filed their appeal in this case, this Court issued a decision in *United States v. Harra*, 985 F.3d 196 (3d Cir. 2021). There, we held that when the Government alleges that a statement falsely represents satisfaction of a requirement set forth in ambiguous agency regulations or guidance, the Government must prove that the defendant's statement is false under each objectively reasonable interpretation of the requirement. *Id.* at 213–14. The Government may meet this burden by proving beyond a reasonable doubt either (1) that its interpretation is the only reasonable interpretation or (2) that the defendant's statements were false under all reasonable interpretations. *Id.* at

[14] The District Court had jurisdiction pursuant to 18 U.S.C. § 3231. We have appellate jurisdiction pursuant to 28 U.S.C. § 1291.

[15] We review Defendants' claim that the jury instructions were legally incorrect de novo. *United States v. Piekarsky*, 687 F.3d 134, 142 (3d Cir. 2012).

[16] Judge Mascott does not join Part II.A.1.

219–20. Whether a requirement is ambiguous is a legal question for the trial court as gatekeeper. *See id.* at 217. Whether an interpretation is reasonable is a question of fact that belongs to the jury. *Id.* at 216 & n.14.

2. <u>The District Court's Instructions for RFS-Related Counts One and Three through Eight were not Legally Erroneous.</u>

With respect to the RFS program, the Government alleged that when Keystone generated RINs for biodiesel, its transmissions were false in that the biodiesel did not "meet ASTM D6751" as required by regulation.[17] Defendants assert that this ASTM-related requirement is ambiguous because there are multiple reasonable readings of how to satisfy it. In particular, Defendants contend that it is reasonable to read ASTM D6751 § 1.2 as permitting biodiesel to meet technical requirements at some time after delivery, provided that there is an agreement with the purchaser. Defendants assert that, under *Harra*, the Court erred by not instructing the jury to resolve whether (a) their interpretation of the ASTM-related requirements set forth in the RFS and BMC program regulations was reasonable, and (b) their submissions were false under their interpretation as well as the Government's.

The Government responds that the RFS program unambiguously required that the biodiesel meet the technical requirements of ASTM D6751 at the time Keystone generated RINs.[18] The Government argues that ASTM D6751 § 1.2 has no impact on this "plain

[17] A112; 40 C.F.R. § 80.1401 (2010).

[18] The District Court observed that ASTM D6751 featured some "areas of unclarity and interpretation." A2182. To the extent this statement represents a legal determination of ambiguity, our precedent instructs us to review de novo. *See Harra*, 985 F.3d at 218–19.

rule." Response Br. at 38. We agree and conclude that as a legal matter there was no ambiguity under *Harra* to warrant further instructions for the RFS counts. *Harra*, 985 F.3d at 217 (court's role is to determine, as a preliminary matter, whether regulation or guidance is ambiguous).

The applicable RFS regulation states in relevant part that "[b]iodiesel means a mono-alkyl ester that meets ASTM D6751."[19] ASTM D6751's technical requirements are contained at § 4 and Table 1. Section 1.2, by contrast, provides a default rule of commercial dealing that fuel be up-to-spec at the time of delivery, and allows parties to contract around that default timing. Accordingly, the parties may agree that the product be brought up-to-spec before or after delivery. We are unpersuaded that this renders the RFS regulation ambiguous. An agreement to contract around the default timing of ASTM D6751 has no impact on the RFS regulation's requirement that the substance itself (mono-alkyl ester) "meet" ASTM D6751. As noted above, per the plain language of § 1.2, a *fuel* cannot "meet" § 1.2. In fact, even a party cannot "meet" § 1.2. It can merely avail itself of the permission to avoid the default timing provision by agreement. Thus, the requirement that a fuel "meet ASTM D6751" is unambiguous and requires actual compliance with the technical requirements of § 4 and Table 1 upon RIN generation, whether that be before, at, or after delivery per the parties' agreement. Because there was no ambiguity, the District Court did not err under *Harra* in declining to instruct the jury to consider Defendants' interpretation, nor in denying Defendants' motion for new trial on that basis.

3. <u>The District Court's Instructions for BMC-Related Counts Two and Nine were not</u>

[19] 40 C.F.R. § 80.1401 (2010).

Legally Erroneous.

The Government alleged that Defendants submitted false claims for BMC tax credits in that their submission included certifications that the related product complied with the requirements of ASTM D6751 when, in fact, the fuel was off-spec.[20] Defendants reassert their ambiguity argument as to the BMC's ASTM-related requirement. This argument is even less persuasive in light of the plain language of the BMC regulations and the Certificates for Biodiesel submitted by Keystone in claiming the tax credit. The Internal Revenue Code defines biodiesel as fuel that "meet[s] … *the requirements of*" ASTM D6751.[21] The mandated Certificates for Biodiesel Keystone similarly certify that the "the biodiesel to which this certificate relates is mono-alkyl esters of long chain fatty acids … that meets *the requirements* of the [ASTM] D6751." SA4 (emphasis added). Section 4 of ASTM D6751 is labeled "requirements" and references the specifications of Table 1. Thus, the BMC definition of biodiesel is unambiguous in mandating that a fuel be up-to-spec prior to claiming a credit. We will again affirm the District Court's decision not to provide the requested instructions and deny the motions for new trial.

