

24-3013

United States v. Martin

United States Court of Appeals For the Second Circuit

August Term 2025

Argued: February 13, 2026

Decided: August 21, 2026

No. 24-3013

UNITED STATES OF AMERICA,
Appellee,

v.

ADELLE ANDERSON,
Defendant,

CORY MARTIN,
Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of New York
No. 20-cr-549, Ann M. Donnelly, *Judge*.

Before: CALABRESI, LIVINGSTON, and NATHAN, *Circuit Judges*.

Defendant-Appellant Cory Martin appeals from a judgment of the United States District Court for the Eastern District of New York (Donnelly, *J.*), convicting him, after a jury trial, of murder-for-hire, conspiracy to commit murder-for-hire, fraud, and identity theft. On appeal, Martin argues that (1) the evidence was insufficient to support his murder-for-hire convictions, (2) the district court's jury instructions inadequately explained the consideration element of murder-for-hire, (3) the district court erred in delivering an aiding-and-abetting instruction with respect to the murder-for-hire count, and (4) his other convictions should be vacated due to spillover prejudice. We hold that Martin's murder-for-hire conviction was supported by sufficient evidence; the jury instructions accurately stated the elements of murder-for-hire; the district court did not plainly err by failing to give an additional clarifying instruction; the district court's aiding-and-abetting instruction was justified based on the evidence; and there was no error due to spillover prejudice. We therefore **AFFIRM** the judgment of conviction on all counts.

Judge Calabresi dissents in a separate opinion.

EMILY DEAN (Amy Busa, Andres Palacio, and Tanya Hajjar, *on the brief*), Assistant United States Attorneys, for Joseph Nocella, Jr., United States Attorney for the Eastern District of New York, Brooklyn, NY, *for Appellee*.

JANEANNE MURRAY, Murray Law LLC, New York, NY, *for Defendant-Appellant*.

NATHAN, *Circuit Judge*:

In April 2018, Defendant-Appellant Cory Martin strangled Brandy Odom, dismembered her body with power tools he purchased from Home Depot, and scattered her remains throughout a public park in Brooklyn. Martin did this because his then-girlfriend, Adelle Anderson, had taken out life insurance policies on Odom and promised to give Martin the proceeds once Odom was dead. After the murder was complete, Anderson attempted multiple times to collect on the fraudulent policies, though her efforts were unavailing. Police eventually discovered Odom's remains, convinced Anderson to cooperate, and prosecuted Martin for, among other crimes,

murder-for-hire in violation of 18 U.S.C. § 1958. Following a jury trial in which Anderson was the Government's star witness, Martin was convicted on all counts.

At trial, Martin argued that Anderson masterminded and executed Odom's murder, and that she had fabricated whole cloth Martin's role in the scheme. The jury rejected that theory, concluding that, as required by § 1958, Martin murdered Odom in exchange for Anderson's promise of insurance proceeds.

On appeal, Martin advances a different theory. He argues that murder-for-hire requires an employee-employer relationship and that he and Anderson did not have one. Instead, Martin claims that Anderson acted entirely at his direction, in part because she suffered horrific abuse at his hands. Anderson was therefore either acting under duress, or at most was Martin's co-conspirator. But she did not "hire" Martin to do anything, and Martin therefore cannot have committed "murder-for-hire."

We reject this argument. The murder-for-hire statute does not require a formal employment relationship; it requires that a murder constituted consideration for a promise to pay something of pecuniary value. The meaning of consideration in this context is the same as at common law, referring to the age-old concept of reciprocal inducement. That is, the killer's promise to kill must induce the payor's promise to pay, and the payor's promise to pay must induce the killer's promise to kill. We hold that the Government presented sufficient evidence in this case for a reasonable jury to conclude, as it did, that Anderson and Martin's arrangement met this definition of consideration.

We also hold that the district court's jury instructions accurately stated the elements of murder-for-hire; the district court did not plainly err by failing to give an additional clarifying instruction; the district court's aiding-and-abetting instruction was justified based on the evidence; and there was no error due to spillover prejudice. We therefore AFFIRM the judgment of conviction on all counts.

