EXHIBIT A

FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, *Plaintiff-Appellee*, v. CHANEL WILEY, *Defendant-Appellant*.	No. 22-50235 D.C. No. 2:20-cr-00298- JAK-2 OPINION

Appeal from the United States District Court
for the Central District of California
John A. Kronstadt, District Judge, Presiding

Argued and Submitted February 6, 2024
Pasadena, California

Filed May 29, 2024

Before: John B. Owens, Patrick J. Bumatay, and Salvador Mendoza, Jr., Circuit Judges.

Opinion by Judge Owens;
Concurrence by Judge Mendoza

SUMMARY*

Criminal Law

The panel affirmed a conviction in a case in which Chanel Wiley contended that, during jury selection, her ankle monitor started beeping, thereby prejudicing her and warranting a new trial.

The panel assumed, without resolving, that at least one juror concluded that the beeping sound meant Wiley was wearing an ankle monitor.

The panel held that the shackles in *Deck v. Missouri*, 544 U.S. 622 (2005), and the ankle monitor in this case are two very different things, and ankle monitors are not entitled to *Deck*'s presumption of prejudice. The panel held that ankle monitors are also not inherently prejudicial under *Holbrook v. Flynn*, 475 U.S. 560 (1986). Consequently, Wiley was required to prove actual prejudice to sustain her claim. The panel held that, even if a juror knew the beeping sound came from the monitor, Wiley failed to prove that she was actually prejudiced.

The panel addressed the defendant's sufficiency-of-the-evidence claim in a concurrently filed memorandum disposition.

Concurring in the judgment, Judge Mendoza wrote that the record does not reflect that any juror perceived Wiley's ankle monitor, which forecloses Wiley's due process argument and should have ended the panel's analysis. He

* This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

disagreed with the majority's decision to assume that critical fact in an effort to reach a due process issue. He wrote that although he generally agrees that an ankle monitor is not quite a "shackle," he believes that a perceptible ankle monitor is inherently prejudicial, undermining the presumption of innocence and eroding the fairness of the fact-finding process.

COUNSEL

A. Carley Palmer (argued), David Y. Pi and Elia Herrera, Assistant United States Attorneys; Bram M. Alden, Assistant United States Attorney, Criminal Appeals Section Chief; E. Martin Estrada, United States Attorney; United States Department of Justice, Office of the United States Attorney, Los Angeles, California; for Plaintiff-Appellee.

Verna J. Wefald (argued), Pasadena, California, for Defendant-Appellant.

OPINION

OWENS, Circuit Judge:

Chanel Wiley appeals from her conviction for conspiracy to distribute methamphetamine in violation of 21 U.S.C. § 846. She contends that, during jury selection, her ankle monitor started beeping, thereby prejudicing her and warranting a new trial. We hold that, even if a juror knew the beeping sound came from the monitor, an ankle monitor is not inherently prejudicial. And because Wiley has not shown actual prejudice, we affirm.[1]

I. FACTUAL AND PROCEDURAL BACKGROUND

A. The Ankle Monitor

Federal agents arrested Wiley for trafficking a small amount of methamphetamine, and an indictment soon followed. Wiley was released on bond pending trial but struggled with pretrial supervision and eventually was arrested again. Rather than forfeit the bond (which would have cost her surety their family home), the magistrate judge ordered Wiley to wear an electronic ankle monitor "to make sure [she] show[ed] up for court . . . ." The monitor, which the judge described as "the size of a cell phone," permitted Wiley to avoid detention and tracked her location at all times. Wiley wore her monitor as prescribed, including when she attended court hearings and at trial.

[1] Wiley also challenges the sufficiency of the evidence supporting her conviction. We address this claim in a concurrently filed memorandum disposition, in which we affirm.

B. Jury Selection and Trial

On the first day of trial, shortly before jury selection began, defense counsel told the district judge that the ankle monitor "keeps giving out audible alerts, and we're afraid that would be prejudicial to the jury." The judge acknowledged hearing the alert and asked if the "device [could] be muted." The case agent assisting the prosecution offered to help, and the judge directed him to the Pretrial Services Office, which oversees court-ordered supervision for defendants, including ankle monitors.

Jury selection began without any objection, though, at the outset, a prospective juror indicated that "some of them" were having difficulty hearing the judge. About an hour into the process, defense counsel asked for a sidebar and told the judge that the "ankle monitor keeps alerting," and that "every juror on this side is hearing it and seeing I have to fiddle with it." The judge disagreed, explaining that, although he also had heard the alert, he did not "think anyone really knows what that sound is." The case agent then reported that Pretrial Services had turned off the monitor, which he believed would stop the beeping. But he said that he could cut off the monitor if needed. The judge instructed the agent to cut off the monitor at the next break in the proceedings, unless it beeped again, in which case the judge would order a recess so that it could be removed immediately. Again without objection, jury selection resumed.

A few minutes later, a different juror said he could not hear the judge. The judge then told the jurors that the court would take a "short break" to "address this technical issue." During the recess, outside the presence of the jurors, the

agent removed the monitor from Wiley and took it outside the courtroom.

Jury selection resumed, a jury and alternates were picked, and the trial began. The jury convicted Wiley of conspiracy to distribute methamphetamine and acquitted her of distributing methamphetamine. Wiley received a below Guidelines sentence of sixteen months' imprisonment. She filed a timely notice of appeal.

II. DISCUSSION

A. Juror Awareness of the Ankle Monitor

As a threshold matter, we assume that at least one juror concluded that the beeping sound meant that Wiley was wearing an ankle monitor. The district judge acknowledged hearing the noise and did not dispute that the jurors also could hear it.

Indeed, during the period when Wiley was wearing the beeping ankle monitor, more than one juror reported difficulty hearing the judge. One such complaint eventually prompted the judge to order a recess and have the ankle monitor removed. Once the monitor was removed, the jurors' complaints that they were having difficulty hearing ceased. Finally, defense counsel "fiddle[d]" with the ankle monitor in view of the jurors. This evidence indicates that the jurors heard the beeping noise and knew it was coming from Wiley's ankle monitor.

According to our colleague's concurrence, while "ankle monitors are the exact type of courtroom practice that catch[es] jurors' attention in a courtroom," the jurors in *this* courtroom had no knowledge of Wiley's ankle monitor. The concurrence asserts that the recess merely provided a "convenient opportunity to have Wiley's ankle monitor

removed" but ignores that removing the beeping ankle monitor was the first order of business during the recess. The concurrence also argues that the second juror who reported difficulty hearing could not hear because of an issue with his assistive headphones, not the ankle monitor. The record may be unclear as to the source of the sound problems for that juror, but we need not resolve that factual question. Viewed as a whole, the record contains sufficient evidence that the ankle monitor was perceptible to the jury.

B. Standard of Review and Prejudice

We review de novo Wiley's claim that her right to a fair trial was violated because members of the jury knew she was subject to government restraint. *See United States v. Halliburton*, 870 F.2d 557, 558 (9th Cir. 1989) ("Whether a defendant's right to a fair trial is violated because members of the jury observe him in handcuffs is a question of law that is reviewed independently without deference to the district court's determination of this issue.").

In *Holbrook v. Flynn*, 475 U.S. 560 (1986), the Supreme Court established a framework for determining the level of prejudice attendant to the jury's observation of a defendant under government restraint or security measure. *See id.* at 568–72; *Hayes v. Ayers*, 632 F.3d 500, 521 (9th Cir. 2011) (discussing the *Holbrook* framework). First, courts must "look at the scene presented to jurors and determine whether what they saw was so inherently prejudicial as to pose an unacceptable threat to defendant's right to a fair trial." *Hayes*, 632 F.3d at 521 (quoting *Holbrook*, 475 U.S. at 572). "In assessing inherent prejudice, the question is 'whether an unacceptable risk is presented of impermissible factors coming into play' in the jury's evaluation of the defendant." *Id.* (quoting *Holbrook*, 475 U.S. at 570). Next, "[i]f security

measures are not found to be inherently prejudicial, a court . . . considers whether the measures actually prejudiced members of the jury." *Id.* at 521–22 (citing *Holbrook*, 475 U.S. at 572). "[I]f the challenged practice is not found inherently prejudicial and if the defendant fails to show actual prejudice, the inquiry is over." *Id.* at 522 (alteration in original) (quoting *Holbrook*, 475 U.S. at 572).

At step one of this inquiry—"assessing inherent prejudice"—the Court has deemed some government restraints presumptively prejudicial. *See Halliburton*, 870 F.2d at 560 ("The Supreme Court has distinguished the discrete levels of prejudice that may result from a jury's viewing an accused under government restraint. Compelling an accused to appear in prison attire before a jury presents 'an unacceptable risk' of prejudice." (quoting *Estelle v. Williams*, 425 U.S. 501, 504–09 (1976))). Wiley argues that her ankle monitor falls within one such category—visibly shackling a defendant during trial—and thus contends that she need not demonstrate actual prejudice to make out a due process violation.[2]

[2] The government argues that Wiley's due process claim should be subject to plain error review because Wiley "advised the court of the audible beeping, but she did not ask the court to take any action or object to the court's proposed solutions." However, plain error review is inappropriate because defense counsel twice raised the issue of the beeping ankle monitor and told the district judge that he was concerned Wiley had been "prejudiced." Consequently, Wiley preserved this argument. *See United States v. Rodriguez*, 880 F.3d 1151, 1159 (9th Cir. 2018) ("[A]n error is preserved when the substance of the objection was 'patently' clear, even if defense counsel did not use the precise terms used on appeal." (quoting *United States v. Ward*, 747 F.3d 1184, 1189 (9th Cir. 2014))).

The leading case on visible shackling is *Deck v. Missouri*, 544 U.S. 622 (2005), in which the Court held that "the Fifth and Fourteenth Amendments prohibit the use of physical restraints visible to the jury absent a trial court determination, in the exercise of its discretion, that they are justified by a state interest specific to a particular trial." *Id.* at 629. While we are mindful of *Deck* (and will review it below), we conclude that the shackles in *Deck* and the ankle monitor in this case are two very different things, and ankle monitors are not entitled to *Deck*'s presumption of prejudice. Nor are ankle monitors inherently prejudicial under *Holbrook*. Consequently, Wiley must prove actual prejudice to sustain her claim. *See United States v. Olano*, 62 F.3d 1180, 1190 (9th Cir. 1995) (holding that, where a restraint is not "inherently or presumptively prejudicial," defendant "must demonstrate actual prejudice to establish a constitutional violation" (citation omitted)).

C. *Deck*'s Rule Concerning Shackles Does Not Apply to Ankle Monitors.

Deck rooted the constitutional prohibition on routine visible shackling in the English common law rule against trying a defendant in irons. 544 U.S. at 626–27 (first quoting 4 W. Blackstone, Commentaries on the Laws of England 317 (1769) ("[I]t is laid down in our antient books, that, though under an indictment of the highest nature, [the prisoner] must be brought to the bar without irons, or any manner of shackles or bonds; unless there be evident danger of an escape."); and then quoting 3 E. Coke, Institutes of the Laws of England *34 (1644) ("If felons come in judgement to answer, . . . they shall be out of irons, and all manner of bonds, so that their pain shall not take away any manner of reason, nor them constrain to answer, but at their free will."")). The Court determined that this rule had been

adopted by state and federal courts beginning in the nineteenth century and represented "a principle deeply embedded in the law." *Id.* at 626–29.

Deck acknowledged that the English common law rule may "primarily have reflected concern for the suffering . . . that 'very painful' chains could cause," which could compromise a defendant's ability to defend himself. *Id.* at 630; *see also Trial of Christopher Layer*, 16 How. St. Tr. 94, 99 (K.B. 1722) (statement of Mr. Hungerford) ("[T]he reason why [irons] are taken off in the course of proceeding against [a prisoner] in a court of justice, it seems to be, that his mind should not be disturbed by any uneasiness his body or limbs should he [sic] under . . . ."). The Court nevertheless extended the common law rule to less painful and less cumbersome modern shackles based on "three fundamental legal principles" emphasized in the Supreme Court's more recent cases. *Deck*, 544 U.S. at 630.

First, "[v]isible shackling undermines the presumption of innocence" because "[i]t suggests to the jury that the justice system itself sees a 'need to separate a defendant from the community at large.'" *Id.* (quoting *Holbrook*, 475 U.S. at 569). Second, shackling diminishes the right to counsel because "[s]hackles can interfere with the accused's 'ability to communicate' with his lawyer." *Id.* at 631 (quoting *Illinois v. Allen*, 397 U.S. 337, 344 (1970)). Third, "the use of shackles at trial 'affront[s]' the 'dignity and decorum of judicial proceedings that the judge is seeking to uphold.'" *Id.* (alteration in original) (quoting *Allen*, 397 U.S. at 344).

The common law rule identified in *Deck* does not apply to ankle monitors. Blackstone described the common law requirement that the defendant "be brought to the bar without irons, or any manner of shackles or bonds."

Blackstone, *supra*, at 317. The Oxford English Dictionary Online's first definition of "shackle" is a "kind of fetter," which it further defines as a "fetter for the ankle or wrist of a prisoner, usually one of a pair connected together by a chain, which is fastened to a ring-bolt in the floor or wall of the cell." *Shackle*, Oxford English Dictionary Online[3] (dating definition of singular form of shackle to Old English and plural form to 1540). The second definition of "shackle" is a "figurative" definition: "[a]pplied to restraint on freedom of action." *Id.* (dating definition to approximately 1225).

Likewise, the Oxford English Dictionary Online's first definition of "bond" is a "literal" definition: "[t]hat with or by which a thing is bound," which it further defines as "[a]nything with which one's body or limbs are bound in restraint of personal liberty; a shackle, chain, fetter, manacle." *Bond*, Oxford English Dictionary Online[4] (dating definition to approximately 1325). It also includes a "figurative" definition of "bond": a "restraining or uniting force," that is, "[a]ny circumstance that trammels or takes away freedom of action; a force which enslaves the mind through the affections or passion." *Id.* (dating definition to approximately 1325).

An ankle monitor is not a "shackle" or "bond" in the literal sense. It does not physically bind an individual's "body or limbs" or tie her to "the floor or wall." An ankle monitor does, however, "restrain[]" an individual's

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3 https://www.oed.com/dictionary/shackle_n1?tab=meaning_and_use#23093646 (last visited May 15, 2024).

4 https://www.oed.com/dictionary/bond_n2?tab=meaning_and_use#16802519 (last visited May 15, 2024).

"freedom of action" because a defendant wearing an ankle monitor faces nonphysical limitations on where she may go: She is subject to location monitoring and therefore disincentivized from going anywhere that would violate the terms of her bail conditions.

But, even if an ankle monitor falls within the figurative definition of shackle or bond, extending the prohibition on visible shackling to ankle monitors would not accord with the original basis for the common law rule; Wiley has not alleged, nor is there any evidence to suggest, that an ankle monitor causes pain or interferes with a defendant's ability to represent herself. *Cf. Trial of Christopher Layer*, 16 How. St. Tr. at 100 ("[T]he authority is that he is not to be in vinculis during his trial, but should be so far free, that he should have the use of his reason, and all advantages to clear his innocence."); *id.* at 129 (statement of Mr. Hungerford) ("The poor man bath [sic] been so oppressed by these chains, that he was not able to prepare his brief.").

Nor do ankle monitors pose the same risks as shackling to *Deck*'s three legal principles.

i. The Presumption of Innocence

First, compared to shackling, the knowledge that a defendant is wearing an ankle monitor does not create the same perception of the defendant—and thus does not pose the same constitutional risk to the presumption of innocence.

