PUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-4556

UNITED STATES OF AMERICA,

Plaintiff – Appellee,

v.

DANNY T. RONEY, a/k/a Khalid Abdul Al-Mu'Min, a/k/a Danny Roney,

Defendant – Appellant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Cameron McGowan Currie, Senior District Judge. (3:08-cr-00252-CMC-1)

Argued: September 12, 2025 Decided: August 14, 2026
Amended: August 17, 2026

Before AGEE, RICHARDSON, and BERNER, Circuit Judges.

Affirmed by published opinion. Judge Richardson wrote the opinion, in which Judge Agee joins and in which Judge Berner joins except for Part II.B. Judge Berner wrote an opinion concurring in part and dissenting in part.

ARGUED: Kimberly Harvey Albro, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Columbia, South Carolina, for Appellant. Winston David Holliday, Jr., OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South Carolina, for Appellee. **ON BRIEF:** Adair F. Boroughs, United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South Carolina, for Appellee.

RICHARDSON, Circuit Judge:

Danny Roney was committed to a federal mental-health facility after being found not guilty by reason of insanity for mailing threats to his lawyer. Three years later, the district court conditionally discharged him under a court-prescribed regimen of psychiatric care. One condition of his discharge barred him from possessing weapons. So when Roney robbed a store at gunpoint, the district court revoked his conditional discharge.

Roney contests the revocation of his conditional discharge under 18 U.S.C. § 4243. He argues that § 4243 permits revocation only when he violates conditions that are part of his "prescribed regimen of medical, psychiatric, or psychological care or treatment." Any conditions ancillary to his treatment regimen may not form the basis of a revocation. The Government—citing four favorable circuit courts—argues for the opposite interpretation, urging us to hold that the statute permits revocation based on violations of so-called "ancillary conditions." We agree with Roney that a court may revoke his conditional discharge only for a failure to comply with the prescribed regimen. But this statutory limitation does not help Roney because the condition he violated was not ancillary to, but part of, the regimen prescribed to manage his mental illness.

I. BACKGROUND

A. Statutory Background

Section 4243 governs the "[h]ospitalization of a person found not guilty only by reason of insanity." It provides the steps necessary for initial commitment of such individuals to a medical facility (§ 4243(a)–(e)), their discharge from commitment (§ 4243(f)), and revocation of conditional discharge and recommitment (§ 4243(g)).

A defendant found not guilty by reason of insanity may be committed to a medical facility for treatment. § 4243(e). In time, a district court may discharge[1] the patient with or without conditions. § 4243(f). For a conditional discharge, the director of the medical facility must notify the court when the director:

> determines that the person has recovered from his mental disease or defect to such an extent that . . . his conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment . . . would no longer create a substantial risk of bodily injury to another person or serious damage to property of another.

§ 4243(f). The court then must hold a hearing "to determine whether [the person] should be released." *Id.* After the hearing, if the court agrees with the director's findings, the court shall:

> (A) order that [the person] be conditionally discharged under a prescribed regimen of medical, psychiatric, or psychological care or treatment that has been prepared for him, that has been certified to the court as appropriate by the director of the facility in which he is committed, and that has been found by the court to be appropriate; and
> (B) order, as an explicit condition of release, that he comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment.

Id.

After discharge, the court may hold a hearing and "modify or eliminate the regimen" at any time. *Id.* It also may revoke conditional discharge and re-hospitalize a person. *See* § 4243(g). The court may begin the revocation process by ordering the person's arrest when either: (1) the "director of a medical facility responsible for administering the

[1] Section 4243 uses both "discharge" and "release" to describe when a person leaves the mental-health facility. We use the term "discharge" for consistency.

regimen" notifies the court and the Attorney General of "any failure of the person to comply with the regimen," or (2) there is "other probable cause to believe that the person has failed to comply with the prescribed regimen." *Id.*

The court then must hold a hearing to determine "whether the person should be remanded to a suitable facility on the ground that, in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, his continued release" would pose "a substantial risk of bodily injury to another person or serious damage to property of another." *Id.* This is a two-step inquiry, in which the court must find that the person violated his regimen *and* separately find, in light of this violation, that he now poses a serious danger to other people and to their property.

B. Factual And Procedural Background

In 2009, Danny Roney was found not guilty by reason of insanity of mailing threats to his former defense lawyer in violation of 18 U.S.C. § 876(c).[2] Under § 4243, the U.S. District Court for the District of South Carolina ordered Roney committed to a medical facility for treatment of his mental illness.

In 2012, the district court ordered Roney's conditional discharge from the facility under § 4243(f) based on the medical-facility director's certification and regimen. In 2014 and 2016, the district court modified Roney's discharge conditions. *See* § 4243(f). Then, just a few days after the court's 2016 modification, Roney traveled from South Carolina to North Carolina, where he robbed a store at gunpoint. The U.S. Probation Office for the

[2] Roney suffers from delusional disorder and antisocial personality disorder. His delusions sometimes make him act violently.