BACKGROUND¹

Cory Martin and Adelle Anderson met in high school in the early 2000s and commenced a decade-long "on and off" relationship during which Martin continuously sexually and physically abused Anderson. App'x at 117–18. Between 2015 and 2017, Anderson took out life insurance policies on various individuals with the express intention that she would give the policy proceeds to Martin if Martin killed the insured individuals. One of those insured individuals was Brandy Odom.

Before Martin and Anderson targeted Odom, however, they

¹ The following facts are drawn from the evidence presented at Martin's trial. On review for sufficiency of the evidence, "we are to view the evidence, whether direct or circumstantial, in the light most favorable to the government," and "defer to the jury by resolving all inferences from the evidence and issues of credibility in favor of the verdict." *United States v. Hardwick*, 523 F.3d 94, 100 (2d Cir. 2008) (citation modified). "Any lack of corroboration goes to the weight of the evidence, not to its sufficiency, and a challenge to the weight of the evidence is a matter for argument to the jury, not a ground for reversal on appeal." *United States v. Gordon*, 987 F.2d 902, 906 (2d Cir. 1993).

first set their sights on a man named Alex Villard. Anderson and Villard had dated in the mid-2010s and had a child together. But Anderson later left Villard in order to pursue a relationship with Martin. Eventually, Anderson and Martin both came to “want [Villard] to die.” App’x at 127. Martin devised the first insurance scheme in service of that goal. The plan was straightforward: Anderson would take out insurance policies in Villard’s name; Martin would kill Villard; and Anderson would give the insurance proceeds to Martin. The “point” of the scheme was that “[Martin] was not going to get rid of [Villard] who was [Anderson’s] problem and . . . not get paid for it or benefit some way from it.” *Id.* at 127. Although Anderson took out an insurance policy in Villard’s name in 2016, Martin never went through with Villard’s murder because Anderson “kept getting cold feet[.]” *Id.* at 129–30.

Around the same time, Martin also instructed Anderson to apply for insurance policies on both of Anderson’s children, which she did in 2016 and 2017. But while Anderson actively wanted Martin to kill Villard, at least initially, she did not want Martin to kill her children. Accordingly, in order to pressure Anderson to take out the policies on her children, Martin threatened Anderson and, on at least one occasion, subjected her to violent physical abuse. Anderson ultimately acquiesced and applied for the policies. But she continued to resist Martin’s murderous designs on her children. In order to protect her younger son, Anderson sent him to live with Anderson’s friends in Atlanta for roughly a month and a half, after which Villard secured full custody. Anderson’s older son stopped living with her full time as well, primarily staying with Anderson’s mother and sister

instead.

At some point, Anderson and Martin's sights shifted to Odom. Anderson had first befriended Odom while Anderson was living with Villard. Anderson and Odom bonded over their shared occupation—sex work—and Odom moved in with Anderson and Villard for a time. When Anderson later left Villard and moved in with Martin, so did Odom. At first, Anderson and Odom worked together with Martin acting as their pimp. Later, at Martin's direction, Anderson stopped performing sex work herself and shifted instead to managing Odom's sex work.

In early 2017, Martin suggested to Anderson that Odom should become the target of a new insurance-murder scheme. Anderson agreed and took out the first of two insurance policies in Odom's name in March of that year. Anderson filled out the application and listed herself as the beneficiary, falsely claiming to be Odom's sister. Nine months later, Anderson took out another insurance policy in Odom's name. She again filled out the application herself, listed herself as the beneficiary, and pretended to be Odom's sister. Anderson's plan was to transfer all of the insurance proceeds to Martin upon Odom's death.

At trial, Anderson testified that she "did not like" Martin's plan to kill Odom in exchange for insurance proceeds. *Id.* at 141. But Anderson also testified to various facts from which the jury could have inferred that she still wanted the murder to occur. For example, Anderson viewed some version of the insurance-murder scheme as inevitable by 2017 and understood killing Odom to be "an easier option" than the other potential targets. *Id.* Anderson also may have

wanted Martin to commit the murder so that the couple could jointly benefit from the insurance proceeds, including by improving their precarious housing situation. Finally, Anderson was informed by one of her sons that he had witnessed Odom performing oral sex on Martin, though Anderson testified that she “did not believe” her son’s story. App’x at 205. Anderson therefore may have wanted Martin to kill Odom out jealousy or a desire for revenge. Anderson also at least once encouraged Martin to “try n do something with that bitch” before the insurance policies in Odom’s name expired. Gov. App’x at 414.