Deck's conclusion that shackling undermines a defendant's presumption of innocence rested on the association between shackling and dangerousness. The Court reasoned that shackling threatens a jury's ability to make impartial decisions by creating the perception that the defendant is a "danger to the community." 544 U.S. at 633.

That is why *Deck* also extended the prohibition on routine visible shackling to the penalty phase of a capital trial, where the presumption of innocence does not apply. *Id.*; *cf. Claiborne v. Blauser*, 934 F.3d 885, 897 (9th Cir. 2019) (extending *Deck* to Section 1983 trials, where the presumption of innocence does not apply, because "where a plaintiff's dangerousness is a merits issue, visible shackling violates due process unless justified on a case-by-case basis").

Similar logic led us to hold that *Deck*'s presumptive-prejudice rule applies only to shackling in the courtroom. *See Wharton v. Chappell*, 765 F.3d 953, 967 (9th Cir. 2014) ("[T]he fact that Petitioner was *not* shackled in the courtroom, even though he was shackled entering and exiting the courthouse, suggested that Petitioner was *not* a dangerous person."). We have further recognized that "[n]ot all restraints are created equal." *Walker v. Martel*, 709 F.3d 925, 942 (9th Cir. 2013). "'[T]he greater the intensity of shackling . . . the greater the extent of prejudice,' because elaborate physical restraints are more likely to create the appearance of the defendant's dangerousness." *Larson v. Palmateer*, 515 F.3d 1057, 1064 (9th Cir. 2008) (alterations in original) (quoting *Spain v. Rushen*, 883 F.2d 712, 722 (9th Cir. 1989)).

Compared to shackling, ankle monitors are relatively unobtrusive and do not "create the appearance of the defendant's dangerousness." *Id.* Unlike shackling, which suggests a "proclivity for violence," *Walker*, 709 F.3d at 942, ankle monitors are primarily used to guard against a

defendant's flight risk.[5] Indeed, that is why Wiley was subject to ankle monitoring in this case.

Therefore, an ankle monitor merely indicates a defendant's custody status. *See Wharton*, 765 F.3d at 965 ("[J]urors know that, as a matter of routine, some defendants are in custody during trial and that security needs during transport demand restraints."); *Walker*, 709 F.3d at 942 (stating that a restraint that "only suggest[s] . . . custody status" is less prejudicial than more extensive restraints that, for example, bind a defendant's hands); *cf. Holbrook*, 475 U.S. at 567 ("Recognizing that jurors are quite aware that the defendant appearing before them did not arrive there by choice or happenstance, we . . . could never hope[] to eliminate from trial procedures every reminder that the State has chosen to marshal its resources against a defendant to punish him for allegedly criminal conduct.").

True, the awareness that a defendant is wearing an ankle monitor may impact the jury's perception of that defendant's innocence. As the Supreme Court has held, "the State

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[5] *See United States v. Tortora*, 922 F.2d 880, 887 (1st Cir. 1990) ("[E]lectronic monitoring, while valuable in pretrial release cases (especially in allowing early detection of possible flight), cannot be expected to prevent a defendant from committing crimes or deter him from participating in felonious activity within the monitoring radius."); *Miranda v. Garland*, 34 F.4th 338, 350 n.4 (4th Cir. 2022) ("[Petitioner's] flight risk . . . could be mitigated by ordering [him] to wear a GPS ankle monitor as a condition of release."); United States Courts, *Federal Location Monitoring*, https://www.uscourts.gov/services-forms/probation-and-pretrial-services/supervision/federal-location-monitoring (last visited May 15, 2024) ("Location monitoring allows people on supervision to remain in the community and begin to rebuild their lives . . . GPS technology also can be used to verify that an individual is in an authorized location or is in or near an unauthorized location.").

cannot, consistently with the Fourteenth Amendment, compel an accused to stand trial before a jury while dressed in identifiable prison clothes" because "the constant reminder of the accused's condition implicit in such distinctive, identifiable attire may affect a juror's judgment." *Estelle*, 425 U.S. at 504–05, 512. But "identifiable prison clothes" are more prejudicial than an ankle monitor because prison clothes, like shackling, go to the issue of dangerousness. Prison clothes signal that a defendant is detained and thereby "suggest[] to the jury that the justice system itself sees a 'need to separate a defendant from the community at large.'" *Deck*, 544 U.S. at 630 (quoting *Holbrook*, 475 U.S. at 569). By contrast, a defendant will be subject to an ankle monitor only if the justice system has determined that the defendant does *not* "need to [be] separate[d] . . . from the community at large," *id.* (quoting *Holbrook*, 475 U.S. at 569), and thus can be released on bail subject to the electronic monitoring condition. *See* Samuel R. Wiseman, *Pretrial Detention and the Right to be Monitored*, 123 Yale L.J. 1344, 1350 (2014) (proposing a right to be monitored for defendants "who would otherwise be detained for risk of flight, not for dangerousness").

Our concurring colleague disagrees and believes ankle monitors "separate a defendant from the community at large" because they may be used to ensure that a defendant complies with a state-imposed curfew or house arrest. But a defendant kept at home by her ankle monitor is still allowed to go home. Ankle monitors may vary in the degree to which they restrict a defendant's freedom of movement—but they still preserve some freedom of movement. And it is only defendants who are not detained for dangerousness that will be eligible for that freedom in the first place. Therefore, contrary to our concurring colleague's assertion, ankle

monitors do not "brand[] the defendant as an especially dangerous and culpable person." Accordingly, they do not threaten the presumption of innocence in the same way as shackling.

ii. The Right to Counsel

Turning to the second legal principle identified in *Deck*, no evidence suggests that ankle monitors interfere with a defendant's right to counsel. *See* 544 U.S. at 631. As noted, ankle monitors are not so painful or cumbersome as to discourage a defendant from taking the stand on her own behalf or to impair the full exercise of her mental faculties. *See id*. And, unlike shackles, they do not reduce a defendant's "ability to communicate with . . . counsel" because they do not place a defendant in "a condition of total physical restraint." *Allen*, 397 U.S. at 344.

iii. The Dignity of Judicial Proceedings

Finally, an ankle monitor does not "'affront[]' the 'dignity and decorum of judicial proceedings that the judge is seeking to uphold.'" *Deck*, 544 U.S. at 631 (quoting *Allen*, 397 U.S. at 344). Ankle monitors are much less conspicuous and disruptive than the examples the Supreme Court has previously determined threaten the courtroom's formal dignity. *See id.* at 631–32 ("'hav[ing] a man plead for his life' in shackles before 'a court of justice'" (quoting *Trial of Christopher Layer*, 16 How. St. Tr. at 99 (statement of Mr. Hungerford))); *Allen*, 397 U.S. at 344 (binding and gagging a defendant in the presence of the jury).

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In sum, neither the common law rule nor the three fundamental legal principles underlying *Deck*'s holding apply with equal force to ankle monitors.

D. Ankle Monitors Are Also Not Inherently Prejudicial Under *Holbrook*.

Having concluded that *Deck*'s categorical rule does not apply to ankle monitors, we instead apply *Holbrook*'s analysis. Ankle monitors are not inherently prejudicial under this test either.

Holbrook asks whether security measures "tend[] to brand [the defendant] in [the jurors'] eyes with an unmistakable mark of guilt" or "create 'an unacceptable risk . . . of impermissible factors coming into play.'" *Williams v. Woodford*, 384 F.3d 567, 588 (9th Cir. 2004) (alterations in original) (quoting *Holbrook*, 475 U.S. at 571). We have previously applied this standard to conclude that the following forms of government restraint or courthouse security measures were *not* inherently prejudicial: (1) "brief and inadvertent observation by jurors of a defendant in handcuffs outside the courtroom," *Halliburton*, 870 F.2d at 560; *see also Wharton*, 765 F.3d at 964 (same); *Williams*, 384 F.3d at 593 (holding that "the juror's viewing of Williams in handcuffs with a coat draped over his handcuffed hands as he went to or from the courtroom was not inherently or presumptively prejudicial"); *Ghent v. Woodford*, 279 F.3d 1121, 1133 (9th Cir. 2002) (holding that there was no inherent prejudice when "a few jurors . . . glimpsed Ghent in shackles in the hallway and as he was entering the courtroom"); *Olano*, 62 F.3d at 1190 (holding that there was no inherent prejudice "even if some jurors had seen Olano's handcuffs" as he entered the courtroom); (2) the deployment of more than the usual number of courtroom marshals, *Williams*, 384 F.3d at 587–89; and (3) the use of a courtroom with a "wire-reinforced glass partition and bars separating the spectator area from the

court area," *Morgan v. Aispuro*, 946 F.2d 1462, 1463–65 (9th Cir. 1991).

Holbrook and its progeny establish that jurors understand that some security measures are required at courthouses, so such measures are not inherently prejudicial unless they impermissibly suggest guilt. An ankle monitor easily satisfies this test for reasons similar to why an ankle monitor is not a shackle. Indeed, as this case proves, an ankle monitor—which permitted Wiley to enter the courthouse through the same security as the jurors, ride the same elevators, and enter the courtroom through the same door as the jurors—makes clear that the defendant is not a dangerous person.

Our concurring colleague disagrees and concludes that ankle monitors are inherently prejudicial under *Holbrook* because "when a defendant wears an ankle monitor to court, it distinguishes her from everybody else in the courtroom." But the defendant is already distinguished from everybody else in the courtroom because she is *the defendant*. *Holbrook* acknowledged that "the right to a fair trial . . . does not mean . . . that every practice tending to single out the accused from everyone else in the courtroom must be struck down." 475 U.S. at 567. Therefore, a security measure prejudices a defendant only if it suggests something worse about her than that she is "associate[d] . . . with the criminal justice system."

Our concurring colleague attempts to distinguish ankle monitors from other security measures we have upheld, such as security screenings for all spectators, *see Hayes*, 632 F.3d at 521–22, and the use of a security courtroom, *Morgan*, 946 F.2d at 1465, by arguing that those measures were "generalized" and "appl[ied] indiscriminately." But our

colleague neglects cases where we upheld security measures that were not generalized. Consider the cases where jurors saw defendants in handcuffs outside the courtroom. *See Halliburton*, 870 F.2d at 560; *Wharton*, 765 F.3d at 964; *Williams*, 384 F.3d at 593; *Ghent*, 279 F.3d at 1133; *Olano*, 62 F.3d at 1190. These cases indicate that restraints that are short of in-courtroom shackles—including, as we conclude, ankle monitors—need not be "interpreted as a sign that [the defendant] is particularly dangerous or culpable." *Holbrook*, 475 U.S. at 569.

The fact that the defendants in those cases wore handcuffs outside the courtroom, whereas Wiley wore her ankle monitor inside the courtroom, is of no import. The distinction between inside- and outside-the-courtroom restraints only matters in the context of handcuffs because, unlike ankle monitors, handcuffs are much more like literal shackles: They are "fetter[s] for the . . . wrist of a prisoner . . . of a pair connected together by a chain," *Shackle*, Oxford English Dictionary Online, *supra*, that bind "one's body or limbs . . . in restraint of personal liberty," *Bond*, Oxford English Dictionary Online, *supra*. Thus, handcuffs are more likely to fall within *Deck*'s rule.[6] By contrast, even in the

[6] *See United States v. Cazares*, 788 F.3d 956, 965 (9th Cir. 2015) ("In the presence of the jury, [the defendant] is ordinarily entitled to be relieved of handcuffs, or other unusual restraints, so as not to mark him as an obviously bad man or to suggest that the fact of his guilt is a foregone conclusion." (alteration in original) (quoting *Stewart v. Corbin,* 850 F.2d 492, 497 (9th Cir. 1988))); *Larson*, 515 F.3d at 1064 (in the process of applying *Deck* to a security leg brace and determining that there was no prejudice, stating that "physical restraints such as . . . handcuffs may create a more prejudicial appearance than more unobtrusive forms of restraint"); *United States v. Miller*, 531 F.3d 340,

courtroom, ankle monitors do not pose the same risk of prejudice.

An ankle monitor is also far less intrusive than having a phalanx of guards in the courtroom (which the court upheld in *Holbrook*) and not in the same galaxy as prison clothes or shackles. To fault us for "confus[ing] disruption and prejudice," our concurring colleague cites *Rhoden v. Rowland*, 172 F.3d 633, 636 (9th Cir. 1999). But *Rhoden* is a pre-*Deck* shackling case where the defendant was subject to an intrusive restraint: He was forced to wear a leg brace that caused him "physical . . . pain." *Id.* at 637. Thus, *Rhoden* does not prove that we should ignore how intrusive a restraint is in determining whether it is inherently prejudicial.

As a result, we conclude that ankle monitors are not inherently prejudicial under *Holbrook*. While there appears to be little case law on this issue, nothing contradicts this view. *See White v. United States*, No. 23-1451, 2023 WL 7550935, at *4 (6th Cir. Oct. 17, 2023) (holding that defense counsel's failure to request a mistrial when defendant's ankle monitor went off in the jury's presence was not ineffective assistance of counsel warranting 28 U.S.C. § 2255 relief because "even if the jury did perceive the alarm, 'brief, inadvertent observation of a defendant in custody does not compel reversal in the absence of an affirmative showing of actual prejudice'" (quoting *United*

345 (6th Cir. 2008) ("*Deck*, and the bulk of federal cases discussing the use of physical restraints during trial and sentencing, involved traditional methods of securing the accused, *such as handcuffs* and shackles." (emphasis added)); *United States v. Barrera-Medina*, 139 F. App'x 786, 796 n.3 (9th Cir. 2005) (noting that "the term 'shackle' implies the use of handcuffs and metal chains").

States v. Fredericks, 684 F. App'x 149, 164–65 (3d Cir. 2017))); *Higgins v. Addison*, 395 F. App'x 516, 519 (10th Cir. 2010) ("Even assuming the ankle monitor was worn during trial and was visible to the jury, Higgins has not identified any Supreme Court holding expressly extending the general prohibition on restraining a criminal defendant with visible shackles to the factual situation presented here.").

E. Wiley Has Not Proved That Her Ankle Monitor Actually Prejudiced Her.

Because an ankle monitor is not inherently prejudicial, Wiley must show actual prejudice to prevail on her claim. *See, e.g.*, *Olano*, 62 F.3d at 1190. She has failed to carry this burden.

The district judge's thoughtful approach to handling the issue of the beeping ankle monitor, to which defense counsel never objected, was appropriate. Shortly after the judge learned that the agent could remove the device, the judge directed the agent to do so at the next recess. *See, e.g.*, *Halliburton*, 870 F.2d at 561–62 (where jurors briefly observed defendant in handcuffs outside the courtroom but district court "took affirmative steps to make it appear to the jurors that [defendant] was no longer in custody," "district court's immediate and appropriate curative measures eliminated the risk of actual prejudice to [defendant's] right to a fair trial"). When the ankle monitor beeped again, the judge immediately ordered a recess and had the ankle monitor removed outside the presence of the jury.

No one objected to the judge's resolution of the issue, and nothing suggests that Wiley was prejudiced in any way. Defense counsel did not ask to voir dire the jurors. *See, e.g.*, *id.* at 561 ("The most certain method to show that actual

prejudice resulted would have been to conduct a voir dire of the two jurors who saw [the defendant] in handcuffs," and the "decision not to voir dire the jurors" may "constitute[] waiver."); *Olano*, 62 F.3d at 1190 (holding that defendant failed to establish actual prejudice from some jurors seeing him in handcuffs because he "did not examine the jury" and "adduced no other evidence probative of prejudice"); *United States v. Arias-Villaneuva*, 998 F.2d 1491, 1505 (9th Cir. 1993) (holding that, when defendants are "seen in custody by potential jurors during jury selection," "[q]uestioning the jurors is the best method of determining prejudice"), *overruled on other grounds by United States v. Jimenez-Ortega*, 472 F.3d 1102, 1103–04 (9th Cir. 2007).