District of South Carolina sought to revoke Roney's conditional discharge. The petition explained that Roney violated his discharge conditions by: (1) committing new criminal conduct, (2) possessing a weapon, and (3) leaving South Carolina without permission. Only the second violation—for possessing a weapon—appears in Roney's conditional-discharge order. The first and third were never imposed as conditions.

Roney was arrested and indicted for the robbery in North Carolina. He ultimately pled guilty (without raising an insanity defense) and received a 120-month prison sentence, which was set to be completed in late September 2024. In the meantime, the district court in South Carolina postponed conditional-discharge revocation proceedings until the end of Roney's prison sentence.

In 2024, as the end of Roney's prison term neared, the district court in South Carolina moved forward with conditional-discharge revocation proceedings. Roney contested the district court's authority to do this. First, Roney rightly pointed out that two of the Government's three cited reasons for revoking his discharge were absent from his conditional-discharge order. Second, he argued that the only condition he violated—which prohibited "possess[ing] a weapon of any kind"—was not part of his treatment regimen but was an "ancillary condition" that the court had no authority to impose. J.A. 40.[3] Third,

[3] Roney also challenged three discharge conditions not relevant here as unlawful "ancillary conditions." These conditions required Roney to (1) "be supervised by the [U.S. Probation Office] to ensure compliance with all conditions of release," (2) "not have any written or verbal contact whatsoever with the victim of the instant [threat-making] offense or with any of the female guards mentioned in the letters [Roney had sent]," and (3) "abstain from alcohol and illegal drugs, and . . . comply with random urinalysis to monitor his use, if requested by the [U.S. Probation Office]." J.A. 40, 59.

Roney argued that even if the court could impose the weapon-possession condition, it could not revoke his discharge for violating it, because § 4243(g) only authorizes revocation for a "failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment." § 4243(g).

In response, the Government advocated for a broader reading of § 4243, giving district courts the power to both impose ancillary conditions and revoke conditional discharge in light of violations of those conditions. The district court agreed with the Government's interpretation, holding that it could place ancillary conditions on conditional discharge and revoke discharge based on their violation. After the hearing, the court revoked Roney's conditional discharge, concluding that (1) Roney "failed to comply with his treatment regimen, including conditions reasonably related thereto" by carrying a firearm during the 2016 robbery, and (2) Roney's "conditional release would pose a substantial risk of bodily injury to another" based on his commission of the robbery and subsequent violent and erratic conduct in prison. J.A. 192–93. Roney timely appealed.

II. DISCUSSION

A. A Court May Revoke Conditional Discharge Only Based On A Failure To Comply With The Regimen Of Care or Treatment

Roney's appeal presents a statutory-interpretation question, which we review de novo. *United States v. Turner*, 389 F.3d 111, 119 (4th Cir. 2004). The question is whether the court's power to revoke conditional discharge under § 4243 is limited to situations where a person violates his "prescribed regimen of medical, psychiatric, or psychological care or treatment." Or, put differently, may the court revoke conditional discharge based

on a violation of a condition ancillary to the regimen?[4] This Court has never addressed the question.[5] Today we hold that § 4243(g) permits revocation only based on a failure to comply with the treatment regimen.

1. Text and context

We interpret statutes according to their ordinary meaning at the time of enactment. *Wis. Cent. Ltd. v. United States*, 585 U.S. 274, 277 (2018). This, of course, means that we look first at the text itself. *Sw. Airlines Co. v. Saxon*, 596 U.S. 450, 457 (2022). And to understand that text, we also look at the statutory context. *United States v. Smith*, 919 F.3d 825, 837 (4th Cir. 2019). The plain meaning of § 4243(g)'s text, and the provision's

[4] Roney did not contest the validity of his discharge conditions when the district court imposed them in 2016. But the Government has not suggested that by failing to appeal the conditions back then, Roney has forfeited his right to challenge revocation of his conditional discharge now. "By making no such argument in its brief, the government has forfeited any such forfeiture argument." *United States v. Newby*, 91 F.4th 196, 200 n.* (4th Cir. 2024). Therefore, we exercise our discretion to answer the question of whether a court may revoke conditional discharge only based on a treatment-regimen violation.

This question is distinct from asking whether a court may impose ancillary conditions in the first place. And to the extent Roney challenges certain conditions as invalid independent of his conditional-discharge revocation, Roney is too late. *See United States v. Johnson*, 138 F.3d 115, 117–18 (4th Cir. 1998); Fed. R. App. P. 4(b)(1)(A)(i). Any challenge to the pure imposition of conditions needed to occur when the court imposed them. So we do not review Roney's challenge to other conditions. And we do not directly review the district court's power under § 4243(f) to initially impose the condition prohibiting Roney from possessing a weapon. But interpreting § 4243(g) in this timely challenge to Roney's discharge revocation requires us to consider the statutory context, *Davis v. Mich. Dept. of Treasury*, 489 U.S. 803, 809 (1989), which includes § 4243(f).