Martin strangled Odom to death in April 2018. Following the murder, Martin picked Anderson up from Anderson’s mother’s house, along with Anderson’s infant daughter. The couple went to dinner at Red Lobster. They then purchased cleaning supplies at Walmart and returned to Martin’s house, where Martin proceeded to dismember Odom’s corpse with tools that he had purchased from Home Depot. Martin and Anderson then made two trips together to Canarsie Park, Brooklyn, to dispose of the remains.

After initially refusing to cooperate, Anderson reversed course and pled guilty to, among other counts, murder-for-hire in violation of 18 U.S.C. § 1958. She testified at Martin’s trial pursuant to a cooperation agreement, and was ultimately sentenced to five years’ probation without any custodial sentence. At her sentencing hearing, the district court acknowledged that she was “the victim of sustained and serious sexual, physical, and psychological abuse,” but also emphasized that “there were so many off-ramps here” that Anderson declined to take. Supp. App’x at 25–26. The court specifically

observed that Anderson participated in the murder scheme “for over a year,” and that she “did nothing to warn [Odom], even when [Anderson] was safe at [her] family’s house.” *Id.* at 24.

Following a two-week jury trial, where Anderson’s testimony was critical, Martin was convicted of murder-for-hire and murder-for-hire conspiracy, in violation of 18 U.S.C. § 1958(a), along with various counts of fraud and identity theft related to the fraudulent insurance policies. The court sentenced Martin to concurrent terms of life imprisonment on the § 1958 convictions, concurrent terms of 20 years’ imprisonment on the two fraud counts, and two years’ imprisonment on the identity theft count. Martin timely appealed.

DISCUSSION

A. Scope of Section 1958

Because the meaning and scope of § 1958 impacts each of the grounds for appeal, we address the statutory interpretation question first. “[O]ur inquiry begins with the statutory text, and ends there as well if the text is unambiguous.” *BedRoc Ltd., LLC v. United States*, 541 U.S. 176, 183 (2004). That is the case here.

Section 1958 makes it a crime to participate in interstate commerce “with intent that a murder be committed in violation of the laws of any State or the United States as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value[.]” 18 U.S.C. § 1958(a). At issue here is the meaning of “consideration.”

The term “consideration” has a well-settled meaning: “an act or

forbearance or the promise of it done or given by one party in return for the act or promise of another.” *Consideration*, Webster’s Third New Int’l Dictionary 484 (1981); *see also Consideration*, Am. Heritage Dictionary 313 (2d College ed. 1982) (defining consideration as “[p]ayment given in exchange for a service rendered; recompense”). Put differently, consideration means “inducement,” or the “cause, motive, price, or impelling influence which induces” parties to consummate an agreement. *Consideration*, Black’s Law Dictionary (5th ed. 1979). As a leading treatise on contract law explains, “the fundamental and generally accepted idea of consideration” is that “consideration is the exchange or price requested and received by the promisor for its promise.” 3 Williston on Contracts § 7:2 (4th ed. 2026).

We hold that consideration has the same meaning in § 1958. “It is a settled principle of statutory construction that, absent contrary indications, Congress intends to adopt the common law definition of statutory terms.” *Resolution Tr. Corp. v. Diamond*, 45 F.3d 665, 672 (2d Cir. 1995) (citation modified). Of course, § 1958 does not “import all of contract law,” *United States v. Gibson*, 530 F.3d 606, 610 (7th Cir. 2008), nor does it require proof of a legally enforceable contract, *United States v. Hardwick*, 523 F.3d 94, 100 (2d Cir. 2008). But “[w]here Congress borrows terms of art in which are accumulated the legal tradition and meaning of centuries of practice, it presumably knows and adopts the cluster of ideas that were attached to each borrowed word[.]” *Sekhar v. United States*, 570 U.S. 729, 733 (2013) (quotation marks omitted). That principle applies even where such a word is “obviously transplanted from another legal source.” *George v.*

McDonough, 596 U.S. 740, 746 (2022) (quotation marks omitted).