Wiley asserts that she suffered actual prejudice "because the evidence of conspiracy was not overwhelming," and "[s]he was acquitted of distribution." She contends that "[h]ad the jury not surmised she was at least guilty of some crime . . . that required her to have something on her that beeped . . . she would not have been convicted of conspiracy." This argument amounts to conjecture at most. It ignores that conspiracy and distribution are distinct crimes with distinct elements, so there is no reason to assume prejudice played a role in the jury finding Wiley guilty of conspiracy and not guilty of distribution.

In fact, Wiley's acquittal on one count *weakens* the argument for actual prejudice because it suggests that the ankle monitor did not color the jury's perception of Wiley to such an extent that they were unable to consider impartially the evidence of her guilt. *See, e.g.*, *United States v. Young*, 470 U.S. 1, 18 n.15 (1985) ("The jury acquitted respondent of the most serious charge he faced . . . . This reinforces our conclusion that the prosecutor's remarks did not undermine the jury's ability to view the evidence independently and

fairly."); *United States v. Barragan*, 871 F.3d 689, 709 (9th Cir. 2017) ("And the jury acquitted [the defendant] of one of the two charges against him, indicating that they reviewed the evidence objectively.").

We have found evidence beyond mere speculative assertions inadequate to establish actual prejudice in a similar context. *See, e.g.*, *Williams*, 384 F.3d at 587–88 (concluding that alternate juror's statement that the number of security marshals at defendant's trial was greater than the norm did not permit a determination of actual prejudice). As a result, we cannot conclude that Wiley has proved actual prejudice here.

On the contrary, the removal of Wiley's ankle monitor during trial directly undercuts any notion that she was actually prejudiced. In *Halliburton*, the defendant argued he was prejudiced after some jurors, who were "aware that he had not been in custody *at the start of trial*" and "had seen him *earlier* move about without visible restraint, *later* briefly observed him in handcuffs outside the courtroom." 870 F.2d at 559 (emphases added). In other words, the defendant assumed he was prejudiced because the jurors believed that the court had decided it necessary to increase the government's control over him during trial.

Here, by contrast, the judge decreased the government's control over Wiley during trial: He ordered her ankle monitor removed, eliminating any restriction on her freedom of movement inside or outside the courtroom. We have noted that, where the jurors knew that the defendant was subject to a government restraint, but that restraint was subsequently removed, the removal "might well have had a favorable reaction with the jury rather than an adverse one." *Id.* at 561 (quoting *Bibbs v. Wyrick*, 526 F.2d 226, 228 (8th

Cir. 1975)); *cf. Wharton*, 765 F.3d at 965 ("[S]hackling during transport . . . could be perceived as *increasing* the dignity of the courtroom because a prisoner's shackles are removed for open-court proceedings."). By removing Wiley's ankle monitor, the judge exhibited a degree of trust in Wiley that was irreconcilable with her being dangerous. Therefore, the district judge's "appropriate curative measures eliminated the risk of actual prejudice to [Wiley's] right to a fair trial." *Halliburton*, 870 F.2d at 561.

III. CONCLUSION

Because ankle monitors are neither presumptively nor inherently prejudicial, and Wiley has failed to prove that she was actually prejudiced by her beeping ankle monitor, we uphold her conviction.

AFFIRMED.

MENDOZA, Circuit Judge, concurring in the judgment:

As appellate judges, we like questions of law. Unfortunately for us, we encounter many cases where the facts prevent us from reaching them. In those cases, we ordinarily cool our jets and resolve the issues on the facts, without announcing new and unnecessary rules of law. This should have been one such case. Here, Wiley asks us to determine whether the ankle monitor that she wore during her criminal trial violated her right to due process. The record, however, does not reflect that any juror perceived Wiley's ankle monitor. That glaring hole in the record forecloses Wiley's due process argument and should have ended our analysis.

But the majority cannot help itself. Rather than adjudicate the case on the record before us, it assumes a material fact: that at least one juror was aware of Wiley's ankle monitor. It proceeds to announce not one but *two* rules of constitutional law. I disagree with the majority's decision to assume such a critical fact in an effort to reach a due process issue. But the majority makes matters worse in its handling of that due process issue. It concludes that an ankle monitor is not a "shackle" within the meaning of *Deck v. Missouri*, 544 U.S. 622 (2005), and that it is not an inherently prejudicial trial practice. Although I generally agree that an ankle monitor is not quite a "shackle," I conclude that a perceptible ankle monitor is inherently prejudicial. After all, an ankle monitor is a distinctive and stigmatizing device that brands the defendant as an especially dangerous or culpable person. Because of that, it undermines the presumption of innocence and erodes the fairness of the fact-finding process.

I.

The majority assumes that at least one juror was aware of Wiley's beeping ankle monitor. That assumption lacks even a modicum of support in the record. The record shows that Wiley's attorney flagged the beeping monitor before jury selection and indicated that he was "afraid that [it] would be prejudicial to the jury." The trial judge said that he could hear the beeping from the bench. The beeping continued into jury selection. At a sidebar, Wiley's counsel expressed concern that the prospective jurors could hear the monitor beeping and see him fiddling with it. A few minutes later the court took a recess and Wiley's ankle monitor was removed. That is the extent of our record evidence.

This is not a case where the trial judge told the jury about the ankle monitor. *Cf. Larson v. Palmateer*, 515 F.3d 1057, 1062 (9th Cir. 2008) (addressing a habeas petitioner's argument that he was impermissibly made to wear a leg brace during his trial where the trial judge told the jury he "ha[d] been wearing a leg brace . . . . You saw it."). It is also not a case where counsel commented on the monitor during trial. *Cf. Williams v. Woodford*, 347 F.3d 567, 587 (9th Cir. 2004). We do not have testimony or declarations from jurors indicating that they saw the monitor either. *Cf. Ghent v. Woodford*, 279 F.3d 1121, 1132–33 (9th Cir. 2002); *Rhoden v. Rowland*, 172 F.3d 633, 636 (9th Cir. 1999) [hereinafter *Rohden II*]. Put simply, we have *nothing* concrete that would allow us to find—or even plausibly infer—that at least one juror heard the beeping and understood it to be coming from Wiley's ankle monitor.

If anything, the record supports a finding that the jurors were *unaware* of Wiley's ankle monitor. When the trial judge and counsel discussed the ankle monitor at the sidebar conference during jury selection, the judge stated that he could hear the beeping, but indicated that he did not "think anyone really knows what that sound is." That was a safe assumption on the trial judge's part. As the United States put it at oral argument, federal courtrooms are "wired up." Today, courtrooms are filled with technology that can alert, like computers, printers, microphones, and telephones. Even if a juror heard Wiley's ankle monitor beeping, it seems unlikely that the juror would know it was coming from an ankle monitor while sitting in a courtroom filled with other devices capable of beeping.

But the majority breezes past all of this. Instead, it implies that a prospective juror had a hard time hearing the trial judge because Wiley's ankle monitor was beeping. But

that mischaracterizes the record. At the start of jury selection, the trial judge asked the prospective jurors if anyone was having a hard time hearing the court or counsel. One perspective juror raised his hand and indicated that he was having a hard time hearing "[j]ust some of them." Once jury selection was underway, a second prospective juror indicated that he was having a hard time hearing the judge even though the court had provided him with assistive headphones. Later, that same prospective juror continued to have issues with the headphones and hearing. At that point, the court called a brief recess to "see if we can make this device"—*i.e.*, the juror's headphones—"work better." During that recess, the court and counsel discussed the prospective juror's headphones. The court also used that recess as a convenient opportunity to have Wiley's ankle monitor removed. At no point did *any* prospective juror suggest that he or she was having a hard time hearing the court because of Wiley's beeping ankle monitor.

If the majority had construed the record properly, it would have found that there was no evidence suggesting that a juror was aware of the ankle monitor. Its analysis should have stopped there. Indeed, we have declined to reach similar issues in cases where there is no record of juror awareness. *See Rhoden v. Rowland*, 10 F.3d 1457, 1460 (9th Cir. 1993) (remanding a habeas petitioner's shackling claim where the state court "never gave him an adequate opportunity to demonstrate whether or not the jurors saw the shackles"); *see also id.* at 1462 (O'Scannlain, J., specially concurring) (indicating that the "case turns on whether the jury saw that the petitioner was shackled," which was a "material fact"). Our sister circuits have done the same in ankle monitor cases lacking a record of juror awareness. *See Higgins v. Addison*, 395 F. App'x 516, 519 (10th Cir. 2010)

(declining to issue a certificate of appealability because "nothing in the record . . . suggested the monitor was visible to the jury"); *White v. United States*, 2023 WL 7550935, at *4 (6th Cir. Oct. 17, 2023) (declining to issue a certificate of appealability because the petitioner did "not allege that the jury saw (or could have seen) the monitor" or "demonstrate[] that the jury even heard the alarm or recognized that it was emanating from his monitor").

The majority would have been wise to do the same. Our role in these cases is to identify courtroom practices that may impermissibly influence a jury's judgment and "undermine[] the presumption of innocence and the related fairness of the factfinding process." *Deck*, 544 U.S. at 630. Our entire focus is on preserving the jury's impartiality and ensuring that a defendant's "guilt or innocence [is] determined solely on the basis of the evidence introduced at trial, and not on grounds of official suspicion . . . or other circumstances not adduced as proof." *Holbrook v. Flynn*, 475 U.S. 560, 567 (1986) (quoting *Taylor v. Kentucky*, 436 U.S. 478, 485 (1978)). But what the jury does not know cannot cloud its judgment. There is no reason to address whether a courtroom practice prejudiced the jury if the jury was unaware of that practice in the first instance.

The facts here do not allow us to reach Wiley's due process argument and that should have been the end of the story. After all, assuming material facts to reach constitutional issues "run[s] contrary to the fundamental principle of judicial restraint that courts should neither anticipate a question of constitutional law in advance of the necessity of deciding it nor formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied." *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 450 (2008) (cleaned up).

Indeed, "[i]f it is not necessary to decide more to dispose of a case, then it is necessary *not* to decide more." *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 348 (2022) (Roberts, C.J., concurring in the judgment). But because the majority assumes a material fact and reaches the underlying due process issue, I am compelled to as well.

II.

The majority tackles Wiley's due process argument from two angles. First, it establishes that *Deck*'s rule against visible shackling does not extend to ankle monitors. Second, and separately, it asserts that an ankle monitor is not an inherently prejudicial trial practice under *Holbrook*. I generally agree with the majority that an ankle monitor is not quite a "shackle" within *Deck*'s meaning. But I cannot endorse its rule that an ankle monitor is not an inherently prejudicial trial practice. In my view, an ankle monitor is a distinctive and stigmatizing device that brands the defendant as an especially dangerous and culpable person. It creates "an unacceptable risk" that "impermissible factors" will "com[e] into play" and undermine the jurors' fair-minded decision-making. *Holbrook*, 475 U.S. at 570 (quoting *Estelle v. Williams*, 425 U.S. 501, 505 (1976)).

The majority's inherent-prejudice analysis rests primarily on *Holbrook*. The Court in *Holbrook* considered whether the conspicuous deployment of security personnel during a trial is an inherently prejudicial practice. 475 U.S. at 569. In handling that issue, the Court situated itself against two of its prior decisions: *Illinois v. Allen*, 397 U.S. 337 (1970), and *Estelle*, 425 U.S. at 501. In *Allen*, the Court observed that "the sight of shackles and gags might have a significant effect on the jury's feelings about the defendant" and that the "technique is itself something of an affront to

the very dignity and decorum of judicial proceedings." 397 U.S. at 344. Similarly, in *Estelle*, the Court held that a defendant cannot be compelled to appear before the jury in identifiable prison attire. 425 U.S. at 512–13. With *Allen* and *Estelle* in mind, the Court in *Holbrook* considered "whether the conspicuous, or at least noticeable, deployment of security personnel in a courtroom during trial is the sort of inherently prejudicial practice that, like shackling, should be permitted only where justified by an essential state interest specific to each trial." 475 U.S. at 568–69.

The Court's analysis in *Holbrook* was straightforward. It took the shackles from *Allen* and the jumpsuit from *Estelle* as benchmarks of prejudicial courtroom practices and considered whether conspicuous security personnel were similarly prejudicial. The Court concluded that they were not. 475 U.S. at 569. The Court noted that the "chief feature that distinguishes security officers from courtroom practices we might find inherently prejudicial is the wider range of inferences that a juror might reasonably draw from the officers' presence." *Id.* For example, a juror could "easily believe" that the troopers were in the courtroom "to guard against disruptions emanating from outside the courtroom or to ensure that tense courtroom exchanges do not erupt into violence," and would not see the troopers "as a sign that [the defendant] is particularly dangerous or culpable." *Id.* The Court added that "society has become inured to the presence of armed guards in most public places" and "they are doubtless taken for granted." *Id.*

But the majority invokes *Holbrook* only to ignore its reasoning. Rather than meaningfully engage in a comparative analysis like the *Holbrook* Court, the majority makes the conclusory assertion that ankle monitors are "not in the same galaxy as prison clothes or shackles."

Hyperboles aside, I disagree with the majority; there are many similarities among shackles, prison attire, and ankle monitors. In my view, a straightforward comparative analysis leads to the conclusion that, like shackles and prison attire, perceptible ankle monitors are inherently prejudicial.

To begin, like a shackle or a prison jumpsuit, an ankle monitor is a "distinctive" courtroom practice. *Estelle*, 425 U.S. at 504. Most everyday people do not wear ankle monitors by choice, especially to court. Ankle monitors are neither particularly fashionable nor useful to the wearer, like a watch might be. Thus, when a defendant wears an ankle monitor to court, it distinguishes her from everybody else in the courtroom. She stands out because of the unique and conspicuous accessory strapped to her ankle, which she did not pick out at Claire's.

Further, like shackles and prison attire, ankle monitors are "identifiable" for their association with the criminal justice system. *Estelle*, 425 U.S. at 504. Ankle monitors are a quintessential "state-sponsored courtroom practice[]." *See Carey v. Musladin*, 549 U.S. 70, 76 (2006). That is, in the federal system, a court may require a defendant to wear an ankle monitor as a condition of pretrial release (as was true here). *See* 18 U.S.C. § 3142(c)(1)(B)(xiv). Everyday people understand that and, therefore, readily associate the device with the criminal justice system.