[5] The Government argues that we are bound to hold § 4243 permits ancillary conditions under this Court's precedent in *United States v. Perkins*, 67 F.4th 583 (4th Cir. 2023). Not so. In *Perkins*, we did not consider the validity of ancillary conditions under § 4243, and our holding did not rely on their validity. Any allusions to ancillary conditions in the *Perkins* opinion are *dicta*.

context within the broader Comprehensive Crime Control Act of 1984, indicate that courts may revoke conditional discharge only based on a failure to comply with the "prescribed regimen of medical, psychiatric, or psychological care or treatment."

Under § 4243(g), the court may order a conditionally discharged person arrested and begin revocation proceedings if the person's medical director notifies the court of "any failure of the person to comply with *the regimen*" or if there is "other probable cause to believe that the person has failed to comply with the *prescribed regimen*." Then, again invoking the regimen, the statute permits revoking conditional discharge only "on the ground that, in light of his failure to comply with the *prescribed regimen* of medical, psychiatric, or psychological care or treatment, his continued release" would pose a substantial risk of harm. *Id.* (emphasis added).

The plain text of § 4243(g) is clear: Regimen noncompliance is a statutory prerequisite to revocation. The statute repeats that requirement at each stage of the revocation process. Probable cause, the revocation hearing, and remand all turn on a failure to comply with "the prescribed regimen." We presume that Congress "says in a statute what it means and means in a statute what it says there," *Conn. Nat'l Bank v. Germain*, 503 U.S. 249, 253–54 (1992), and we "ordinarily resist reading words or elements into a statute that do not appear on its face," *Bates v. United States*, 522 U.S. 23, 29 (1997). Section 4243(g) does not permit revocation based on a "failure to comply with any condition." Nor does it trigger revocation based on a "failure to comply with the prescribed regimen or any other condition imposed by the court." It demands a "failure to comply with the *prescribed regimen*."

The language of § 4243(f), § 4243(g)'s next-door neighbor, supports this interpretation. It authorizes conditional discharge "under a prescribed regimen of medical, psychiatric, or psychological care or treatment," requires the court to order compliance with that regimen "as an explicit condition of release," and permits the court to "modify or eliminate the regimen" at "any time." 18 U.S.C. § 4243(f). It does not mention conditions beyond "the prescribed regimen of medical, psychiatric, or psychological care or treatment." Section 4243(g) then uses the same term—"the prescribed regimen"—to define the revocation trigger.

And if there were any doubt, the broader Comprehensive Crime Control Act of 1984, which contains § 4243(g),[6] supports reading § 4243(g) to limit revocation to the textually specified failure to comply with the prescribed regimen. *See* Pub. L. No. 98-473, § 4243, 98 Stat. 1976, 2059–61 (1984). In § 3583 of the Act, which governs supervised release after criminal incarceration, Congress permits revocation when the defendant violates "a condition of supervised release." § 3583(e), 98 Stat. 1976, 1999–2000 (codified at 18 U.S.C. § 3583(e)(3)). This corresponds to § 3583(d)—the equivalent of § 4243(f), governing discharge-condition imposition—directing that district courts impose certain mandatory release "conditions" and permitting the court to impose "any other condition [of supervised release] it considers to be appropriate" provided no exceptions apply.

[6] This single bill encompassed both the Sentencing Reform Act of 1984 (which included 18 U.S.C. § 3565 and § 3583, governing revocation of probation and supervised release, respectively), and the Insanity Defense Reform Act of 1984 (which included § 4243, the provision at issue here). *See* Comprehensive Crime Control Act of 1984, Pub. L. No. 98-473, 98 Stat. 1976, 1987–2040, 2057–68 (1984) (citing to the Sentencing Reform Act and the Insanity Defense Reform Act, respectively).

Similarly, § 3565, governing revocation of probation after a criminal conviction, permits revocation "[i]f the defendant violates a condition of probation at any time." § 3565(a), 98 Stat. 1976, 1995. And § 3563 grants a court the authority to impose both mandatory and optional "conditions" on probation. So these provisions revolve around imposition of *conditions* and revocation based on *conditions*. In contrast, § 4243(g)'s text authorizes revocation only after *regimen* violations, not simply *condition* violations.[7] This contrast matters: When Congress includes particular language in one provision and different language in another, courts presume the difference is intentional. *Duncan v. Walker*, 533 U.S. 167, 173 (2001) ("It is well settled that where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion."); *Bittner v. United States*, 598 U.S. 85, 94 (2023).