Accordingly, we and every other circuit to discuss the meaning of “consideration” in § 1958 have understood the term in line with “the traditional sense of bargained for exchange, so that there must be a quid-pro-quo (or at least the promise of such) between the parties to the transaction.” *Hardwick*, 523 F.3d at 99–100 (quotation marks omitted); *see also Gibson*, 530 F.3d at 610 (“[C]onsideration retains its contract law meaning of a bargained-for exchange of something of value[.]” (quotation marks omitted)); *United States v. Wicklund*, 114 F.3d 151, 154 (10th Cir. 1997) (same); *United States v. Washington*, 318 F.3d 845, 854 (8th Cir. 2003) (same); *United States v. Hernandez*, 141 F.3d 1042, 1057 (11th Cir. 1998) (same). Section 1958 thus criminalizes “a very limited category of behavior; only those instances in which one party agrees to commit a murder in exchange for another party’s provision (or future promise) of payment.” *United States v. Frampton*, 382 F.3d 213, 217 (2d Cir. 2004).

Up to this point, the parties are largely in agreement as to the meaning of consideration in § 1958. Where they part ways, however, involves the nature of the required “exchange.” *Id.*; *see also Hardwick*, 523 F.3d at 100. Martin contends that such an “exchange” must be more than a mere transfer, requiring instead something akin to an arm’s length “employment relationship.” Appellant’s Br. at 56–57. In Martin’s view, § 1958 incorporates a “‘for hire’ element,” and therefore must “involve[] a hirer/solicitor and a murderer.” Appellant’s March 11 Letter at 1. To that effect, Martin requested a jury instruction that “consideration” must be “offered by one (the solicitor) in exchange for another’s (the murderer’s) agreement to

commit a murder.” App’x at 58.

In the Government’s view, the exchange requires only that the payor’s “payment or promise to pay for the intended murder” was what “caused [the killer] to carry out [the] murder.” Gov. Br. at 33. There need be no “employment relationship” or bargaining in the sense of an ordinary commercial transaction. *Id.* at 34 (quotation marks omitted). Nor is it necessary that the payor solicited the murderer’s participation or initially conceived of the scheme.²

We agree with the Government that nothing in the text of § 1958 suggests that “consideration” requires arm’s length bargaining or a formal employment relationship. After all, “Congress did not aim § 1958 only at murderous businessmen.” *United States v. Phillips*, 929 F.3d 1120, 1124 (9th Cir. 2019). While the title of the statute refers to “Commission of Murder-for-Hire,” 18 U.S.C. § 1958, “[i]t is well established that the title of a statute cannot limit the plain meaning of its text,” *United States v. Epstein*, 620 F.3d 76, 80 (2d Cir. 2010) (quotation marks omitted). Unlike the title, the statutory text refers

² The dissent repeatedly contends that the Government views the statute as requiring only an agreement between the parties rather than an exchange (or promised exchange) of payment for the murder. *See post* at 1, 3–4 & n.1. We understand the Government’s argument differently. In distinguishing several of our prior cases, the Government emphasizes that Anderson and Martin not only agreed to their exchange in advance of the murder, but also that Anderson’s promise “was necessary for Martin’s remuneration for the murder” and therefore that “Martin did not and could not have committed this crime alone.” Gov. Br. at 33. The Government’s statement that “nothing more is required” simply clarifies that § 1958 does not incorporate a separate “for-hire” or “employment” element. *Id.* at 34.

to “consideration,” which plainly encompasses transactions other than hiring an employee. All that is required is that “the consideration and the promise bear a reciprocal relation of motive or inducement: the consideration induces the making of the promise and the promise induces the furnishing of the consideration.” Restatement (Second) of Contracts § 71 cmt. b (1981). “[J]ust as the promisor’s purpose must be to induce an exchange, so the promisee’s purpose must be to take advantage of the proposed exchange.” Farnsworth on Contracts 64 (1982). Thus, while “consideration must not be confounded with motive, . . . it is the essence of a consideration, that, by the terms of the agreement, it is given and accepted as the motive or inducement of the promise.” O.W. Holmes, Jr., *The Common Law* 293 (1882). “The root of the whole matter is the relation of reciprocal conventional inducement, each for the other, between consideration and promise.” *Id.* at 293–94.