Of course, not every courtroom practice that "single[s] out" a defendant in a courtroom is inherently prejudicial. *Holbrook*, 475 U.S. at 567. An ankle monitor, however, does more than merely single out the defendant as someone involved in the justice system; it marks her as a "particularly dangerous or culpable person." *Id.* at 569. When a juror sees a defendant in an ankle monitor, she understands that it

is no accident. She recognizes that the court has made the defendant wear the ankle monitor for a reason. She may have some sense that federal courts impose electronic monitoring to promote public safety and to deter the defendant from absconding. *See* 18 U.S.C. § 3142(c)(1). She will know that the monitor does not reflect positively on the defendant, and she will infer that the defendant is wearing the ankle monitor because the defendant is "dangerous or untrustworthy." *Dyas v. Poole*, 317 F.3d 934, 937 (9th Cir. 2003) (quoting *Rhoden II*, 172 F.3d at 636).[1]

Put simply, like a shackle or prison jumpsuit, an ankle monitor is not value neutral. It is not some everyday accessory like a Fitbit or an Apple Watch. It is a state-imposed restraint that conveys a potent and injurious message about the person wearing it. That message perverts the jurors' impressions of the defendant. In so doing, it impermissibly undermines the presumption of innocence and the defendant's right to a fair trial. Although an ankle monitor is not exactly a shackle or prison attire, it presents the same high and unacceptable risk of prejudice. We "must be alert to factors that may undermine the fairness of the fact-

[1] Electronic monitoring is much more nuanced than most people understand. *See generally* Samuel R. Wiseman, *Pretrial Detention and the Right to be Monitored*, 123 Yale L.J. 1344 (2014); Crystal S. Yang, *Toward an Optimal Bail System*, 92 N.Y.U. L. Rev. 1399 (2017). Not all monitors are created equal, and they can be used to enforce vastly different pretrial release conditions. Some monitors, like Secure Continuous Remote Alcohol Monitors ("SCRAMs"), have nothing to do with location at all. The problem is that many ankle monitors look the same. *See* Lauren Kilgour, *The Ethics of Aesthetics: Stigma, Information, and the Politics of Electronic Ankle Monitor Design*, The Information Soc'y 131, 138 (2020). Thus, observers tend to lump all people who wear ankle monitors into one category of "dangerous criminal[s]." *Id.* at 139.

finding process," and an ankle monitor is one such factor. *Estelle*, 425 U.S. at 503.

But the majority is blind to that reality; it would have us believe that an ankle monitor is not all that prejudicial. First, the majority contends that an ankle monitor is not prejudicial because it does not suggest that the justice system sees a need to separate the defendant from the community. But the majority fundamentally misunderstands how ankle monitors are used as an aspect of pretrial supervision. Different monitors record and transmit data in dissimilar ways. *See* Wiseman, 123 Yale L.J. at 1365–66. Different monitors are also used in conjunction with a variety of other pretrial release conditions. Some monitors are used to enforce curfews; others are not. *Id.* Some monitors permit a wide range of movement, while others are used to keep a defendant at home. *Id.* at 1367. When imposed in conjunction with home confinement, ankle monitors are used to separate a defendant from the community. *See Deck*, 544 U.S. at 630 (quoting *Holbrook*, 475 U.S. at 569). And for that reason, an ankle monitor can send the message "that the justice system itself sees a 'need to separate a defendant from the community at large.'" *Id.*

The majority also downplays an ankle monitor's prejudicial impact by suggesting that it is "less intrusive" than other prejudicial practices. But the majority confuses disruption and prejudice. A small thing can have a large prejudicial impact, just ask Hester Prynne and her scarlet letter or Oscar Wilde and his green carnation. Our precedent recognizes that. We have held that relatively discrete restraints are prejudicial, while foreboding courtroom practices are not. *Compare Rhoden II*, 172 F.3d at 637 (finding prejudice where the defendant wore leg chains at trial) *with Morgan v. Aispuro*, 946 F.3d 1462, 1465 (9th Cir.

1991) (determining that a "security courtroom" with a "wire-reinforced glass partition and bars separating the spectator area from the court area" was not inherently prejudicial). These cases highlight that relatively unobtrusive courtroom practices can nevertheless have an outsized impact on jurors. And the same holds true when it comes to ankle monitors. Although ankle monitors are relatively small, they can have a disproportionate impact on the jury and create "an unacceptable risk" that "impermissible factors" will "com[e] into play" and cloud the jurors' judgment. *Holbrook*, 475 U.S. at 570.

Because ankle monitors are a distinctive and identifiable courtroom practice, there is not a "wide[] range of inferences that a juror might reasonably draw from" perceiving one. *Holbrook*, 475 U.S. at 569. When a juror is aware that a defendant is wearing an ankle monitor, the message is clear: the justice system sees some need to surveil and restrain the defendant because of the threat that she poses. There is no alternate, non-prejudicial inference that the juror could reasonably draw from seeing the defendant in an ankle monitor. And certainly no juror would believe that a defendant is wearing an ankle monitor on account of good behavior or character.

In this regard, ankle monitors are quite unlike the generalized courtroom security measures that we have encountered in other cases. We have routinely held that generalized courtroom security measures are not inherently prejudicial. *See Hayes v. Ayers*, 632 F.3d 500, 522 (9th Cir. 2011) (requiring spectators to go through a security screening before entering the courtroom is not inherently prejudicial); *Morgan*, 946 F.3d at 1465 (holding trial in a "security courtroom" is not inherently prejudicial). Our decisions in those cases make good sense. Generalized

security measures create a lower risk of prejudice because they do not impact the defendant any "more than any of the other participants in the trial." *Morgan*, 946 F.2d at 1465. Because they apply indiscriminately, the jury cannot infer that the defendant "specifically was the reason for the security measures." *Id.* But none of that is true when it comes to ankle monitors. An ankle monitor does not apply indiscriminately; it applies to one person in the courtroom: the defendant. Because the device is literally strapped to the defendant, the jury cannot mistake that the defendant "specifically was the reason" for the monitor's presence in the courtroom. *Id.*

Additionally, like shackles or prison jumpsuits, the public is not "inured" to ankle monitors, especially in a courtroom. *Holbrook*, 475 U.S. at 569. Electronic monitoring has become an increasingly common aspect of pretrial supervision, both in the state and federal systems. *See* Yang, 92 N.Y.U. L. Rev. at 1477. But that does not mean that everyday people are accustomed to ankle monitors or take them "for granted" as they would a security guard in a courtroom. *Holbrook*, 475 U.S. at 569. To the contrary, ankle monitors are things of popular intrigue. They are regularly depicted in movies and on television shows.[2] They go viral on social media.[3] They make the news, especially

[2] *See* Disturbia (Paramount Pictures 2007) (depicting a young man on home confinement with an ankle monitor); White Collar (Fox Production Studios 2009) (following a convicted con artist who obtains early release from prison to assist law enforcement in investigating suspected white collar criminals, but is made to wear an ankle monitor).

[3] *See* Tik Tok, @legbootlegit, https://www.tiktok.com/@legbootlegit/video/7262087314749312299

when attached to people in the public eye.[4] Unlike the court security officers at issue in *Holbrook*, ankle monitors are the exact type of courtroom practice that catch jurors' attention in a courtroom.

For all these reasons, ankle monitors, like shackles and prison attire, "tend[] to brand" the defendant and create a great risk of prejudice. *Holbrook*, 475 U.S. at 571. That risk of prejudice is especially troubling because it is not justified by any "essential state policy." *Estelle*, 425 U.S. at 505. We impose pretrial electronic monitoring to promote public safety and ensure that defendants show up to court. *See* 18 U.S.C. § 3142(c)(1). Those are certainly legitimate interests while the defendant is out in the community. But those interests largely fall away when the defendant is in the courtroom. In that moment, the state is certain that the defendant will come to court—indeed, she is sitting right there—and can be confident that she is not harming the public. Compelling a defendant to wear an ankle monitor before the jury is, at best, "convenient" for the government. *Estelle*, 425 U.S. at 505. It prevents the government from needing to remove the monitor before trial and might assist in locating the defendant if she absconds mid-trial. But those limited conveniences "provide[] no justification for the practice" in the courtroom. *Id.*

(last visited May 17, 2024) (video of a spoof advertisement for a children's toy, "My First Ankle Monitor," with over 3 million likes).

[4] *See* Tom Hays et al., *Weinstein Accused of Misusing Ankle Monitor; $5M Bail Sought*, Associated Press, https://apnews.com/article/us-news-ap-top-news-harvey-weinstein-ca-state-wire-entertainment-08be9499da92e918c21ed84479b75acb (last visited May 17, 2024).

* * *

This case never should have been resolved this way. The record does not allow us to reach Wiley's due process argument, and our analysis should have ended there. But the majority boldly strides ahead to hold that an ankle monitor is not an inherently prejudicial courtroom practice. The majority's attempts to downplay an ankle monitor's deleterious impact are understandable. As judges, we are accustomed to seeing defendants clad in shackles and prison attire, so we do not blink at ankle monitors. But our perspective as jurists is not what matters here. Our task is to "look at the scene presented to *jurors*." *Holbrook*, 475 U.S. at 572 (emphasis added). We ask whether "reason, principle, and common human experience" suggest that those everyday jurors will become prejudiced against the defendant. *See Estelle*, 425 U.S. at 504. The majority fails to understand that ordinary people are not accustomed to ankle monitors or the harmful messages that they convey. When a juror perceives an ankle monitor, it stands out and readily brands the defendant as someone dangerous and untrustworthy. For that reason, an ankle monitor "pose[s] an unacceptable threat to [the] defendant's right to a fair trial." *Holbrook*, 475 U.S. at 572. I respectfully disagree with the majority's suggestions otherwise.

shackle

NOUN[1]

Etymology

Summary

A word inherited from Germanic.

Old English *sceacul* (masculine), fetter, corresponding to **Low German** *schakel* link of a chain, hobble for a horse, **Dutch** *schakel*, **High German** dialect *schakel* link of a chain, **Old Norse** *skǫkull* (masculine), pole of a wagon (**Swedish** *skakel*, **Danish** *skagle*) **<** **Germanic** type **skakulo-*. A cognate word is **Low German** *schake* link of a chain.

Notes

The notion common to these words appears to be that of 'something to fasten or attach'. On this ground it seems difficult to refer them to the **Germanic** root **skak-* **shake** *v.* Falk and Torp suggest a **Germanic** root **skǣk-* **<** **pre-Germanic** **skēg-*, a doublet of **kēg-*, whence **Germanic** **hǣk-* (*:hak-:hōk-*) found in **German** *haken*, **Old English** *hóc* **hook** *n.*[1]; but this is very doubtful.

Meaning & use

I. A kind of fetter.

I.1. A fetter for the ankle or wrist of a prisoner, usually one of a pair connected together by a chain, which is fastened to a ring-bolt in the floor or wall of the cell. In the Old English examples, a ring or collar for the neck of a prisoner.

I.1.a. *singular.* **Old English–**

OE *Columbar*, sceacul, *uel* bend.
in T. Wright & R. P. Wülcker, *Anglo-Saxon & Old English Vocabulary* (1884) vol. I. 107/10

[OE *Nerui boia* fotcopsa, *uel* sweorscacul.
in T. Wright & R. P. Wülcker, *Anglo-Saxon & Old English Vocabulary* (1884) vol. I. 116/10 **]**

c1425 Þou schalt be schakyn in myn schakle.
Castle of Perseverance 2655 in *Macro Plays* 156

c1440 Schakkyl, or schakle, *murella, numella*.
Promptorium Parvulorum 443/2

a1591 At last his shackell falleth from him,..the prison openeth and [etc.].
H. Smith, *Sermon* (1594) 262

1688 I should rather take it [a Cop-sole and Pin] for a Shackle and Bolt.
R. Holme, *Academy of Armory* iii. 336/1

1777 He carried with him the shakle of the bilboo-bolt that was about his leg.
J. Cook, *Journal* 30 October (1967) vol. III. i. 238

1851 It is not the shackle on the wrist that constitutes the slave—but the loss of self-respect.
F. W. Robertson, *Sermon* (1855) 1st Series xviii. 303

I.1.b. *plural.* **1540–**

1540 There was put vpon your sayd poore subiecte..a great payer of Shackels.
in I. S. Leadam, *Select Cases Star Chamber* (1911) vol. II. 220

1548 A prison and a man lokyng out at a grate..and all his apparel was garded with shakelles of siluer.
Hall's Vnion: Henry VIII f. lxxxxi^{v}

1555 Then caused two payre of shackels of Iren to bee put on theyr legges.
R. Eden, *Disc. Vyage rounde Worlde* in translation of Peter Martyr of Angleria, *Decades of Newe Worlde* f. 219^{v}

1597 Tua pair of scheckills to the witches in the stepill.
Aberd. Acc. in *Spalding Club Miscell.* vol. V. 69

1641 They resolved rather to dye fighting then to live in schackells.
Earl of Monmouth, translation of G. F. Biondi, *History Civil Warres of England* vol. I. v. 167

1652 You go to offer your hands to the shackles that are already prepared for you.
C. Cotterell, translation of G. de Costes de La Calprenède, *Cassandra* (1676) iii. 51

1785 Slaves cannot breathe in England;..They touch our country, and their shackles fall.
W. Cowper, *Task* ii. 42

1852 Haley, drawing out from under the wagon-seat a heavy pair of shackles, made them fast around each ankle.
H. B. Stowe, *Uncle Tom's Cabin* vol. I. x. 147

1864 Shackles were put on their legs.
T. Seaton, *From Cadet to Colonel* xiii. 272

1867 *Shackles*, semicircular clumps of iron sliding upon a round bar, in which the legs of prisoners are occasionally confined on deck. *Manacles* when applied to the wrists.
W. H. Smyth & E. Belcher, *Sailor's Word-book*

I.1.c. *Heraldry*. A shackle used as a bearing. **1780–**

In modern dictionaries.

1780 *Shackle, or Link Of A Fetter*, as borne in the arms of Shakerley.
J. Edmondson, *Complete Body of Heraldry* vol. II

heraldry

I.2.a. *figurative* and in figurative context. Applied to restraint on freedom of action. Chiefly in *plural*. **?c1225–**

?c1225 (?a1200) Ach ancres..schule beo þer [*i.e.* in heaven]..lichtre ba & swiftre. & in swa wide schakeles as me seið pleiȝen in heouenes large lesewe. þet þe bodi schal beon hwer se eauer þe gast wune inane hont hwile.
Ancrene Riwle (Cleopatra MS. C.vi) (1972) 75

a1400 For synne is cald þe deueles schakel, His net, his tool, his takyng takel.
Minor Poems Vernon Manuscript 145/13

a1592 Staying thus in suspence, I shaked off the shakles with calling to remembraunce the saying of a poore Painter in Sienna, who [etc.].
R. Greene, *Mamillia* (1593) II. Ded. sig. Aiiv

1681 They would leave the Crown after him in Shackles, which..would not be easily knock'd off by any Successor.
W. Temple, *Mem.* iii, in *Works* (1731) vol. I. 337

1690 This body is become a prison, a shackle, a sepulchre to the soul.
C. Ness, *Compleat History & Mystery of Old & New Testament* vol. I. 13

1738 To knock off the Shackles of Ignorance and Prejudice.
Gentleman's Magazine January 4/1

1752 Virtue's a shackle, under fair disguise, To fetter fools, while we bear off the prize.
E. Young, *Brothers* ii. i

1776 That rhyme makes the poet walk in shackles is denied.
W. J. Mickle in translation of L. de Camoens, *Lusiad* Introduction p. clii

1872 Elizabeth..removed the chief shackle upon British trade.
J. Yeats, *Growth Commerce* 281

I.2.b. **the shackles**: the bonds of matrimony. **1780–**

[*a*1500 (*a*1460) Bot begyn she to crok, To groyne or to clok, Wo is hym is oure cok, For he is in the shakyls.
Towneley Plays (1994) vol. I. xiii. 129]

1780 Were I to enter the shackles, I have too much regard to my own ease to chuse a lady of reflection.
Mirror No. 89

I.3. † A fetter-like bond, esp. one used as an ornament, an armlet or anklet. *Obsolete. rare.* **1571–1697**

1571–2 An armlet or skakell [*sic*] of golde.
in J. Nichols, *Progresses Queen Elizabeth* (1823) vol. I. 294

1634 They bury his Armolets, Bracelets, Shackles and such Treasure.
T. Herbert, *Relation of Some Yeares Trauaile* 10

1697 Most of the Men and Women on the Island..had all Ear-rings made of Gold, and Gold Shackles about their Legs and Arms.
W. Dampier, *New Voyage around World* xviii. 514

jewellery

I.4. [Short for **shackle-bone** *n.*] The wrist; also *rarely* the ankle. *dialect.* **1788–**