Congress knows how to specify which actions trigger revocation proceedings. In the supervised-release and probation statutes, it expressly based revocation on condition violations. In § 4243, it didn't. Instead, it connected revocation to violations of the prescribed regimen. *See United States v. Crape*, 603 F.3d 1237, 1246 (11th Cir. 2010). Read as a whole and in context, § 4243(g) ties revocation to failures to comply with the

[7] Supervision of a person conditionally discharged under § 4243 is limited "to the degree required by the *regimen of care or treatment* ordered by the court as a condition of release." 18 U.S.C. § 3603(8)(A) (emphasis added). But that supervising officer must also "report any violation of the *conditions of release*." § 3603(8)(B) (emphasis added). Both of these provisions were added by Congress in 1992. *See* Federal Courts Administration Act of 1992, Pub. L. No. 102-572, § 701(a), 106 Stat. 4506, 4514 (1992). Thus, they do not shed much light on the meaning of the earlier enacted § 4243(g). Comprehensive Crime Control Act of 1984, Pub. L. No. 98-473, § 4243, 98 Stat. 1976, 2059–61 (1984).

regimen and to nothing else. And when Congress provides specific instructions—here, for when a court may revoke conditional discharge—courts must follow them. Statutory instructions are not mere suggestions or invitations for judicial innovation.[8]

2. The Government's counterarguments fail

Despite the clear statutory text, most of the circuits[9] to consider this issue have interpreted § 4243 (or its "sister statutes," 18 U.S.C. §§ 4246 and 4248)[10] to permit

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[8] In *United States v. Volungus*, the First Circuit noted that Congress could have spoken even more expressly by saying that compliance with the regimen is the sole condition of discharge. 134 F.4th 637, 646 (1st Cir. 2025). True enough. "But when we interpret a statute, we cannot allow the perfect to be the enemy of the merely excellent." *Tapia v. United States*, 564 U.S. 319, 328 (2011). Congress need not negate every unmentioned alternative when the operative provision affirmatively identifies the violation that permits revocation. Section 4243(g) does that work by tying arrest, hearing, and remand to failure to comply with the prescribed regimen.

[9] The First, Seventh, Eighth, and Ninth Circuits have adopted the broad reading of § 4243's language, recognizing ancillary conditions. *See United States v. Volungus*, 134 F.4th 637 (1st Cir. 2025) (permitting imposition of ancillary conditions under § 4248 and discussing revocation); *United States v. Jain*, 174 F.3d 892 (7th Cir. 1999) (permitting the imposition of ancillary conditions under § 4243); *United States v. Franklin*, 435 F.3d 885 (8th Cir. 2006) (permitting revocation based on ancillary-condition violations under § 4246, and relying on the power to impose such conditions in reaching its holding); *United States v. Phelps*, 283 F.3d 1176 (9th Cir. 2002) (permitting imposition of ancillary conditions under § 4243 and stating such conditions may trigger revocation). Only the Eleventh Circuit has adopted the narrow reading, permitting the imposition of only regimen conditions and revocation based on only regimen violations. *Crape*, 603 F.3d at 1244.

[10] We refer to § 4243, § 4246, and § 4248 as "sister statutes" because they should be interpreted together, or more formally, "*in pari materia*." Sections 4243 and 4246 are certainly *in pari materia*, as they are intimately affiliated with each other, use identical language, provide for civil commitment of insane defendants, and were passed together as part of the Comprehensive Crime Control Act of 1984.

And there are reasons to cautiously read § 4248 *in pari materia* with § 4243 and § 4246, even though § 4248 was passed decades later. Section 4248, passed in 2006 as part of the Adam Walsh Child Protection and Safety Act, uses the same language as § 4243 (Continued)

revocation of conditional discharge based on ancillary-condition violations (or to at least permit imposition of ancillary conditions in the first place). But that reading is incorrect.

The broader reading rests mainly on § 4243(f)(2)(B)'s use of the indefinite article "an." Because the statute requires compliance with the regimen as "*an* explicit condition of release"—not "*the*" condition of release—those courts reason that Congress left room for other conditions. *United States v. Jain*, 174 F.3d 892, 898 (7th Cir. 1999). And since the statute does not expressly prohibit the imposition of ancillary conditions—indeed, the text implies their existence—the statute must permit it. *Id.* These courts (either directly or by implication) then leverage that conclusion to find that § 4243(g) permits (or at least does not prohibit) revocation for failure to comply with ancillary conditions: "[T]he authority to revoke a conditional release for non-compliance with a prescribed regimen of care or treatment does not imply the absence of authority to sanction violations of other conditions of release that are properly imposed." *United States v. Franklin*, 435 F.3d 885, 890 (8th Cir. 2006).

So this must mean that in these Circuits, district courts may impose whatever conditions they wish, so long as they do not violate the Constitution or other law, right? No. Indeed, all the courts that have adopted this interpretation have also held that "any additional conditions imposed must be *related to* the mental illness." *United States v. Phelps*, 283 F.3d 1176, 1186 (9th Cir. 2002); *see also Jain*, 174 F.3d at 898; *Franklin*, 435

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and § 4246 to govern civil commitment of sexually dangerous persons. *See United States v. Comstock*, 560 U.S. 126, 142 (2010) (recognizing all three provisions as part of the same statutory scheme).