We emphasize that no actual, enforceable agreement is required. Rather, “it is the defendant’s intent that controls.” *Hardwick*, 523 F.3d at 100. “According to the plain language of § 1958, the act of traveling in, or using a facility of, interstate commerce, coupled with the *intent* that a murder take place in consideration of anything of pecuniary value, is itself a substantive offense[.]” *Frampton*, 382 F.3d at 217 n.3. “[T]he statutory phrase consideration for a promise or agreement to pay does not create a separate ‘agreement element,’ but rather modifies the type of intent which a defendant must possess, namely, the intent to commit a murder for hire.” *United States v. Dvorkin*, 799 F.3d 867, 875–76 (7th Cir. 2015) (quotation marks omitted) (collecting cases). Thus, if the defendant is

the payor, it is irrelevant whether “the would-be murderer is an undercover agent who by definition never intends to commit the crime.” *Hardwick*, 523 F.3d at 100. Likewise, if the defendant is the murderer, the payor’s subjective motives are irrelevant, except insofar as they illuminate the defendant’s intent. What matters is that the defendant acted on an understanding of his counterpart’s role that satisfies the requirements of § 1958.

In sum, if the defendant is the alleged killer, as was the case here, he violates § 1958 if he (1) intends to commit the murder in order to induce payment by another person, and (2) intends for the expected payment to induce his commission of the murder. That is, the payment (or promise to pay) must not be incidental to the murder—it must both induce and be induced by the murder (or promise to murder).

B. Sufficiency of the Evidence

Applying this interpretation of § 1958 to the facts at hand, we conclude that the evidence was sufficient to support Martin’s murder-for-hire convictions.

In assessing sufficiency, we ask “whether, 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.” *In re Terrorist Bombings of U.S. Embassies in E. Afr.*, 552 F.3d 93, 112 (2d Cir. 2008). We “resolv[e] all inferences from the evidence and issues of credibility in favor of the verdict,” and “may not substitute our own determinations of credibility or relative weight of the evidence for that of the jury.” *Hardwick*, 523

F.3d at 100. “If the court concludes that either of the two results, a reasonable doubt or no reasonable doubt, is fairly possible, the court must let the jury decide the matter.” *United States v. Autuori*, 212 F.3d 105, 114 (2d Cir. 2000) (cleaned up). Thus, “[a]lthough we review a claim of insufficient evidence *de novo*, a defendant challenging his verdict on sufficiency grounds bears a heavy burden.” *Hardwick*, 523 F.3d at 100 (cleaned up).

The evidence here was sufficient for a reasonable juror to conclude that Martin murdered Odom as consideration for Anderson’s promise to pay him insurance proceeds. As we have already explained, it is Martin’s state of mind that matters, not Anderson’s. And it does not matter whether Martin or Anderson initially conceived of the plot. Section 1958 requires only that Martin viewed his participation as a reciprocal exchange for Anderson’s promise to pay. That is, Martin understood his promise to commit the murder as inducement for Anderson’s promise to pay, and understood Anderson’s promise to pay as inducement for his promise to commit the murder.

The Government presented evidence that, from the outset, Martin understood the scheme in exactly this way. Starting with the plot to kill Alex Villard, Anderson testified that “the point of filling out life insurance paperwork” was that “[Martin] was not going to get rid of [Villard] who was my problem and [Martin] not get paid for it or benefit some way from it.” App’x at 127. The later scheme to kill Odom was structured in the same way, and the jury could reasonably have inferred that the promise of insurance proceeds served the same purpose. The Government also presented evidence—text messages

between Martin and Anderson—in which Anderson actively used the prospect of insurance proceeds to incentivize Martin to commit the murder. While not overwhelming, this evidence satisfies the Government’s burden on sufficiency review.

Martin has several responses, none of which persuades us. First, Martin argues that his promise to commit the murder did not induce Anderson’s promise to pay because Anderson’s promise to pay was the result of coercion and abuse. Put differently, Martin argues on appeal that he forced Anderson to participate, and that her participation therefore cannot have constituted “consideration” for anything.³ In making this argument, Martin relies heavily on Anderson’s trial testimony regarding her sexual, emotional, and physical abuse at Martin’s hands. *See, e.g.*, App’x at 118–20, 123, 131–33, 141.