1788 *Shackle of the arm*, the wrist.
W. Marshall, *Provincialisms East Yorkshire* in *Rural Economy of Yorkshire* vol. II. 350

1862 *Shackle*, the wrist. 'Spreined one o' my shackles'.
C. C. Robinson, *Dialect of Leeds & Neighbourhood*

1902 'T' sheckle willn't mend...'.. The fool of a woman ought to have had her shackle set at the infirmary.
C. J. C. Hyne, *Thompson's Prography* 195

I.5.a. A hobble for a horse. ? *Obsolete.* **1529–**

1529 Ane pair of schakillis to the grete hors.
in J. B. Paul, *Accounts of Treasurer of Scotland* (1903) vol. V. 366

1553 Shakels or spannes vpon the horse legges, *numelli*.
J. Withals, *Shorte Dictionarie* f. 40/1

1573 Strong fetters & shackles, with horslock & pad.
T. Tusser, *Fiue Hundreth Points of Good Husbandry* (new edition) f. 15ᵛ

1594 Those shackles which we clap on the legs of an vntrained Mule, which going with them many daies, taketh a steddie & seemly place [*sic*].
R. Carew, translation of J. Huarte, *Examination of Mens Wits* xi. 171

1610 If a horse be galled in the pastorne, on the heele, or vpon the cronet, either with shackell or locke, as it many times happens in the Champion countries, where the Farmers vse much to teather their horses: then for such a soare you shall [etc.].
G. Markham, *Maister-peece* ii. lxxxiv. 364

1814 Some sleek and sober mule Long trained in shackles to procession pace.
R. Southey, *Roderick* xxv. 91

horses and riding

I.5.b. A chain, rope, twisted band of straw or the like, used for securing cows. Now *dialect*. **c1460–**

***c*1460 (?*c*1400)** A plant, whils it is grene..A man may with his fyngirs ply it wher hym list, And make ther-of a shakill, a with[ey], or a twist.
Tale of Beryn l. 1064

1858 The custom of twisting birch twigs in a peculiar manner, to serve instead of hempen bands for the purpose of tying up cattle. These are called 'sheakles'.
M. A. Denham in *Denham Tracts* (1895) vol. I. 275

1869 *Shackle*,..a cow chain.
J. C. Atkinson, *Peacock's Glossary of Dialect of Hundred of Lonsdale*

agriculture

II. In various technical senses.

II.6. A ring, clevis, or similar device, used for attaching or coupling, so as to leave some degree of freedom of movement; often a **U**-shaped piece of iron, closed by a movable bar passing through holes in the ends.

II.6.a. A coupling for a plough, harrow, wagon, carriage, etc. **1343–**

1343 1 clitta pro moldebredd.; 2 schacles de ferro pro carucis; 2 coupewaynes.
in J. T. Fowler, *Extracts Account Rolls of Abbey of Durham* (1898) vol. I. 205

?*c*1343 3 Reyns, 3 paribus de pastrons, 3 Schakles et 1 croper pro longa carecta, 26*s*. 9*d*.
in J. T. Fowler, *Extracts Account Rolls of Abbey of Durham* (1899) vol. II. 543

1422–3 Pro 5 novis Reynes de corr. pro stabulo d'ni Prioris, 3 Shakelys de correo, 2 heltres de corr.
in J. T. Fowler, *Extracts Account Rolls of Abbey of Durham* (1901) vol. III. 619

?1523 The fote teame shalbe fastned to the same [*i.e.* 'the formast slote' of the harrow] w^{t} a shakyll or a with to drawe by.
J. Fitzherbert, *Book of Husbandry* f. ix

1530 A wayne and yoke with bolte and shakyll.
in F. Collins, *Wills & Administrations Knaresborough Court Rolls* (1902) vol. I. 27

1835 The price charged..is for the plough fit for use, but not including the shackle, by which it is drawn and regulated.
C. Howard, *General View Agric. East Riding Yorkshire* 3 in *British Husbandry* (Libr. Useful Knowl.) (1840) vol. III

1881 Shackles are iron staples, which serve to receive the leather suspension braces of C spring carriages on the springs; they are also used for coupling springs together.
J. W. Burgess, *Practical Treatise on Coach-building* x. 98

1894 *Sheckle, sheakle, shaikle*,..the sling that fastens the double-tree to a plough-head or bridle.
R. O. Heslop, *Northumberland Words*

carriage-building

II.6.b. *Nautical.* A fastening for a port-hole; a coupling for lengths of chain cable, an anchor, etc. **1627–**

1627 Shackels are a kinde of Rings but not round..fixed to the middest of the ports within boord, through which wee put a billet to keepe fast the port for flying open in foule weather.
J. Smith, *Sea Grammar* xiv. 68

1793 A large swivel, with shackles and bolts,..the western chain..joined to the eastern..by a bolt and shackle.
J. Smeaton, *Narrative Edystone Lighthouse* (ed. 2) §142

1805 *Shackles*, the small ring-bolts driven into the ports, or scuttles, and through which the lashing passes when the ports are barred in.
Shipwright's Vade-mecum 130

1831 A large shackle is also fixed at one end to be joined to the anchor.
J. Holland, *Treatise Manufactures in Metal* (Cabinet Cycl.) vol. I. 190

1874 Each length is to be provided with a shackle and shackle bolt, to be tested as part of the chain.
F. G. D. Bedford, *Sailor's Pocket Book* x. 316

1891 *Shackle* is a small half hoop shaped iron, fitted with a screw pin connecting the two open ends. Anchor shackles have the lug or pin countersunk [etc.].
Winn, *Boating Man's Vade-m.* 78

nautical

II.6.c. A ring, hook, or the like for lifting, holding, carrying, etc. a weight or something heavy. **1552–**

1552 2 Iron Shackells for bucketts.
in R. H. Hore, *Wexford* (1901) vol. II. 243

1896 The immense wooden beams on which it [the bell] formerly hung have long since been broken down at the shackle.
Westminster Gazette 2 November 10/1

II.6.d. The hinged and curved bar of a padlock which passes through the staple. **1850–**

1850 J. Chubb, *On Construction of Locks & Keys* 7.

locksmithing

II.7. *Telegraphy*. A form of insulator used in overhead lines for supporting the wire where a sharp angle occurs. **1852–**

1852 I insert a non-conducting shackle between the ends of the wire.
British Patent 680 (1854) 3

1855 The conducting wire of the main line in passing the station is cut and the ends jointed by a shackle.
Lardner's Museum of Science & Art vol. III. 143

1876 A special form of insulator known as a shackle is employed, which confines the strain of the wire to one spot.
W. H. Preece & J. Sivewright, *Telegraphy* 213

1876 The shackle is formed of porcelain, with a hole through the centre, into which a 4½in. bolt is inserted.
W. H. Preece & J. Sivewright, *Telegraphy* 214

telegraphy

II.8. A device for gripping anything; *spec.* 'either of the pivoted gripping devices for holding a test piece in a testing machine' (Webster 1911). **1838–**

> **1838** A shackle was placed round the centre of the block [of concrete], and two others at the extremities.
> *Civil Engineer & Architect's Journal* vol. 1 380/1

II.9. A length of cable 12½ fathoms (originally the distance between two 'shackles', in sense II.6b). **1886–**

> **1886** The length of the bower cable is generally 12 shackles, a shackle is 12½ fathoms.
> J. M. Caulfeild, *Seamanship Notes* 4

measurement

II.10. † Some implement used by chimney-sweepers; ? a link for fastening poles together. *Obsolete.* **1707**

> **1707** A Chimney-sweeper, with his Brooms, his Poles and Shackles.
> in H. Playford, *Wit & Mirth* (new edition) vol. II. 104

Pronunciation

BRITISH ENGLISH

/ˈʃak(ə)l/

Pronunciation keys ▾

Forms

Variant forms

α.
Old English **sceacul**, **scacul**, Middle English **scheakel**, Middle English **schackle**, **schakel**, Middle English **schakle**, Middle English **shakill**, **schakyl(l**, **schakylle**, **schakkyl**, Middle English–1500s **shakyl**, Middle English–1600s **shakel**, 1500s **schakill**, **schaccle**, **shakyll**, **shackil**, **shackyll**, 1500s–1600s **shackel(l**, 1500s–1800s now *dialect* **shakle**, (1600s **schackell**), 1800s *dialect* **sheakle**, 1500s– **shackle**.

β.
northern and *Scottish*Middle English **shekyl**, 1500s **scheckill**, 1600s **schaikill**, 1700s **shekle**, **shekel**, 1800s

sheckle, **shaikle**.

Frequency

shackle typically occurs about once per million words in modern written English.

shackle is in frequency band 5, which contains words occurring between 1 and 10 times per million words in modern written English. More about OED's frequency bands

Frequency data is computed programmatically, and should be regarded as an estimate.

Frequency of *shackle, n.*[1], 1750–2010

* Occurrences per million words in written English

Historical frequency series are derived from Google Books Ngrams (version 2), a data set based on the Google Books corpus of several million books printed in English between 1500 and 2010.

The overall frequency for a given word is calculated by summing frequencies for the main form of the word, any plural or inflected forms, and any major spelling variations.

For sets of homographs (distinct entries that share the same word-form, e.g. *mole*, n.[1], *mole*, n.[2], *mole*, n.[3], etc.), we have estimated the frequency of each homograph entry as a fraction of the total Ngrams frequency for the word-form. This may result in inaccuracies.

Smoothing has been applied to series for lower-frequency words, using a moving-average algorithm. This reduces short-term fluctuations, which may be produced by variability in the content of the Google Books corpus.

Frequency of *shackle, n.*[1], 2017–2023

* Occurrences per million words in written English

Modern frequency series are derived from a corpus of 20 billion words, covering the period from 2017 to the present. The corpus is mainly compiled from online news sources, and covers all major varieties of World English.

Smoothing has been applied to series for lower-frequency words, using a moving-average algorithm. This reduces short-term fluctuations, which may be produced by variability in the content of the corpus.

Compounds & derived words

Sort by Date (oldest first)

forshakel, n. 1304
(See quot. 1304.)

shackle, v.¹ c1440–
transitive. To confine with shackles; to put a shackle or shackles on.

shackled, adj. c1440–
Wearing or bound in shackles.

shackle-pin, n. 1446–
†(a) The pin or bolt of a shackle; (b) 'the small pin of wood or iron that confines a shackle-bolt in place' (Cent. Dict. 1891).

plough shackle, n. ?c1475–1512
The clevis of a plough.

hand shackle, n. 1549–

wain-shackle, n. 1559
? a coupling for a wagon (see shackle, n.¹ II.6a).

hopshackle, n. a1568
'A ligament for confining a horse or cow' (Jamieson); a hopple or hobble.

shackle-bone, n. 1571–
The wrist.

ring-shackle, n. 1574

shackle-hammed, adj. 1592–1741
Knock-kneed.

shackle-gall, n. 1596–1684
A sore under the fetlock of a horse, caused by the galling of the shackle (cf. shackle, n.[1] I.5a); hence shackle-galled adj.

shackle-wise, adv. 1596
In the form of a shackle.

shackle-hams, n. 1603
Knock-knees.

shackle-vein, n. 1607–39
'A vein of the horse, apparently the median ante-brachial, from which blood used to be let' (Cent. Dict.).

shackle-bolt, n. 1688–
dialect. A handcuff.

shackle-dancer, n. 1709
A performer who dances in shackles.

span-shackle, n. 1750–

shackle-head, n. 1762–
A seine-net.

shackledom, n. 1771–
The condition of being bound with shackles. (In quot. 1771 = marriage.)

gammon shackle, n. 1818–
A triangular band of metal, typically iron, at the end of the gammon plate to which the gammoning can be securely fastened.

shackle-net, n. 1824–
(See quots.).

anchor shackle, n. 1833–
A shackle used to attach the anchor of a vessel to the cable or chain.

shackle-bar, n. 1834–
(a) The swingle-tree of a coach, etc.; (b) U.S. 'the coupling between a locomotive and its tender' (Webster 1864).

shackle-joint, n. 1837–
(a) A joint in the form of a shackle (shackle, n.[1] II.6), esp. one for adjusting the tension of rods, wires, etc.; (b) a peculiar kind of...

screw shackle, n. 1847–
(a) (More fully screw shackle joint) a coupling consisting of a collar or sleeve into which the threaded ends of two rods are screwed; a screw...

shackle-breeching, n. 1867–
(See quot. 1867).

shackle-crow, n. 1867–
'A bar of iron slightly bent at one end like the common crow, but with a shackle instead of a claw at the end...used for drawing bolts or deck-nails'...

slip-shackle, n. 1867–
(See quots.).

shackle-plate, n. 1874–
(See quot. 1874).

shackle-jack, n. 1875–
(See quot. 1875).

shackle-irons, n. 1876–
Hand-cuffs.

port-shackle, n. 1907–

snap-shackle, n. 1974–

bond

NOUN[2]

Etymology

Summary

A variant or alteration of another lexical item.

Etymon: **band** *n.*[1]

Middle English *bond*, a phonetic variant of **band** *n.*[1] (compare *land lond*, *stand stond*, etc.), used interchangeably with it in early senses; but *bond* preserved more distinctly the connection with *bind*, *bound*, and is now the leading or exclusive form in branch II

Meaning & use

I. *literal*. That with or by which a thing is bound.

I.1.a. Anything with which one's body or limbs are bound in restraint of personal liberty; a shackle, chain, fetter, manacle. *archaic* (and only in *plural*). **a1325–**

***a*1325 (*c*1250)**	Bondes ben leid on symeon. *Genesis & Exodus* (1968) l. 2230
***c*1384**	The bondis of alle ben vnbounden. *Bible* (Wycliffite, early version) (Douce MS. 369(2)) (1850) Deeds xvi. 26
***a*1400 (*a*1325)**	Alle his bondes he [*Vespasian MS.* bandes, *Fairfax MS.* bandis] brake in two . *Cursor Mundi* (Trinity Cambridge MS.) l. 7203
1570	Bonde, *vinculum*. P. Levens, *Manipulus Vocabulorum* sig. Oi/2
1611	Altogether such as I am, except these bonds. *Bible* (King James) Acts xxvi. 29
1785	I had much rather be myself the slave, And wear the bonds, than fasten them on him. W. Cowper, *Task* ii. 36

figurative

1804 As soon as the parts of the animal, within the shell of the chrysalis, have acquired strength sufficient to break the bonds that surround it.
W. Bingley, *Animal Biography* (ed. 2) vol. III. 226

archaic

I.1.b. *abstract.* Confinement, imprisonment, custody. In later use only in *plural. archaic.* **a1225–**

***a*1225** Þu..þ[t] haldes me in bondes.
St. Marher. 13

***a*1325 (*c*1250)** Ic am..holden in bond.
Genesis & Exodus (1968) l. 2075

1330 Arnulf.. was taken als thefe, & abrouht in bond.
R. Mannyng, *Chronicle* 123

***c*1400** Lese me out of bond.
Gamelyn 401

***c*1430** Let me neuere falle in boondis of þe queed!
Hymns Virg. (1867) 6

***a*1616** I..will againe commit them to their bonds.
W. Shakespeare, *King John* (1623) iii. iv. 24

1667 To endure Exile, or ignominy, or bonds, or pain.
J. Milton, *Paradise Lost* ii. 207

1722 Drunkards, and fighters, and swearers, have their liberty without bonds.
W. Sewel, *History Quakers* (1795) vol. I. 61

1884 Prate not of bonds.
Lord Tennyson, *Becket* v. ii. 190

archaic

I.1.c. *in Our Lady's bonds* (see **Our Lady** *n.* Phrases).