F.3d at 889; *Volungus*, 134 F.4th at 648. "[B]ut there is no discernible textual basis for that limitation" in § 4243. *Crape*, 603 F.3d at 1244. These courts read the word "an" to infer additional authority but then divine the limiting principle—relation to mental illness—from statutory purpose rather than from the text. This simultaneously hyper-textual and atextual interpretation is not the best reading of § 4243.

But the real problem is not the existence or non-existence of ancillary conditions in the statutory scheme. The problem is that the text of § 4243(g) permits revocation only for the "failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment." It does not mention revocation based on any other conditions. So even if one interpreted the "an" in § 4243(f)(2)(B) to permit imposing ancillary conditions, the text of § 4243(g) does not permit commencement of revocation proceedings based on ancillary condition violations.

To avoid this plain reading of § 4243(g), the Government would need us to adopt one of two strained readings of the provision. We decline to do so.

Reading one—the easiest to dismiss—requires concluding that § 4243(g) governs the revocation of conditional discharge based on *any* imposed condition. This reading depends on a finding that Congress simply forgot to mention ancillary conditions, or at least to leave room for their implication, when it drafted § 4243(g). So when the statute triggers revocation based on the failure "to comply with the prescribed regimen," a court would read in the words "or has violated any other condition of release." But this does not work, because courts should "ordinarily resist reading words or elements into a statute that do not appear on its face." *Bates*, 522 U.S. at 29; *Dean v. United States*, 556 U.S. 568, 572

(2009). And there is no extraordinary reason to do otherwise here, like an obvious scrivener's error. *See, e.g.*, *Green v. Bock Laundry Mach. Co.*, 490 U.S. 504, 527–30 (1989) (Scalia, J., concurring). "It is not for us to rewrite the statute so that it covers only what we think is necessary to achieve what we think Congress really intended." *Lewis v. City of Chicago*, 560 U.S. 205, 215 (2010).

Reading two relies on similar logic: If § 4243(g) does not mention ancillary conditions, then, just as the power to impose ancillary conditions is implied, the power to revoke discharge based on violations of ancillary conditions is also implied—since the statute does not prohibit it, it's permitted. But this interpretation also has problems. Unlike § 4243(f)(2)(B), which at least contains the word "an" as a potential hook to imply ancillary conditions, § 4243(g) contains no equivalent language suggesting that revocation of discharge may be triggered by anything other than the failure to comply with the regimen. And since § 4243(g) does not contain language to suggest it applies to ancillary conditions, this would mean that it does not govern revocation based on these conditions at all. So what then would govern revocation if § 4243(g) does not? The statute gives no answer. That silence is hard to square with the rest of § 4243, a provision that otherwise provides detailed procedural instructions, and with the broader Comprehensive Crime Control Act, an Act that otherwise does not leave the revocation process to the court's unfettered

discretion. *See* 18 U.S.C. § 3565 (revocation of probation); 18 U.S.C. § 3583(e)–(h) (revocation of supervised release).[11]

Trying another tack, the Government urges us to adopt a broad reading of § 4243 because most other circuits to consider the issue have taken that approach, because it is "reasonable," and because courts "should be allowed" to use ancillary conditions to keep the public safe. Response Br. at 11. But counting noses and deciding what is reasonable cannot overcome the text's plain meaning.[12] A court's job is to identify the *best* reading of a statute, not to rubber stamp what somebody else views as a reasonable reading. *Cf. Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400 (2024). Likewise, we may not amend a statute's text to better serve some perceived purpose, even when that purpose is to protect the public. *See Garland v. Cargill*, 602 U.S. 406, 410 (2024); *id.* at 429 (Alito, J.,

[11] The probation and supervised-release statutes do not leave unstated the procedures for imposition of conditions or revocation. Congress used the same language—"as *an* explicit condition of release"—in the probation statute, supervised-release statute, and conditional-discharge statutes. But it mentions the power to impose optional conditions only in the former two. This omission suggests that the word "an" didn't imply the existence of optional conditions in those statutory schemes. If "an" carried the weight the Government argues it does—not only providing for the imposition of ancillary conditions but also revocation based on their violation—then Congress would not have needed to lay out requirements surrounding optional conditions and their revocation as it did in the supervised-release and probation statutes.