As a threshold matter, we reiterate that Anderson’s motives are not an element of a violation of § 1958. But her motives are relevant to Martin’s understanding of Anderson’s role in the scheme.

We disagree with Martin that the jury was required to conclude from this trial record that Anderson participated in the scheme under

³ At trial, the Government also presented evidence that Martin had attempted to recruit a third-party, Samson Alabi, to commit the murder in exchange for \$25,000. On appeal, however, the Government abandons any argument that Martin’s discussions with Alabi—in which Martin was the solicitor rather than the would-be murderer—were an independently sufficient basis for the jury’s verdict as to § 1958. We therefore deem the argument abandoned and do not address Alabi’s role in the murder scheme in this Opinion. *See United States v. Prawl*, 149 F.4th 176, 187 (2d Cir. 2025).

duress. “The assessment of witness credibility lies solely within the province of the jury, and the jury is free to believe part and disbelieve part of any witness’s testimony.” *United States v. Ware*, 577 F.3d 442, 447 (2d Cir. 2009). The jury was therefore free to reject Anderson’s allegations of abuse, as Martin’s trial counsel strenuously argued it should do on cross-examination and in closing. Moreover, even if the jury did credit Anderson’s general account of abuse, Anderson never testified that Martin forced her to participate in the specific scheme to kill Odom. That contrasts with her testimony that Martin forced Anderson to take out a life insurance policy on one of her own children by “t[ying] [her] up in the basement for three days” and abusing her “until [she] agreed to do it.” App’x at 141.

Assuming that Anderson was abused, the jury still need not have concluded that she participated under duress. As the Government argued at trial, Anderson was “terrified” of Martin but was also someone who “would stand by [Martin] through unthinkable things.” *Id.* at 263. That is, she was both a victim of abuse and a “full-throated participant” in the murder scheme. *Id.* Similarly, as the trial court noted at Anderson’s sentencing, Anderson retained a degree of agency throughout the scheme. Starting with Villard, Anderson exercised control over Martin’s choice of victim, forcing Martin to back down multiple times by “getting cold feet.” App’x at 130. And Anderson participated in the plot to murder Odom for over a year, despite “so many off-ramps” and opportunities for Anderson to withdraw, report Martin, or warn Odom. Supp. App’x at 25.⁴

⁴ The dissent draws the opposite lesson from Anderson’s sentencing,

Moreover, the Government presented the jury with multiple explanations for Anderson's participation other than coercion. Namely, the Government introduced—and the defense emphasized—evidence suggesting that Anderson had independent motives for wanting Martin to kill Odom. From those motives, the jury could have inferred that Martin saw Anderson's promise to pay as inducement to commit a murder that Anderson wanted to occur.

One such motive was pecuniary gain. At the time, Anderson and Martin were struggling financially, their house was under foreclosure, and their utilities had been cut off. Anderson thus might have hoped that she would reap quality-of-life benefits if she could induce Martin to commit the murder and use some of the insurance proceeds to find the couple a more stable living situation. The fact that Anderson would have shared in the benefits of the scheme does not negate the possibility that she intended to compensate Martin for his role as the killer.

Another motive supported by the record involves Anderson's sense that Martin believed she owed him recompense for perceived wrongs in the past. For example, Anderson testified that she planned

arguing that no "judge would sentence Anderson to probation if the judge thought the facts were anything like what the majority describes them to be." *Post* at 5–6. But it was precisely the prospect of such sentencing leniency that gave Anderson a motive to downplay her own agency and culpability in her testimony at Martin's trial. It would have been reasonable for the jury, accurately perceiving Anderson's motives, to discredit her testimony about abuse. In any event, the jury in Martin's case was not obligated to view Anderson's role in the scheme the same way as the judge did at Anderson's own sentencing.

to give Odom's life-insurance proceeds to Martin so that "[Martin] could stop saying that [Anderson] owed him for everything that [Martin] claims [Anderson] did to him over [Anderson's] lifetime." App'x at 144. Thus, the record supports a conclusion that Anderson wanted Martin to kill Odom so that Anderson could obtain the money she felt she needed to expunge her perceived debts. In this view, Anderson's offer to pay Martin the insurance proceeds would have served two, simultaneous roles: inducement to commit the murder and repayment of Anderson's debts.