I.2.a. That with which a thing is bound or tied down, or together, so as to keep it in its position or collective form: formerly including metal hoops girding anything; still the regular name for the withe which ties up a faggot, and in various technical senses. Cf. also III.13. **a1400–**

***a*1400 (*a*1325)** Bynde [þe tymber] furste wiþ balke & bonde.
Cursor Mundi (Trinity Cambridge MS.) l. 1671

1420 1 bord mausure with a bond of seluer.
in F. J. Furnivall, *Fifty Earliest English Wills* (1882) 46

1542–3 The bonde of euery whiche faggotte to conteine three quarters of a yarde.
Act 34 & 35 Henry VIII iii

1690 What conceivable Hoops, what Bond he can imagine to hold this mass of Matter.
J. Locke, *Essay Humane Understanding* ii. xxiii. 145

1879 Binding [the thatch] down with a crosswork of bonds, to prevent the gales..unroofing the rick.
R. Jefferies, *Wild Life* 123

I.2.b. † Formerly more generally, 'string, band, tie'. **a1325–1674**

***a*1425 (*c*1395)** If thou plattist seuene heeris of myn heed with a strong boond.
Bible (Wycliffite, later version) (Royal MS.) (1850) Judges xvi. 13

***a*1500 (?*c*1450)** Bounden to the sadell with two bondes.
Merlin xxiii. 425

***c*1500** The frere gaff hym a bow in hond. 'Jake', he seyd, 'draw vp þe bond.'
King & Hermit in M. M. Furrow, *Ten 15th-century Comic Poems* (1985) 266

1674 In the Chirch of St. Crucis..there is a bond that Chryst was led with to his crucifyeing.
T. Staveley, *Romish Horseleech* vii. 55

figurative

***a*1325 (*c*1250)** Non so wis..Þe kuðe vn-don ðis dremes bond.
Genesis & Exodus (1968) l. 2114

I.3. † A bandage. *Obsolete.* **c1384–1670**

***c*1384** And anoon he that was deed, cam forth, bounden the hondis and feet with bondis [1611 *King James* graue-clothes].
Bible (Wycliffite, early version) (Douce MS. 369(2)) (1850) John xi. 44

?1541 What quantite of length and brede ought the bondes to be?
R. Copland, *Guy de Chauliac's Questyonary of Cyrurgyens* iii. sig. Lii^{v}

1670 To make a Bond, or give a Glyster.
J. Eachard, *Grounds Contempt of Clergy* 21

medicine

I.4. † A quantity bound together; bunch, bundle. **1483–1500**

1483 Abygail toke..C bondes of grapes dreyde.
W. Caxton, translation of J. de Voragine, *Golden Legende* 67/1

?*a*1500 (*a*1475) Sche toke hym a bonde [of hemp]..And bade hym fast on to bete.
Wright's Chaste Wife (1869) l. 226

II. *figurative*. A restraining or uniting force.

II.5. (*figurative* from I.1) Any circumstance that trammels or takes away freedom of action; a force which enslaves the mind through the affections or passion; in *plural* trammels, shackles. **a1325–**

***a*1325 (*c*1250)** Moyses..hente ðe cherl wið hise wond, And he fel dun in dedes bond.
Genesis & Exodus (1968) l. 2716

1398 The soule..muste suffre for the bonde of the body that he is joyned to.
J. Trevisa, translation of Bartholomew de Glanville, *De Proprietatibus Rerum* (1495) iii. xiii. 57

***c*1440** Helde in the bond of seruitute of synne.
Gesta Romanorum ii. 7

1526 Thou must cutte a waye all outwarde boundes, whiche shulde be let or hynderaunce to perfection.
W. Bonde, *Pylgrimage of Perfection* ii. sig. Pii

1832 Nor does the marriage ceremony break the bonds of the woman's slavery.
R. Lander & J. Lander, *Journal of Expedition Niger* vol. II. vi. 129

1872 Hindered by the tight bonds of an old order.
J. Morley, *Voltaire* i. 24

II.6.a. A constraining force or tie acting upon the mind, and recognised by it as obligatory. **1330–**

1330 Þe bondes of homage & feaute.
R. Mannyng, *Chronicle* 260

1592 Therefore it is termed the bond of right or law.
W. West, *Symbolæography: 1st Part* i.i. §2

1651 The Bonds, by which men are bound, and obliged.
T. Hobbes, *Leviathan* i. xiv. 65

1769 Justice is perhaps the firmest bond to secure a chearful submission of the people.
'Junius', *Stat Nominis Umbra* (1772) vol. I. i. 14

1876 What serves as a bond to-day will be equally serviceable to-morrow.
J. H. Newman, *Historical Sketches* vol. I. i. iv. 172

II.6.b. † Obligation, duty. *Obsolete.* **c1449–1643**

***c*1449** The ensampling..makith no boond or comaundement that preestis..lyue withoute endewing of vnmouable possessiouns.
R. Pecock, *Repressor* (1860) 316

1526 Prayers of bonde or duety.
W. Bonde, *Pylgrimage of Perfection* iii. sig. HHHvii[v]

1535 I know my duty and bond to your highnes.
Bishop S. Gardiner in J. Strype, *Ecclesiastical Memorials* (1721) vol. I. ii. App. lx. 148

1643 There is no such bond upon conscience..as this, etc.
J. Burroughes, *Exposition of Hosea* (1652) v. 231

II.7.a. A uniting or cementing force or influence by which a union of any kind is maintained. **c1384–**

***c*1384** Bisy for to kepe vnite of spirit in the bond of pees.
Bible (Wycliffite, early version) (Douce MS. 369(2)) (1850) Ephesians iv. 3

1549 Charitie, the very bond of peace and al vertues.
Booke of Common Prayer (STC 16267) Celebr. Holye Communion f. xxix

1690 Speech being the great Bond that holds Society together.
J. Locke, *Essay Humane Understanding* iii. xi. 251

1789 An urgent and obvious want of some common bond of union.
W. Belsham, *Essays* vol. I. viii. 163

1819 You are..endangering the only bond that can keep hearts together—an unreserved community of thought and feeling.
W. Irving, *Sketch Book* i. 45

II.7.b. Senses II.6, II.7 and II.8 seem to be present in **the bond(s of wedlock** or **matrimony**. **1552–**

1552 Bonde of matrimonye or wedlocke.
R. Huloet, *Abcedarium Anglico Latinum*

***a*1616** Within the [*printed* tho] Bond of Marriage.
W. Shakespeare, *Julius Caesar* (1623) ii. i. 279

1645 That divorce which finally disolves the bond and frees both parties to a second marriage.
J. Milton, *Tetrachordon* 44

1712 He is ready to enter into the bonds of matrimony.
J. Hughes, *Spectator* No. 525. ¶1

1859 Our bond is not the bond of man and wife.
Lord Tennyson, *Elaine* in *Idylls of King* 210

II.8.a. An agreement or engagement binding on the person who makes it. **1330–**

II.8.b. A covenant between two or more persons. **1330–**

1330 If þe Kyng..had mad þat bond, & drawen it.
R. Mannyng, *Chronicle* 311

***c*1405 (*c*1395)** I yow relesse..euery serement and euery bond That ye han maad to me.
G. Chaucer, *Franklin's Tale* (Hengwrt MS.) (2003) l. 818

***a*1500** O kingis word shuld be a kingis bonde.
Lancelot of Laik (1870) 1673

1535 We are youre seruauntes, therfore make now a bonde with vs [seruaũtes in text].
Bible (Coverdale) Joshua ix. B

***a*1564** This confirmation is as it were a discharge of the godfathers bounds.
T. Becon, *Demands Holy Script.* in *Prayers* (1844) 618

***c*1610** A Bond offensive and defensive.
J. Melville, *Mem. Own Life* (1735) 12

1759 To unite the party a bond of confederacy was formed.
W. Robertson, *History of Scotland* vol. I. vii. 496

1810 The whole treaty of Amiens is little more than a perplexed bond of compromise respecting Malta.
S. T. Coleridge, *Friend* (1865) 171

1834 My word's as good as my bond.
F. Marryat, *Peter Simple* vol. II. i. 5

1849 *Bond*, the agreement to hire between coal owners and pitmen.
G. C. Greenwell, *Glossary of Terms Coal Trade of Northumberland & Durham* 8

II.8.c. † **to enter bonds**: to give a bond, pledge oneself (*obsolete*). **to put under bonds**: see quot. **1570–1809**

1570 If I shall enter bondes, couenaunt, & promise to appeare.
J. Foxe, *Actes & Monumentes* (revised edition) vol. II. 1887/2

1809 To put a prisoner under bonds is to order him to find bail.
E. A. Kendall, *Travels Northern Parts of United States* vol. III. lxxxii. 253

law

III. Legal and technical senses.

III.9.a. *English Law*. A deed, by which A (known as the *obligor*) binds himself or herself, his or her heirs, executors, or assigns to pay a certain sum of money to B (known as the *obligee*), or his or her heirs, etc. **1592–**

A may bind himself or herself to this payment absolutely and unconditionally, in which case the deed is known as a **single** or **simple bond** (*simplex obligatio*): bonds in this form are obsolete. Or a condition may be attached that the deed shall be made void by the payment, by a certain date, of money, rent, etc. due from A to B, or by some other performance or observance, the sum named being only a penalty to enforce the performance of the condition, in which case the deed is termed a **penal bond**.

1592 For a written Bond, is a Contract whereby any man confesseth himselfe by his writing orderly made, sealed, and deliuered to owe any thing unto him with whom he contracteth.
W. West, *Symbolæography: 1st Part* B ij. § 31

1600 Goe with me to a Notarie, seale me there Your single bond.
W. Shakespeare, *Merchant of Venice* i. iii. 144

***a*1656** One cares to make his mony sure by good bonds.
Bishop J. Hall, *Shaking of Olive-tree* (1660) ii. 282

1805 Devaux..having lost the original bons..importuned him until he signed a fresh set.
J. Poole, *Reply R. Gardiner* 2

1809 *A bond*, for money lent..is a deed in writing, whereby one person binds himself to another, to pay a sum of money, or perform some other act.
R. Langford, *Introduction to Trade* 105

1845 The Company petitioned the House of Commons for permission to raise two millions upon bond.
H. H. Wilson, *History of British India 1805–35* vol. I. viii. 495

English law

III.9.b. *Scots Law*. A mortgage. **1862–**

1862 We [Scotch] speak of a bond instead of a mortgage.
J. H. Burton, *Book-hunter* ii. 131

Scottish law

III.10. A document of this nature (but not necessarily or usually in the form of an ordinary bond) issued by a government or public company borrowing money: in modern use synonymous with *debenture*. **1651–**

1651 Large sums of Loan Money, Borrowed money on the Publick bonds.
Severall Proceedings in Parliament No. 123. 1902

1827 Bonds of turnpike commissioners, and navigation shares.
T. Jarman, *Powell's Essay upon Learning of Devises* (ed. 3) vol. II. 25

1873 The bond numbered B. 499 was drawn as one of those to be paid off..according to the conditions printed on the back of the debenture.
Law Reports: Queen's Bench vol. 8 379

1881 Friends..recommended him only to hold bonds or paid-up shares.
J. Morley, *Life of Richard Cobden* vol. II. 221

stock market

III.11.a. Surety; one who becomes bail. **to go** a person's **bond**: to be or go surety for (him or her). **1632–**

1632 Some of them appeared by bond.
in S. R. Gardiner, *Rep. Cases Star Chamber & High Comm.* (1886) 278

1667 The King of England shall be bond for him.
S. Pepys, *Diary* 11 March (1974) vol. VIII. 108

1922 'He knows who I am. He knows where to secure vouchers for me.' 'Would he go your bond?' It was the hotel detective who spoke.
J. A. Dunn, *Man Trap* xiii

III.11.b. *U.S. Law.* = **bail-bond** *n.* **1886–**

1886 A bond, or as it is commonly called, a bail-bond, is..an obligation..under seal, signed by the party giving the same, with one or more sureties, under a penalty, conditioned to do some particular act.
Pacific Reporter vol. 9 935

United States law

III.11.c. = **bail** *n.*[1] 5a, esp. in **on bond**. **1970–**

1970 He was taken before U.S. Commissioner Ed Swan, who set bond at $500,000.
Globe & Mail (Toronto) 25 September 9/2

1974 Five white men accused of killing a black youth from Fairfax, S.C., four years ago were released on bond Saturday after spending the night in jail.
Aiken (South Carolina) *Standard* 22 April 4-b/1

1979 O'Brien has remained free on bond during the appeals process.
Tucson (Arizona) *Citizen* 20 September 7c/3

law

III.12. **in bond**: (goods liable to customs-duty) stored in special warehouses (known as *bonded* or *bonding warehouses* or *stores*) under charge of custom-house officers, till it is convenient to the importer to pay the customs-duty and take possession. The importer on entering the goods pledges himself or herself by bond to redeem them by paying the duty. So **to take out of bond**, **release from bond**. **1845–**

1845 Taking the average price of bohea in bond in London at..1*s.* per lb.
J. R. McCulloch, *Treatise Taxation* ii. xi. 338

1851 More foreign corn was let out of bond.
H. Martineau, *Introduction to History of Peace* v. xiv

1863 A merchant may not wish immediately to sell the goods he imports, he is therefore permitted to place them in bond.
H. Fawcett, *Manual of Political Economy* ii. iii. 553

economics and commerce

III.13. Technical uses:

III.13.a. *Bricklaying* and *Masonry*. The connection or union of the bricks or stones in a wall or structure by making them overlap and hold together; a method of disposing the **1679–**

bricks in a wall by which the whole is bound into one compact mass: as in **English bond**, that in which the bricks are placed in alternate courses of 'headers' (bricks laid with their ends towards the face of the wall or structure) and 'stretchers' (bricks laid longitudinally); also **English cross bond** (see quots.); **Flemish bond**, that in which each course consists of alternate 'headers' and 'stretchers'; **garden bond**, etc.; also a brick or stone placed lengthways through a wall to bind and strengthen it, a binder, bond stone; **garden wall bond**, a bond in which each course consists of three stretchers and one header.

bricklaying | masonry

III.13.b. *Carpentry*. The jointing or fastening of two or more pieces of timber together; also in *plural* the timbers used for strengthening the walls of a building. **1679–**

woodworking

III.13.c. *Slating*. The distance which the lower edge of one roofing-slate or tile extends beyond the nail of the one below it. **1679–**

1679 When workmen say make good Bond, they mean fasten the two or more peeces of Timber well together.
J. Moxon, *Mechanick Exercises* vol. I. ix. Explan. Terms 164

1700 Do not work any Wall above 3 foot high before you work up the next adjoining Wall, that so you may make good Bond in the work.
Moxon's Mechanick Exercises: Bricklayers-wks. 22

1793 The tail of the header was made to have an adequate bond with the interior parts.
J. Smeaton, *Narrative Edystone Lighthouse* (ed. 2) §82

1823 Bricks are laid in a varied, but regular, form of connection, or Bond.
P. Nicholson, *New Practical Builder* 347

1823 You will have proper bond; and the key-bond in the middle of the arches.
P. Nicholson, *New Practical Builder* 352

1825 The principal methods of brick-laying are known under the appellation of English bond and Flemish bond.
G. A. Smeaton, *Builder's Pocket Manual* i. iv. 100

1825 The English bond is composed of alternate courses of headers and stretchers.
G. A. Smeaton, *Builder's Pocket Manual* i. iv. 100