[12] It is also not clear that reading the text to prohibit revocation based on ancillary conditions is unreasonable. Yes, it might seem unreasonable that "the only way [an acquitted person's] conditional release can be revoked is if he didn't follow" his regimen, because it "seems to . . . overlook the possibility that the [regimen wasn't] adequate." *Crape*, 603 F.3d at 1240–41 (internal quotation marks removed). But the law already accounts for inadequate treatment regimens. If the regimen is not working, then it should be modified, which the court has the power to do "*at any time*." § 4243(f) (emphasis added). And if the person recovers from his mental illness and continues to commit bad acts, then he may be prosecuted just like any other criminal.

concurring). Ultimately, the Government's arguments fail to grapple with the flaws in the broad approach taken by other courts—most critically, that they expand the text of § 4243(g) to permit revocation for violating conditions beyond the treatment regimen.[13]

B. The No-Weapons Condition Was Part Of Roney's Prescribed Regimen

Holding that § 4243(g) reaches only regimen violations does not decide this case—it only sharpens the question. If the no-weapons condition was part of Roney's prescribed regimen, then violating it would support revocation. If the condition was merely ancillary, then it would not. We conclude that, on this record, the no-weapons condition was part of his prescribed regimen.

We begin with the plain meaning of the phrase "prescribed regimen of medical, psychiatric, or psychological care or treatment." The statute does not define these terms,

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[13] Were there any doubt, we might turn to the "presumption of constitutionality" to reinforce reading § 4243(g) to permit revocation based only on violations of the prescribed regimen. *See United States v. Davis*, 588 U.S. 445, 463 n.6 (2019) (describing the "presumption of constitutionality," the narrow form of constitutional avoidance, as one "[o]f long lineage," which "holds that courts should, if possible, interpret ambiguous statutes to avoid rendering them unconstitutional").

Civil commitment of an insanity acquittee is not punishment; "[a]s he was not convicted, he may not be punished." *Jones v. United States*, 463 U.S. 354, 369 (1983). Its constitutional justification instead rests on the conjunction of mental illness and dangerousness: Commitment serves "to treat the individual's mental illness and protect him and society from his potential dangerousness." *Id.* at 368. It may not continue based on dangerousness alone once the requisite mental illness is absent. *Foucha v. Louisiana*, 504 U.S. 71, 77–83 (1992). And a nondangerous person, without more, may not be "constitutionally confine[d]" if he "is capable of surviving safely in freedom by himself" or with the help of responsible loved ones. *O'Connor v. Donaldson*, 422 U.S. 563, 576 (1975).

Reading § 4243(g) to permit revocation of conditional discharge in light of ancillary condition violations would seemingly allow courts to re-hospitalize insanity acquittees without a finding of mental illness. *See Foucha*, 504 U.S. at 77–83. But given the clear text of § 4243(g), we need not resolve this issue.

so we seek their ordinary meaning at the time of enactment. The phrase contains two distinct requirements. "Prescribed" describes how the regimen becomes legally operative. "Regimen of medical, psychiatric, or psychological care or treatment" describes the regimen's substance and purpose.

Start with "prescribed." Under § 4243(f), the facility director prepares a regimen for the acquittee and certifies that it is appropriate for that purpose. The court must then find the regimen appropriate and expressly order the acquittee to comply with it as a condition of discharge. § 4243(f). A regimen is therefore "prescribed" when it has been prepared for the acquittee, certified as appropriate by the facility director, found appropriate by the court, and ordered as a condition of release. *Id.*

"Regimen of medical, psychiatric, or psychological care or treatment," in turn, limits what may be prescribed. The ordinary meaning of "regimen" is broad enough to include a structured course of living designed to preserve or restore health.[14] And "medical, psychiatric, or psychological care or treatment" is not confined to medication

[14] A regimen is "[t]he regulation of such matters as have an influence on the preservation or restoration of health; a particular course of diet, exercise, or mode of living, prescribed or adopted for this end." *Regimen*, *Oxford English Dictionary* (2d ed. 1989).

Dictionaries "require careful use and healthy skepticism." *United States v. Ward*, 972 F.3d 364, 370 n.4 (4th Cir. 2020); *see also Dolan v. U.S. Postal Serv.*, 546 U.S. 481, 486 (2006); *Davidson v. United Auto Credit Corp.*, 65 F.4th 124, 129 (4th Cir. 2023). But here, we find they reflect the ordinary and uncontested meaning of these terms.

and office visits. It may include structured conditions that help manage symptoms, reduce triggers, and permit safe community functioning.[15]

But the statutory words still impose limits. The regimen must serve two related purposes. First, each regimen condition must be part of care or treatment for the "mental disease or defect,"[16] not merely a convenient restriction designed to protect the public. Second, viewed as a whole, the regimen must mitigate the danger arising from that disease or defect that justifies commitment and continued supervision.