B. Defendants are not Entitled to Judgment of Acquittal on Counts One and

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[20] Counts Two and Nine rested on three alternative theories of falsity, including the off-spec theory. The Defendants' appeal does not involve a challenge to the instructions or proof related to the other two theories. However, because the jury rendered a general verdict on these counts, we must reverse if *any* of the alternate theories on which the jury might have convicted Defendants is legally invalid. *See United States v. Syme*, 276 F.3d 131, 144 (3d Cir. 2002) ("[I]f one of two or more alternative theories supporting a count of conviction is … legally invalid, then the reviewing court should vacate the jury verdict and remand for a new trial without the invalid or unconstitutional theory.").

[21] 26 U.S.C. § 40A(d)(1)(B) (2008) (emphasis added).

Three through Eight.[22]

Defendants argue that they are entitled to a judgment of acquittal on Counts One and Three through Eight because the Government presented insufficient evidence to prove that the fuel was not subject to an agreement for post-delivery compliance. Defendants' sufficiency claim assumes that the RFS program is ambiguous, as Defendants asserted in their instructional error claim. Because we conclude that the RFS statute unambiguously requires fuel to be up-to-spec at the time of RIN generation, this argument also fails.

C. There was no *Brady* violation.[23]

Defendants assert another, independent basis for a new trial: that impeaching information regarding two government agents was suppressed in violation of *Brady v. Maryland*, 373 U.S. 83 (1963) and *Giglio v. United States*, 405 U.S. 150 (1972). Those agents were Daniel Salak, who testified at trial, and Charles Ferrante, who did not testify at trial but served as the affiant for a key search warrant in this case. Under *Giglio*, suppressing impeaching evidence violates *Brady* when it is material. *See* 405 U.S. at 153–54. Impeaching information is material when the "reliability of a given witness may well be determinative of guilt or innocence," *id.* at 154, and when it "sufficiently undermine[s] confidence in the verdict," *United States v. Walker*, 657 F.3d 160, 188 (3d Cir. 2011). In

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22 We review Defendants' sufficiency challenge de novo. *United States v. Hendrickson*, 949 F.3d 95, 97 n.2 (3d Cir. 2020).

23 On the *Brady* issue, we review the court's legal conclusions de novo and its factual findings for clear error. *United States v. Thornton*, 1 F.3d 149, 158 (3d Cir. 1993). Generally, we afford deference to the trial court's assessment of materiality, based on the court's perspective at trial. *United States v. Pflaumer*, 774 F.2d 1224, 1230 (3d Cir. 1985). Granted, this principle is less applicable where the judge who oversaw the trial did not also resolve *Brady* motion.

assessing materiality, we consider whether impeaching information would be cumulative, *United States v. Georgiou*, 777 F.3d 125, 139 (3d Cir. 2015), and the importance of the witness to the Government's case, *see Simmons v. Beard*, 590 F.3d 223, 238–39 (3d Cir. 2009).

1. <u>Salak</u>

The information suppressed included evidence that Defendants suggest would undermine Salak's honesty, and evidence of poor performance reviews from a former supervisor and from an EPA attorney. Each reviewer emphasized Salak's poor judgment and reported that Salak tended to ignore legal advice, citing an instance where Salak conducted a warrantless search and another where he attempted a search without submitting an operations plan in advance. Salak's former supervisor further observed that he pursued investigations based on "his own interpretation of the regulations." A2606.

At trial, Salak's testimony served two main purposes. First, Salak testified in support of the Government's interpretation of the statutes and regulations relevant to both the RFS program and the BMC. Second, Salak discussed a calendar that reflected the dates Keystone's product had been tested for technical compliance and dates of delivery to Keystone's main customer, Petroleum Products Corporation ("PPC").

Much of the suppressed evidence would have impacted Salak's credibility and therefore would have been impeaching information. Still, on the whole, the suppressed information regarding Salak was immaterial. Defendants argue that Salak's reputation for ignoring legal advice would have undermined his testimony about the relevant legal programs and the Government's interpretation of the requirements as set forth in the RFS regulations, the

BMC statute, and ASTM D6751. But this information does not "undermine confidence in the verdict," *Walker*, 657 F.3d at 188, because Salak's testimony was correct as a legal matter. The two programs unambiguously mandate compliance with the technical criteria of ASTM D6751 at the time of RIN generation and prior to claiming a BMC tax credit.

Defendants also suggest that evidence of Salak's dishonesty and incompetence undermines the testimony he gave about the investigation. On the whole, such information is also immaterial to Salak's summary exhibit testimony. Defendants do not dispute that they possessed the source material for the exhibit and could have impeached him with any discrepancies they identified. Moreover, Salak was not the key witness to testify that Keystone delivered off-spec fuel to its customer. Keystone insiders with firsthand knowledge testified that the fuel produced was not up to ASTM D6751's standards. Hence, Salak's credibility with respect to his calendar testimony does not "undermine confidence in the verdict" either. *Walker*, 657 F.3d at 188.