1836 Garden-wall bond consists of three stretchers and one header in nine inch walls, but when fourteen inches thick, the Flemish bond is used.
Penny Cyclopaedia vol. V. 410

1842 The disposition of bricks in a building where there are alternate courses of headers and stretchers, is called English bond.
N. Whittock et al., *Complete Book of Trades* 75

1869 York bond being made of broad bricks laid in several courses among squared small stone.
J. Phillips, *Vesuvius* ii. 34

1871 They used large thin bricks or wall-tiles as a bond for their rubble construction.
J. Yeats, *Technical History of Commerce* i. iii. 87

1876 English bond should have preference when the greatest degree of strength and compactness is considered.
Encyclopædia Britannica vol. IV. 461/1

1888 *English Cross Bond*, a class of English bond. Every other stretching course has a header placed next the quoin stretcher, and the heading course has closers placed in the usual manner.
C. F. Mitchell, *Building Construction* ii. 37

1909 *English cross bond*, called also *cross bond*, is a modification of English bond in which the stretcher courses break joints with each other.
Webster's New International Dictionary of English Language 251/3

1936 English Cross bond is a slight deviation from pure English bond, and has a header laid, as second brick from the angle, in each alternate stretcher course; the stretchers therefore 'break-joint', and there is a little more play in the pattern of the bond.
Architectural Review vol. 79 242/3

1964 One brick wall in Flettons in English bond in cement mortar.
C. Dent, *Quantity Surveying by Computer* v. 52

1971 Known as garden wall bond, it consists of one header and three stretchers in alternate rows.
Washington Post 9 January e11

2009 Garden wall bonds ..indicated by groupings of patterns.
Archaeology Ireland vol. 23 i. 37/1

roofing

III.13.d. A metallic connection between conductors forming part of an electric circuit, as between the abutting or adjoining rails of an electric railway line. **1903–**

1903 The bonders being told off to attend to the copper bonds which make the electrical connexion between each of the three rails.
Westminster Gazette 20 January 9/2

1904 To provide electric continuity [both] are connected together by flexible strips of copper called 'bonds'.
Westminster Gazette 14 December 10/2

electrical railways

III.13.e. *Chemistry.* = **linkage** *n.* Also *attributive.* **1884–**

1884 Each unit of atom-fixing power will be named a *bond*,—a term which involves no hypothesis as to the nature of the connexion.
E. Frankland & F. R. Japp, *Inorganic Chemistry* viii. 58

1936 It is convenient in chemistry to show the linking between any two atoms by means of a line or lines, commonly called bonds.
Discovery November 339/1

1938 The view [was] advanced that spontaneous mutations are mono-molecular reactions produced by thermal agitation when this oversteps the energy threshold of the chemical bonds.
Annual Register 1937 346

1962 The bond energy..is the average amount of energy required to dissociate bonds of the same type in 1 mole of a given compound.
S. Glasstone, *Textbook of Physical Chemistry* (ed. 2) viii. 588

chemistry

Pronunciation

BRITISH ENGLISH /bɒnd/ bond

U.S. ENGLISH /bɑnd/ bahnd

Pronunciation keys ▼

Forms

Variant forms

Also Middle English **boond**, Middle English–1600s **bonde**, 1500s **bound**.

Frequency

bond is one of the 2,000 most common words in modern written English. It is similar in frequency to words like *participation*, *pick*, *setting*, *shoulder*, and *wonder*.

It typically occurs about 50 times per million words in modern written English.

bond is in frequency band 6, which contains words occurring between 10 and 100 times per million words in modern written English. More about OED's frequency bands

Frequency data is computed programmatically, and should be regarded as an estimate.

Frequency of *bond, n.*[2], 1750–2010

* Occurrences per million words in written English

Historical frequency series are derived from Google Books Ngrams (version 2), a data set based on the Google Books corpus of several million books printed in English between 1500 and 2010.

The overall frequency for a given word is calculated by summing frequencies for the main form of the word, any plural or inflected forms, and any major spelling variations.

For sets of homographs (distinct entries that share the same word-form, e.g. *mole*, n.[1], *mole*, n.[2], *mole*, n.[3], etc.), we have estimated the frequency of each homograph entry as a fraction of the total Ngrams frequency for the word-form. This may result in inaccuracies.

Compounds & derived words

Sort by Date (oldest first)

hunger-bond, n. a1325
Necessity arising from famine.

love bond, n. a1350–

man's-bond, n. ?a1400
A slave or bondsman (in quot. used collectively with plural agreement).

hair-band, n.[1] c1440–
A band or fillet to confine the hair.

bondly, adv. 1465–1553
? By bondhold.

sengilbond, n. c1479
An encircling band.

sail-bond, n. ?a1500
(? error for -bonet) = bonnet, n. II.7.

stilt-bond, n. ?a1500
? a band by which a stilt is fastened to the leg or foot.

probate bond, n. 1591–
A bond in which an administrator other than an executor gives a guarantee that he or she will administer the estate in accordance with the will and...

counterbond, n. 1594–
See quot. 1706.

marriage bond, n. 1595–

bonded, adj. 1609–
Of a material: strengthened by being bonded with a matrix (cf. bond, v. additions b). Of a fabric: that has been bonded to another layer of material...

bond-led, adj. a1618–

bondsman, n.[1] 1629–
A person who stands surety for another. Now: spec. (U.S.) a person who makes a living by charging a fee to defendants for standing as surety for...

back-bond, n. a1645–
A document by which a party receiving or holding a title, ex facie absolute, acknowledges that he or she really holds in trust for a specified...

blood bond, n. 1645–

bondship, n.² a1665–
The state or fact of being united by a common interest, feeling, etc.; an instance of this.

woman bond, n. 1675
= bondwoman, n.

security bond, n. 1692–
(a) Chiefly Law security (security, n. II.5) put up as a bond, recognizance, or guarantee of good behaviour; (b) Finance (usually in plural) a bond...

bond, v. 1700–
transitive. In Building: To bind or connect together (bricks, stones, or different parts of a structure) by making one overlap and hold to another...

bond-debt, n. 1707–

bail-bond, n. 1709–
The bond or security entered into by a bail.

bond-creditor, n. 1710–

submission bond, n. 1718–
A bond by which parties agree to submit a matter to arbitration and abide by the decision of arbitrator.

long bond, n. 1720–
A bond which matures after a long period of time, typically twenty or more years.

government bond, n. 1737–
A bond issued by a government in order to support its spending programme, typically offering investors a guaranteed rate of interest and full...

Flemish bond, n. 1774–
(See bond, n.² III.13).

tail-bond, n. 1776–
A stone placed with its greatest length across a wall, serving as a tie to hold the face to the interior.

bond-vendor, n. 1785–

supersedeas bond, n. 1801–
A secured bond to gain suspension of a judgement and postponement of its execution.

stretching-bond, n. 1805–
A bond (see bond, n.² III.13a) in which stretchers only (and not headers) are used.

corporate bond, n. 1810–
A security or bond issued by a private company (as opposed to one issued by a government,

etc.).

ransom bond, n. 1817–
= ransom bill, n.

heart-bond, n. 1819–
A union of hearts; a strong spiritual or emotional connection. Also (occasionally): a betrothal, an engagement.

premium bond, n. 1820–
A bond earning no interest but eligible for lotteries; spec. (in full Premium Savings Bond) since 1956, a British government security that offers no...

bondholder, n.² 1823–
A person who holds a bond or bonds granted by a private person or by a public company or government, as Egyptian bondholder, a holder of Egyptian...

bond-timber, n. 1823–
(See quot.)

defence bond, n. 1823–
A bond issued by a government to raise money for military defence.

vertical bond, n. 1833–

charter-bond, n. 1836–
= charter-party, n.

money bond, n. 1837–

chain-bond, n. 1842–
A chain or tier of timber built in a brick-wall to increase its stability and cohesion (see chain, n. II.10).

inbond, adj. 1842–
Said of a brick or stone laid with its length across a wall (also called a header); also of a wall built wholly or mainly of bricks or stones thus...

bondless, adj. 1845–
Free from bonds; unfettered, unrestrained.

preference bond, n. 1848–
A bond which entitles the holder to a fixed dividend, the payment of which takes priority over that of ordinary bonds.

block bond, n. 1852–
A bond (bond, n.² III.13a) in which the courses are laid so as to create a block-like pattern of bricks on the face of the wall.

investment bond, n. 1853–
A bond issued by a government or public company, purchased as a means of investment, and offering a return comprising interest payments and capital...

mortgage bond, n. 1853–
(a) U.S. a bond secured by a mortgage and issued by a mortgage lender; (b) South African a mortgage (mortgage, n. 2a).

revenue bond, n. 1853–
A type of bond which is issued to raise funds for a specific public project, and is redeemable against the project's future revenue.

bond-stript, adj. 1855–
Stripped of bonds.

chemical bond, n. 1857–
A bond of a chemical nature; spec. = bond, n.² III.13e.

municipal bond, n. 1858–
A security issued by a local authority or its agent to finance local projects, the interest on which is generally exempt from federal income tax and...

treasury-bond, n. 1858–
An exchequer bond.

exchequer-bond, n. 1859–
A bond (see bond, n.² III.10) issued by the Exchequer at a fixed rate of interest and for a fixed period.

peace bond, n. 1859–
A bond required by a court from an individual deemed to pose a threat to the safety or property of others, intended to deter that person from...

bond-friend, n. 1860–

bond-piece, n. 1862–

neck-bond, n. 1864

cotton-bond, n. 1865
(See quot.).

defence loan bond, n. 1865–
A bond issued by a government to raise money for military defence; = defence bond, n.

bearer bond, n. 1866–

property bond, n. 1869–
(a) Finance a bond or share in property; (b) U.S. a bail bond in the form of property.

debenture-bond, n. 1870–
A bond of the nature of a debenture; = debenture, n. 3.

hay-bond, n. 1874–

cross-bond, n. 1876–
A bond in which a course of 'stretchers' alternates with one of alternate 'stretchers' and 'headers' so as to break joint with it and also with the...

raking bond, n. 1876–
A type of bond (bond, n.² III.13a) in which bricks are laid diagonally, or in a herringbone pattern, rather than horizontally.

bond paper, n. a1877–
A paper of superior manufacture used for bonds and other documents; also simply bond in some trade-names of writing paper.

bond-stone, n. 1879–
= bonder, n.¹

out-bond, adj. 1882–
Designating a brick or stone laid with its length parallel to the face of a wall. Cf. inbond, adj., stretcher, n. II.10a.

priority bond, n. 1884–
= preference bond, n.

blanket bond, n. 1887–
An insurance policy that applies collectively to a group of people or assets; (spec.) a policy of this type taken out by a financial institution...

double bond, n. 1889–
A chemical bond in which the two atoms 'share' two pairs of electrons rather than one pair.

hell-bond, n. 1889–

income bonds, n. 1889–
Bonds of a corporation or company, the interest of which is not cumulative, secured by a lien upon the net income of each several year, after payment...

straw bond, n. 1889–
(See quot. 1889 and cf. straw bail, n.).

triple bond, n. 1889–
A bond in which the two atoms 'share' three pairs of electrons rather than one pair; hence as adjective.

kin-bond, n. 1890–

Yorkshire bond, n. 1892–

rail bond, n. 1893–
A short metal cable forming an electric connection between consecutive lengths of rail in a railway or tramway.

wire bond, n. 1894–
A wire forming or reinforcing a bond between two objects; (Electronics) a very short, fine wire forming an interconnection between two components of...

tax-bond, n. 1895–
A state bond receivable as taxes (Funk's Stand. Dict. 1895).

quarry-stone bond, n. 1902–
An arrangement or method of bonding stones in rubble masonry (cf. bond, n.² III.13a).

single bond, n. 1903–
A chemical bond in which the two atoms share one pair of electrons only.

valence bond, n. 1913–
Originally, a chemical bond thought of in terms of atomic valencies; in modern use, one described in terms of individual valence electrons rather...

monk bond, n. 1914–
A bond in which every course consists of patterns of two stretchers followed by one header.

Liberty Bond, n. 1917–
Any of a series of interest-bearing war bonds issued by the U.S. government in 1917–18; cf. Liberty Loan, n.

victory bond, n. 1917–
A bond issued by the Canadian and British governments during or immediately after the war of 1914–18.

war bond, n. 1918–

hydrogen bond, n. 1923–
A weak bond between a strongly electronegative atom with a lone pair of electrons in one molecule and a hydrogen atom covalently bonded to another...

bond-salesman, n. 1925–

impedance bond, n. 1926–
A kind of rail bond used to connect electrified rails in adjoining signalling sections, having a low resistance (so that the direct traction current...

multiple bond, n. 1931–
A chemical bond in which two atoms share more than one pair of electrons.

peptide bond, n. 1932–
A carbon–nitrogen bond of the type —CO·NH— in an organic molecule; spec. one linking the amino-acid residues in a peptide chain.

rat-trap bond, n. 1932–
A form of Flemish bond (Flemish bond at bond, n.² III.13a) in which the bricks are laid on edge and the headers span the whole thickness of wall...

disulfide bond, n. 1934–
A covalent linkage between two sulfur atoms, —S—S—, which cross-links polypeptide chains in the three-dimensional structures of some proteins; also...

bond washing, n. 1937–
(See quots.)

performance bond, n. 1938–
A bond issued by a bank, etc., guaranteeing the fulfilment of a particular contract.

metallic bond, n. 1939–
The type of bond occurring in metals, in which the valence electrons are not localized as in covalent bonds but are capable of interacting with an...

pair-bond, n. 1940–
The relationship formed during the courtship and mating of a pair of animals, esp. when this persists longer than the minimum period necessary for...

phosphate bond, n. 1940–
A chemical bond linking a phosphate group to another part of a molecule, esp. such a bond in ATP which is hydrolysed to provide energy in living...

tap bond, n. 1942–

pi-bond, n. 1947–
A bond formed by a pi-orbital.

peroxide bond, n. 1949–
A single bond between two oxygen atoms in a molecule.

bond washer, n. 1959–

Eurobond, n. 1966–
A bond issued in a Eurocurrency (cf Euro-, comb. form affix 3).

managed bond, n. 1972–
A bond which is invested by a fund manager on behalf of the owner.

junk bond, n. 1974–
A high-yield, high-risk security, typically issued by a company seeking to raise capital quickly

in order to finance a takeover.

raking stretcher bond, n. 1974–
A variation of stretcher bond in which each brick overlaps the one below by a quarter-brick rather than the usual half-brick.

granny bond, n. 1976–
(A familiar name for) an index-linked National Savings certificate available originally only to a person of pensionable age.

monk's bond, n. 1989–
= monk bond, n.

precipice bond, n. 1997–
A bond which is issued for a fixed term, under conditions such that the customer's capital is at risk should investments perform below a certain...

dim sum bond, n. 2010–
(A name for) a bond denominated in Chinese renminbi or yuan, but issued outside mainland China.

blank bond, n.
A bond in which a blank is left for the creditor's name.

bramble-bond, n.
A bramble-shoot used to bind straw in thatching, etc.

Federal Location Monitoring

Federal courts supervise many defendants on bail who are awaiting trial and convicted persons under supervision who serve some or all of their sentence in the community, as an alternative to imprisonment. This section describes only the federal court system's use of location monitoring.

What Is Location Monitoring?

Location monitoring is a court-ordered alternative to pretrial detention and imprisonment. Individuals may engage in limited, supervised activities in the community, with electronic technology to help verify compliance.

A judge determines the extent to which people are monitored on a case-by-case basis, guided by the law and on an assessment of risk. Some individuals are required to remain in their residence 24 hours per day, while others are allowed to leave for preapproved and scheduled activities, such as for work, school, treatment, church, attorney appointments, court appearances, or court-ordered obligations.