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[15] Medical means "[p]ertaining, relating or belonging to the study and practice of medicine, or the science and art of the investigation, prevention, cure, and alleviation of disease." *Medical*, *Black's Law Dictionary* (5th ed. 1979); *see also Medical*, *Medicine*, *Oxford English Dictionary* (2d ed. 1989). Psychiatric means "[o]f or pertaining to psychiatry" and psychiatry means "[t]he medical treatment of diseases of the mind." *Psychiatric*, *Psychiatry*, *Oxford English Dictionary* (2d ed. 1989). Psychological means "[o]f, pertaining to, or of the nature of psychology," and psychology means "[t]he science of the nature, functions, and phenomena of the human mind." *Psychological*, *Psychology*, *Oxford English Dictionary* (2d ed. 1989). Care is "[w]atchful attention; concern; custody . . . preservation; security; support." *Care*, *Black's Law Dictionary* (5th ed. 1979); *see also Care*, *Oxford English Dictionary* (2d ed. 1989). And treatment is "[a] broad term covering all the steps taken to effect a cure of an injury or disease; including examination and diagnosis as well as application of remedies." *Treatment*, *Black's Law Dictionary* (5th ed. 1979); *see also Treatment*, *Oxford English Dictionary* (2d ed. 1989).

[16] Section 4243 uses the phrase "mental disease or defect" throughout to refer to the ailment being treated by the regimen. Mental means "[r]elating to or existing in the mind; intellectual, emotional, or psychic, as distinguished from bodily or physical." *Mental*, *Black's Law Dictionary* (5th ed. 1979); *see also Mental*, *Oxford English Dictionary* (2d ed. 1989). A "disease" is a "[d]eviation from the healthy or normal condition of any of the functions or tissues of the body. . . . Illness; sickness; disorder; malady; bodily infirmity. An illness or an abnormal state having a definite pattern of symptoms." *Disease*, *Black's Law Dictionary* (5th ed. 1979); *see also Disease*, *Oxford English Dictionary* (2d ed. 1989). And a defect is "[t]he want or absence of something necessary for completeness or perfection." *Defect*, *Black's Law Dictionary* (5th ed. 1979); *see also Defect*, *Oxford English Dictionary* (2d ed. 1989).

The second requirement follows from § 4243's structure. To be sure, the statute doesn't authorize commitment of an insanity acquittee merely to treat a "mental disease or defect." Instead, an insanity acquittee is committed if he cannot prove that his release "would not create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease or defect." § 4243(d). Section 4243(f) uses that same risk to distinguish unconditional from conditional discharge. A court must order *unconditional* discharge if the acquittee has recovered enough that release would no longer create the specified risk. § 4243(f)(1). But if compliance with a prescribed regimen would eliminate that risk, the court must order *conditional* discharge under that regimen. § 4243(f)(2). Even more, a district court cannot revoke conditional discharge simply because an acquittee fails to comply with the prescribed regimen. Rather, it may only do so after determining that "in light of his failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment, *his continued release would create a substantial risk of bodily injury to another person or serious damage to property of another*." § 4243(g). Taken together, the prescribed regimen must therefore treat the acquittee's mental disease or defect, and, viewed as a whole, mitigate the resulting danger enough to permit his release.

That does not mean every condition must independently alleviate the acquittee's symptoms or eliminate the statutory danger. A regimen is a course of care composed of complementary parts. The question is whether a particular condition functions as part of that course of care, not whether the condition would constitute medical or psychiatric treatment in isolation. At the same time, a court cannot simply add any useful, convenient,

or protective restriction merely by including it in the discharge order where it has no treatment function within the prescribed regimen.

The Fifth Circuit recognized this distinction in *United States v. Washington*, when it found a condition requiring the defendant to live in a group home was permissible because it "was a stated element of his doctors' plan for maximizing his success." 764 F.3d 491, 499 (5th Cir. 2014). The court explained that the justification for imposing the condition was evidence that it was "a component of the prescribed regimen," not ancillary to it. *Id*. As the doctors had explained, placing the defendant in a group home, and the social support that came with it, served "*to maximize his success in the community.*" *Id.* (emphasis in original). Care or treatment of mental illness is not just about the patient's internal mental well-being—it can also consider his ability to successfully participate in the community as part of treatment. So the text permits regimen conditions beyond medication and talk therapy.

But is a condition prohibiting a person from possessing a weapon part of a regimen of medical, psychiatric, or psychological care? It depends. In Roney's case, we conclude that the district court imposed the no-weapons condition as part of the regimen. The facility director's December 2011 certification included the proposed prescribed regimen and "request[ed] the court immediately order that [Roney] be conditionally released under" all of its ten enumerated conditions. *See* ECF No. 122-1, at 1. One required Roney not to "possess a weapon of any kind." *Id.* at 2. Acting on that certification, the district court ordered Roney conditionally released under substantially similar conditions, including that he "[r]efrain from possessing at any time, any actual or imitation firearm, destructive

device or other deadly weapon." J.A. 24. The no-weapons condition did not originate with the district court as an ancillary restriction. It was an express component of the prescribed regimen prepared and certified by the facility director and approved and ordered by the court.