2. <u>Ferrante</u>

Defendants also assert that the Government withheld impeaching information about Ferrante. Ferrante, however, did not testify at trial and only served as the affiant for a key search warrant. *Brady* does not entitle a defendant to disclosures of impeaching information as to a search warrant affiant. *See Mays v. City of Dayton*, 134 F.3d 809, 815–16 (6th Cir. 1998) (explaining distinction between duties under *Brady* and *Franks v. Delaware*, 438 U.S. 154 (1978)); *United States v. Banks*, 104 F.4th 496, 509 n.3 (4th Cir. 2024) ("We have never held that *Brady* and *Giglio* apply to evidence bearing on the warrant-application stage as opposed to evidence admitted at trial."). We therefore agree with the District Court that there was no *Brady* violation with respect to Ferrante.

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For the reasons stated above, we will AFFIRM the judgments of conviction as to both Miner and Wootton, and the subsequent order of the District Court denying the Defendants' motion for a new trial based on *Brady* violations.

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MASCOTT, *Circuit Judge*, concurring in part and concurring in the judgments.

I join all but Part II.A.1 of the Court's opinion. I write separately simply to flag that the U.S. Supreme Court's 2024 decision in *Loper Bright* may call into question the principles this circuit developed three years before in *Harra*. *Compare Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 384–87, 400 (2024), *with United States v. Harra*, 985 F.3d 196, 213–18 (3d Cir. 2021).

In *Loper Bright*, the Supreme Court instructed that "statutes, no matter how impenetrable, do—in fact, must—have a single, best meaning." *Loper Bright Enters.*, 603 U.S. at 400. Courts "routinely confront statutory ambiguities." *Id.* But in those cases of inapparent statutory certainty, "the ambiguity is not a delegation to anybody, and a court is not somehow relieved of its obligation to independently interpret the statute." *Id.*

Even where statutes seem susceptible of multiple meanings, courts "do not throw up their hands because Congress's instructions have supposedly run out." *Id.* (internal quotation omitted). In such cases, like the panel opinion has done here, "courts use every tool at their disposal to determine the best reading of the statute and resolve the ambiguity" rather than "declaring a particular party's reading 'permissible.'" *See id.*

In contrast, the *Harra* framework is built upon the notion that laws facilitating criminal prosecution for false statements may contain multiple meanings. *See Harra*, 985 F.3d at 213–14 (concluding that even "[i]f a regulator fails to give fair warning, it may still succeed in a false statement prosecution . . . if it proves either that its interpretation is the only reasonable one or that the defendant's statement is false under each reasonable interpretation"); *id.* at 218 (relying on *Chevron* principles of evaluating ambiguity). And the framework charges the jury with determining whether proffered legal interpretations are reasonable. *See id.* at 215–16. This system is motivated by a desire to be just and ensure a party is not criminally convicted for falsely asserting compliance with a standard they did not clearly understand. *See id.* at 210–12 (relying on due process principles and observing that "fundamental ambiguity" precludes jury conviction in the related context of perjury). Therefore, *Harra* permits conviction only if a purportedly false statement is criminal under all reasonable interpretations of the relevant statute. *See id.* at 204 (holding that "to prove falsity beyond a reasonable doubt," the prosecution "must prove either that its interpretation of the reporting requirement is the only objectively reasonable interpretation or that the defendant's statement was also false under the alternative, objectively reasonable interpretation").

But a statute either puts forward an ascertainable legal standard under which a party can be criminally prosecuted or it does not. *See Loper Bright Enters.*, 603 U.S. at 385 (describing the deep-seated understanding that "the judicial role" is to "interpret [an] act of Congress, in order to ascertain the rights of the parties" (internal quotation omitted)). And the jury can have no legal role in narrowing the possible meanings of a law and selecting among "reasonable" interpretations. *See id.* ("The Framers also envisioned that the final interpretation of the laws would be the proper and peculiar province of the courts." (internal quotation omitted)). Otherwise, just as an individual trying to comply with a permissibly flexible statute might read it multiple ways, a creative or entrepreneurial prosecutor could similarly contend a statute imposes a range of multiple possible requirements and bring charges accordingly. That is not the system of law we have. *See*

Loper Bright Enters., 603 U.S. at 400 (noting that in every case "there is a best reading" of a statute). *Cf. Harra*, 985 F.3d at 209 (discussing cases observing that "if a question is excessively vague or fundamentally ambiguous, then the answer to such question may not, *as a matter of law*, form the basis of a perjury or false statements prosecution" (emphasis added) (internal quotation omitted)).

The panel today implicitly acts consistently with these principles. We conclude there is no *Harra* ambiguity in the relevant legal requirements and, thus, the convictions stand. The question remains for a future case whether the contrasting implicit assumptions of the *Harra* framework—that a single text may hold a range of criminally freighted meanings—are in tension with *Loper Bright* and its teaching on law's inherent meaning.