Probation and pretrial services officers enforce the court's terms of supervision. Officers receive electronic notification when an individual moves into or out of approved or prohibited areas, or if the device is tampered with or removed.

How Does It Support Public Safety?

Protecting the public is a paramount concern of the federal criminal justice system. While pretrial detention and post-conviction imprisonment both play important roles, most people who have been incarcerated eventually return to their communities. Location monitoring is one tool used by federal probation and pretrial services officers to supervise these individuals.

It is important to note that although location monitoring may reduce the risk of re-offending, it does not eliminate risk. No supervision method or tool can prevent all defendants or persons under supervision from committing new crimes, or from absconding while under supervision.

However, as part of a well-designed and executed supervision strategy, location monitoring is an important tool that helps officers maintain awareness and monitor compliance.

Officers do not track a person's movement in the community in real time, 24 hours a day, seven days a week. But activity reports and emergency alerts can help officers intercede if conditions ordered by the judge are violated.

Who Is Monitored?

Community supervision is used primarily for three categories of individuals:

- Defendants on bail who are awaiting trial.
- Convicted persons under supervision who serve some or all of their sentence in the community, as an alternative to imprisonment.
- Federal inmates who are completing the remaining portion of custodial sentence under the supervision of the probation office.
- Former federal inmates who are on supervised release after leaving prison.
- For some offenses, community supervision is mandatory. Where the law permits a choice between incarceration and community supervision, federal judges make the decision. In recommending location monitoring to the court, probation and pretrial services officers consider the risks posed by the defendant or person under supervision.

Not everyone in community supervision requires location monitoring. Electronic monitoring technology is used more frequently for persons under supervision convicted or charged with a sex offense or participants with a history of violence. It also may be used as a sanction when people violate their conditions of supervision.

What Technologies Are Used?

Location monitoring was first used by the federal Judiciary in 1986. Officers monitored participants through random telephone calls and weekly in-person contacts.

Today, location monitoring relies on four distinct technologies:

- Radio frequency units require participants to wear a transmitter at all times. The transmitter sends a signal to a receiver in the participant's residence verifying that a person is at home during required hours. RF units do not monitor individuals once they move outside the device's tracking range.
- Global Positioning System units require participants to wear a tracker at all times. The participant's location is detected 24/7 via GPS satellites, cellular towers, and/or Wi-Fi. An alert also is generated if a person under supervision tampers with the device or attempts to remove it. GPS provides more comprehensive and real-time information than other location monitoring technologies.
- Voice recognition requires participants to periodically check in by telephone, leaving a message that can be checked against a voice "fingerprint" to verify their whereabouts. Voice

verification is intended to target low-risk participants.

- Virtual monitoring using a smartphone mobile application requires participants to provide their whereabouts by using the devices locational services and identity technology (e.g., facial recognition, fingerprint, and/or password). This technology is not included within the national contract and requires procurement of a non-competitive contract by an individual district.

What Is the Officer's Role?

Even when location monitoring is used, electronic technology is just one tool. Supervising officers play an essential role in promoting compliance and assisting in rehabilitation.

Officers consider many factors, including the risk posed by the defendant or person under supervision, when recommending a location monitoring condition to the court.

When a federal judge orders location monitoring, supervising officers:

- Check to make sure participants are adhering to their approved schedules.
- Physically inspect monitoring equipment to make sure that it is working, ensure proper fit, and to look for signs of tampering.
- Respond to and investigate alerts, including:
  - Unauthorized absence from home
  - Failure to return home after an authorized absence
  - Leaving home early or returning home late
  - Entrance into or near an unauthorized area
- Step in to control and correct the situation if people on location monitoring:
  - Don't adhere to their approved leave schedule
  - Go to an unapproved location
  - Tamper with equipment
  - Otherwise fail to comply with the program rules or release conditions

What Are the Officer's Challenges?

Supervising people on location monitoring is demanding, time-consuming, and sometimes dangerous. Officers must make frequent phone calls to verify that individuals are adhering to their approved schedules. They also make frequent, unannounced face-to-face visits.

Federal officers must respond to and investigate certain types of electronic alerts 24 hours a day, seven days a week. On average, two to three alerts per month for each person under supervision require immediate investigation.

What Are the Benefits?

Location monitoring allows people on supervision to remain in the community and begin to rebuild their lives. They can attend school or obtain/maintain employment during their period of supervision—important factors in rehabilitation. Community supervision also costs much less than incarceration.

Location monitoring reduces risks by limiting a person's movements and opportunity to commit violations. GPS technology also can be used to verify that an individual is in an authorized location or is in or near an unauthorized location. This increases the chances that officers can intercede either before or while a violation or new offense is occurring.

Even when an offense is committed, GPS technology can help provide last location information to law enforcement officials trying to locate a fugitive.

Significant numbers (as of November 2022)

- Approximately 9,000 people are assigned to federal location monitoring at any given time in the federal system.
- 50 percent of federal location monitoring participants are placed on Global Positioning System (GPS) technology, 44 percent of participants are placed on Radio Frequency (RF), and the remaining participants are placed on Voice Recognition or Virtual Monitoring technologies.
- 9.3 percent of federal persons under supervision on post-conviction supervision and 24.7 percent of federal defendants were on some form of location monitoring. The average length of location monitoring for pretrial defendants and post-conviction supervision was 252 days and 147 days respectively.
- Persons under supervision placed on location monitoring during their term of supervision are twice as likely to be high risk, compared with those not on location monitoring.
- When utilized in lieu of detention or prison, location monitoring costs taxpayers approximately $4 per day, compared with $101 a day for pretrial detention and $123 a day for post-conviction imprisonment..

Additional Resources

- The Many Purposes of Location Monitoring (/federal-probation-journal/2010/09/many-purposes-location-monitoring) (Federal Probation Journal, September 2010)

Weinstein accused of misusing ankle monitor; $5M bail sought

BY TOM HAYS, RYAN TARINELLI AND MICHAEL R. SISAK
Published 11:21 AM PDT, December 6, 2019

NEW YORK (AP) — Harvey Weinstein violated his bail conditions by mishandling his electronic ankle monitor, which left his whereabouts unrecorded for hours at a time, a New York prosecutor argued Friday.

Prosecutor Joan Illuzzi made the claim at a pretrial hearing for Weinstein after he hobbled into court with what his lawyer later described as a back ailment. Illuzi told a judge he had repeatedly violated his bail conditions by leaving home a piece of the monitoring technology that keeps the ankle bracelet activated.

“None of these violations were accidental,” Illuzzi said while arguing that Weinstein’s bail should be raised from $1 million to $5 million while he awaits trial next month on rape and assault charges.

Defense attorney Donna Rotunno denied it was anything deliberate, blaming “technical glitches” like dead batteries.

“It has nothing to do with any manipulation of the bracelet,” Rotunno told reporters after leaving court. She

acknowledged that on at least one occasion, he'd forgotten part of the device when he left the house. "The minute he realized he forgot it, he made a phone call."

Asked about the health of her 67-year-old client, who was walking with a limp, his tie loosened and one shoe untied, the lawyer responded: "This is tough on anybody. ... He has some back issues that we're hoping to address this week."

A judge put off any decision about whether Weinstein should face stricter bail conditions over the alleged violations until next week.

The Oscar-winning producer was in court for one of many proceedings that courts across the state are scheduling to apprise defendants of reforms to New York's bail system that are set to take effect Jan. 1.

State lawmakers passed a law this year eliminating cash bail for most nonviolent crimes. For poorer defendants facing lesser charges, these appearances could mean release from jail come the new year — or refunds for those who have posted bail.

Those outcomes are unlikely to happen in a case in which Weinstein has pleaded not guilty to charges he raped a woman in a Manhattan hotel room in 2013 and performed a forcible sex act on a different woman in 2006. He has been free on the current $1 million bail since his arrest last year and maintains that any sexual activity was consensual.

Weinstein's deep pockets have given him plenty of freedom as he awaits trial on the charges, which could put him in jail for the rest of his life. The disgraced movie mogul has been spotted hobnobbing at New York City nightclubs and getting jeered at a recent actors showcase.

But poorer defendants who have been hauled into courthouses for lesser offenses have ended up in jail if they can't afford a bail of even a few hundred dollars.

That financial and fairness divide was one New York lawmakers were aiming to solve with sweeping bail reforms.

Among the changes: The bail law signed by Gov. Andrew Cuomo in April eliminates pretrial detention and money bail for the wide majority of misdemeanor and nonviolent felony cases. It also mandates that police issue court appearance tickets instead of arresting people for low-level offenses.

The reforms were motivated in part by the case of Kalief Browder, who was denied bail after he was arrested at age 16 on a charge that he stole a bag, and then spent three years in custody before the case was dropped without a trial. He later killed himself.

People charged with rape and other serious sexual offenses can still be ordered to post bail or be put into pretrial detention come the new year.

Part of the new law bars the court system from requiring defendants to paying fees to maintain electronic monitoring systems. That could mean that Weinstein, who has been paying his own monitoring costs, will have to stop doing so.

The rollout of the bail law has varied across the state, with some areas having robust coordination while

others are doing little to nothing at all, said Insha Rahman, director of strategy and new initiatives at the Vera Institute of Justice.

Kevin Stadelmaier, chief attorney of the criminal defense unit at the Legal Aid Bureau of Buffalo, said his defense lawyers have been preparing for months and are seeking to free people charged with low-level offenses before the law takes effect.

“We’re really going to see the fruits of our labor come Jan. 1,” he said.

David Hoovler, district attorney in Orange County, criticized the monthslong rollout, saying there should have been more time given to prepare for such sweeping changes.

“There’s very little guidance by anyone,” he said.

Ryan Tarinelli is a corps member for Report for America, a nonprofit organization that supports local news coverage in a partnership with The Associated Press for New York. The AP is solely responsible for all content.

EXHIBIT B

NOT FOR PUBLICATION

FILED

MAY 29 2024

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. CHANEL WILEY, Defendant-Appellant.	No. 22-50235 D.C. No. 2:20-cr-00298-JAK-2 MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
John A. Kronstadt, District Judge, Presiding

Argued and Submitted February 6, 2024*
Pasadena, California

Before: OWENS, BUMATAY, and MENDOZA, Circuit Judges.

Chanel Wiley appeals from her conviction and sentence for conspiracy to distribute methamphetamine in violation of 21 U.S.C. § 846. She argues that there was insufficient evidence to support her conviction, and that she was convicted "only by association" with her boyfriend, Scott Penner, who pled guilty to the same charge. We have jurisdiction under 28 U.S.C. § 1291. As the parties are

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

familiar with the facts, we do not recount them here. We affirm.[1]

Normally, sufficiency of the evidence claims are reviewed under the *Jackson v. Virginia*, 443 U.S. 307 (1979), standard: "[W]hether, after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Id.* at 319. "However, because . . . [Wiley] did not move for acquittal," we review for plain error. *United States v. Franklin*, 321 F.3d 1231, 1239 (9th Cir. 2003). Under either stringent standard, Wiley's claim fails. The evidence that she conspired to distribute methamphetamine was not insufficient.

The elements of a § 846 conspiracy are "(1) an agreement to accomplish an illegal objective, and (2) the intent to commit the underlying offense." *United States v. Moe*, 781 F.3d 1120, 1124 (9th Cir. 2015) (quoting *United States v. Herrera-Gonzalez*, 263 F.3d 1092, 1095 (9th Cir. 2001)). As a result, "[t]he government 'can prove the existence of a conspiracy through circumstantial evidence that defendants acted together in pursuit of a common illegal goal.'" *United States v. Navarrette-Aguilar*, 813 F.3d 785, 794 (9th Cir. 2015) (quoting *United States v. Bishop*, 1 F.3d 910, 911 (9th Cir. 1993)). For example, evidence of a "shared stake" in a drug operation may disprove a defendant's assertion that

[1] We address Wiley's argument that her due process rights were violated when her ankle monitor beeped during jury selection in a concurrently filed published opinion, in which we affirm.

she did not conspire to distribute, but merely purchased, drugs. *See, e.g.*, *United States v. Mendoza*, 25 F.4th 730, 736 (9th Cir. 2022) (quoting *Moe*, 781 F.3d at 1125).

The following evidence, viewed in the light most favorable to the government, indicates that Wiley and Penner had an agreement to distribute methamphetamine and intended to distribute methamphetamine. First, Penner packaged, weighed, and sold methamphetamine out of Wiley's apartment, which a rational juror could have concluded he would not have done "[a]bsent an agreement." *See United States v. Mesa-Farias*, 53 F.3d 258, 260 (9th Cir. 1995) ("Absent an agreement, [the defendant's co-conspirator] would not have allowed an outsider to drive a car loaded with cocaine and heroin or sleep in an apartment containing drug paraphernalia and substantial amounts of cash.").

Second, a rational juror could have determined that Wiley initiated the sale because she asked the buyer whether he "need[ed] crap," which means methamphetamine. Immediately afterward, Penner began weighing bags of methamphetamine and discussing the price with the buyer.

Third, Penner structured the drug sale to financially benefit Wiley—he gave the buyer a $50 discount on the price of the drugs in exchange for an equivalent reduction in Wiley's outstanding debt to the buyer. Thus, Wiley had a financial "stake" in the sale of methamphetamine. *Mendoza*, 25 F.4th at 736 (quoting *Moe*,

781 F.3d at 1125). Wiley asserts that she played no part in the conversation about reducing her debt. She argues she was not even in the room while Penner and the buyer discussed the price of the methamphetamine. But a rational juror could have found that she still heard their exchange because there were no doors in her apartment except for the bathroom door. Even if she had not heard the conversation, it would not have been irrational to view the fact that Penner structured the transaction to benefit her as evidence corroborating her role in the conspiracy.

Fourth, Wiley told the buyer that she had previously tested a batch of methamphetamine for fentanyl. She believed that the methamphetamine the buyer was purchasing was from that same batch and asked him to test it and let her know if it was positive for fentanyl. Viewing this evidence in the light most favorable to the government, a rational juror could have interpreted Wiley's statements to indicate that she and Penner had an ongoing agreement to test and sell methamphetamine, and that she intended this sale as part of this conspiracy.

Finally, when the buyer returned to Wiley's home to pay Penner for the methamphetamine, the buyer left the money with Wiley. Wiley implies that this conduct is not probative because the buyer did not tell Wiley the purpose of the payment. But this assertion flips the *Jackson* standard on its head because *Jackson* requires us to construe the evidence in the light most favorable to the government.

443 U.S. at 319. Under *Jackson*, a rational juror could have interpreted this interaction as further evidence of Wiley and Penner's ongoing agreement and intent to sell methamphetamine because Wiley accepted payment for methamphetamine on behalf of Penner.

Consequently, under either *Jackson* or plain-error review, the evidence that Wiley conspired with Penner to distribute methamphetamine was not insufficient.

AFFIRMED.

EXHIBIT C

FILED

OCT 3 2024

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. CHANEL WILEY, Defendant-Appellant.	No. 22-50235 D.C. No. 2:20-cr-00298-JAK-2 Central District of California, Los Angeles ORDER

Before: OWENS, BUMATAY, and MENDOZA, Circuit Judges.

Judges Owens and Bumatay have voted to deny the petition for panel rehearing and petition for rehearing en banc. Judge Mendoza has voted to grant the petition for panel rehearing and petition for rehearing en banc.

The full court has been advised of the suggestion for rehearing en banc, and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 35.

The petition for panel rehearing and the petition for rehearing en banc are therefore DENIED.