The contemporaneous record also confirms the no-weapons condition's place in that regimen. Roney suffers from delusional disorder, and the record linked his illness to violent behavior, sometimes involving weapons. He was found not guilty by reason of insanity of three counts of sending threatening communications through the mail. At Roney's initial institutionalization hearing, the court and witnesses likewise discussed his illness-driven violence, including incidents involving weapons. And one of Roney's treating psychiatrists relied on the discharge conditions, which included the weapons restriction, in concluding that Roney could be safely discharged. Prohibiting Roney from possessing a weapon thus served a treatment function—and so formed part of the treatment regimen.

The no-weapons condition did not, in and of itself, eliminate Roney's delusions. It did not have to. It was one component of a broader regimen that treated his disorder and, as a whole, mitigated the resulting danger enough to permit his release. By limiting Roney's access to a means through which his illness had produced or threatened violence, the condition contributed directly to the regimen's risk-reducing function. On this record, the no-weapons condition was therefore part of Roney's prescribed regimen, not an ancillary condition of release.

Because the no-weapons condition was objectively part of Roney's treatment regimen, the district court had statutory authority to revoke Roney's conditional discharge. Roney possessed a firearm during the robbery, which violated a condition of his prescribed regimen of psychiatric care or treatment. Section 4243(g) permits revocation on that ground.[17]

* * *

Roney is right about the statute. A court may revoke conditional discharge under § 4243(g) only for a failure to comply with the prescribed regimen of medical, psychiatric, or psychological care or treatment—not for the breach of some freestanding condition. But he is wrong about the no-weapons condition. A regimen of psychiatric care is not confined to medication and the therapist's office; when a man's delusions turn violent through weapons, keeping weapons from him is part of treating the illness, not a precaution standing apart from it. Roney's discharge was revoked for violating his regimen. That is what the statute permits.

AFFIRMED

[17] On appeal Roney challenged whether § 4243 permitted revocation based on his violation of the no-weapons condition. Any other arguments he could have made are forfeited. So we review no other aspects of the district court's decision.

BERNER, Circuit Judge, concurring in part and dissenting in part:

The text of 18 U.S.C. § 4243 plainly permits a court to revoke an individual's release from civil commitment only for failure to comply with a prescribed treatment regimen, not for violations of ancillary conditions of release. I therefore join the cogent statutory analysis set forth in part II.A of the majority opinion. Having so concluded, however, I would remand to the district court to apply the appropriate test in the first instance.

Roney repeatedly argued before the district court—both in motions and at the revocation hearing—that his conditional release may not be revoked on the basis of a violation of an ancillary condition of release. Rather, revocation is permissible only for violation of a treatment-related condition. In revoking Roney's conditional release, the district court expressly rejected this position and ruled that it had the authority to revoke conditional release violations of an ancillary condition, so long as the condition was related to the prescribed treatment. The district court thereby adopted the very approach that this court now rejects. Furthermore, the district court explicitly declined Roney's request to make findings of fact regarding his failure to comply with his treatment regimen, as opposed to ancillary conditions of release.

Nor did the parties argue on appeal that the no-weapons condition was part of Roney's prescribed regimen of medical, psychiatric, or psychological treatment. Yet, without the benefit of relevant factual findings by the district court or briefing from the parties on this issue, the majority concludes that the district court imposed the no-weapons condition as part of Roney's prescribed treatment regimen. *See* Maj. Op. at 17–22 (Part II.B). In reaching this conclusion, the majority conducts its own fact finding, digging up a

document from the original certification proceedings that had not been included in the record on appeal.

It is axiomatic that "we are . . . a 'court of review, not first view.'" *Public Int. Legal Found., Inc. v. Wooten*, 164 F.4th 362, 366 (4th Cir. 2026) (quoting *Roberts v. Carter-Young, Inc.*, 131 F.4th 241. 252 (4th Cir. 2025)). I see no reason to depart from this longstanding principle here. As the majority correctly notes, whether a condition of release is a part of an individual's prescribed treatment regimen is a fact-specific inquiry. *See* Maj. Op. at 20. The district court's failure "to make *any* findings" as part of the revocation hearing is generally "sufficient, in and of itself, to require remand." *United States v. Perkins*, 67 F.4th 583, 647 (4th Cir. 2023) (Agee, J., concurring in the judgment).

Our ruling today clarifies the framework for determining when conditional release may be revoked. Neither the district court nor the parties had the benefit of this framework during the prior proceedings. Because the record is underdeveloped, vacatur and remand are the appropriate next steps. *See Moody v. NetChoice, LLC*, 603 U.S. 707, 726 (2024).

Finally, this case presents an issue of grave importance: the requirements necessary to remove an individual from his community and to return him to civil detention, perhaps indefinitely. This is not a determination to be made lightly. To the contrary, its gravity counsels in favor of restraint and due process.

Because I am of the view it is the district court that should, in the first instance, determine whether revocation is appropriate, I respectfully dissent in part.