A third motive supported by the record is simple jealousy. On cross-examination, defense counsel probed Anderson on her relationship with Odom, eliciting testimony that one of Anderson's sons witnessed Odom having sex with Martin and then told Anderson about it. In closing, defense counsel argued that "[Martin] started having sex with [Odom]," that Odom and Anderson "fought" over Martin, that Anderson "grew to dislike" Odom, and that "by the time of [Odom's] murder, [Anderson] hated her." Gov. App'x at 146. Counsel then emphasized: "[T]hat's motive." *Id.* The jury could have reasonably credited the theory that Anderson hated Odom, which fit neatly with Anderson's text message to Martin encouraging him to "do something with that bitch this week." *Id.* at 414.

Based on these apparent motives, the jury could have inferred that Martin did not understand Anderson to be acting as his minion or to be completely under his control. Instead, the jury could have concluded that Martin viewed her as an active "accomplice," App'x at 263, who induced his participation just as much as he induced hers.

Martin next argues that viewing Anderson as having induced

his participation contradicts the Government's representations at trial that Anderson was a victim of abuse. But that mischaracterizes the Government's position. While the Government did argue that Martin "was at the heart of this insurance murder plot" and that the plot "all started with" Martin, App'x at 245, it did so largely to counter Martin's own theory that "every step of this life insurance scheme and the murder of Brandi Odom started with [Anderson] and ended with [Anderson]," Gov App'x at 145. The Government never suggested that Anderson acted under duress. Nor could it have, as it was simultaneously prosecuting Anderson for her own violation of § 1958. To the contrary, the Government repeatedly emphasized Anderson's culpability, arguing that despite her abuse, Anderson "yessed [Martin], and in doing that she knew . . . this incentivized [Martin] to go through with it because of the possibility of a payout." App'x at 265. The Government was also clear that "[i]t doesn't matter at all who masterminded this[,] . . . if [Martin] thought of it first, [or] if [] Anderson thought of it first." *Id.* at 266. In any event, the parties' characterizations of the case are not evidence, and what matters instead is whether the evidence presented to the jury could have persuaded a reasonable juror of Martin's guilt. Here, it did.

In addition to arguing that Anderson acted out of coercion, Martin also contends that because the Government described Anderson's promise to transfer the insurance proceeds as a gift rather than a payment, the evidence is insufficient to support the jury's verdict of consideration. Martin points to the Government's argument that "Adelle Anderson told you that she agreed to *give* all the policy proceeds to the defendant for him to control just like she

had with the money she made in sex work and just like the money Brandy made in sex work.” Appellant’s Reply Br. at 4 (quoting App’x at 256)). But the fact that the Government used the word “give” instead of “pay[]” to describe Anderson’s promise does not mean that the promise was entirely gratuitous or unconditional. *Id.* at 3. Instead, the evidence supported the jury’s rational conclusion that Anderson made the promise in order to induce Martin to kill Odom. That is what § 1958 requires.

Finally, Martin argues that the interpretation of § 1958 described above would mean that any murder conspiracy involving money will also be murder-for-hire. Not so. Indeed, had the jury here concluded that Martin directed the entire scheme and was not induced to act by Anderson’s promise, he would have committed only a conspiracy to murder and not murder-for-hire. The fact that the jury interpreted the evidence differently in this case does not mean that the two crimes will always be coextensive. Nor can we second guess the jury’s verdict on appeal simply because we would have weighed the evidence differently. *See Autuori*, 212 F.3d at 114.

In sum, the jury reasonably concluded based on the totality of the evidence that Martin’s promise to murder induced Anderson’s promise to pay and that Anderson’s promise to pay induced Martin’s promise to murder. That is, the jury found that “there was a mutual agreement, understanding, or promise that something of value would be exchanged for committing the murder.” App’x at 281; *see also Frampton*, 382 F.3d at 218. Martin’s sufficiency challenge therefore fails.

C. Jury Instructions

Martin separately argues that we must reverse because the district court's jury charge was deficient. "Jury instructions are erroneous if they mislead the jury or do not adequately inform the jury of the law, and error is prejudicial where the appellant can show that the error, in light of the charge as a whole, improperly influenced the jury's verdict." *Moore v. Rubin*, 160 F.4th 271, 296 (2d Cir. 2025) (cleaned up). We "examine the jury charge in its entirety, rather than scrutinize it strand-by-strand," and have emphasized "that a trial court has discretion in the style and wording of jury instructions, so long as the instructions do not mislead the jury as to the proper legal standard." *Id.* (cleaned up).

Martin raises two objections on appeal. First, he argues that the jury charge failed to "clarify that 'consideration' as used in the murder-for-hire statute mean[s] a *quid pro quo* exchange and not simply an expectation or a desire for money." Appellant's Br. at 54. Second, he argues that the charge improperly included an aiding-and-abetting instruction. *Id.* at 61. We disagree.

1. Definition of Consideration

Prior to the charge conference, Martin proposed language explaining that "the consideration requirement is interpreted in the traditional sense of bargained for exchange, so that there must be a *quid-pro-quo* (or at least the promise of such) between the parties to

the transaction.” App’x at 58 (citation modified).⁵ At the charge conference, Martin’s counsel objected to “the lack of language concerning the consideration requirement” in the court’s provisional jury instructions, and requested the inclusion of “language indicating that there must be a quid pro quo or a bargained-for exchange.” *Id.*

⁵ Martin’s proposed jury charge on the consideration element read:

The third element that the government must prove is that the murder was intended to be committed as consideration for the receipt of anything of value. This requires that the government prove that there was a mutual agreement, understanding or promise that something of value would be exchanged for committing the murder. “Anything of value” means, for example, money, negotiable instruments, real estate, jewelry, forgiveness of debt, or anything else that the primary significance of which is economic advantage. It is not necessary for the government to prove that anything of value was in fact exchanged or delivered.

The consideration requirement is interpreted in the traditional sense of bargained for exchange, so that there must be a “quid-pro-quo (or at least the promise of such) between the parties to the transaction. The federal murder-for-hire statute requires the government to prove that the accused intended for a murder to be committed as consideration for something of pecuniary value. Moreover, the mere fact that the consideration offered by one (the solicitor) in exchange for another’s (the murderer’s) agreement to commit a murder could inure to the economic benefit of the latter is insufficient. There must be evidence to establish that at the time the agreement was formed, the consideration was something the primary significance of which lay in its economic advantage.

App’x at 58–59.

at 241. The court acknowledged Martin's arguments but declined to adopt his proposed language.⁶ Because Martin's objection to the omission of his proposed language was adequately preserved, we review that objection *de novo*.

Refusing that language was not erroneous, both because the district court's given charge was accurate and because Martin's requested language was not additive. The given charge described "consideration" as requiring that "before the murder there was a

⁶ The district court's jury charge on the consideration element read:

The third element that the government must prove beyond a reasonable doubt is that the defendant intended that the murder be committed as consideration for the receipt of anything of pecuniary value. This element requires that before the murder there was a mutual agreement, understanding, or promise that something of value would be exchanged for committing the murder. "Anything of value" means money, negotiable instruments or anything else the primary significance of which is economic advantage.

The Government does not have to prove that money or a similar item was actually exchanged or delivered. The Government does not need to show that the defendant actually received anything of pecuniary value for his participation in the events. Only that he participated with the understanding based on a mutual agreement that he would receive in exchange something of pecuniary value. If, however, you find that there was no mutual agreement before the murder that something of value would be exchanged, then payments of money after the murder standing alone would not satisfy this element.

App'x at 281.

mutual agreement, understanding, or promise that something of value would be exchanged for committing the murder.” *Id.* at 281. It also required the Government to show that Martin “participated with the understanding based on a mutual agreement that he would receive in exchange something of pecuniary value.” *Id.* We think this language adequately informed the jury through understandable and not overly legalistic language that “there must have been a mutual agreement that Martin would commit the murder in exchange for payment.” Appellant’s Reply Br. at 12 (quotation marks omitted).

Martin objects that the jury “could simply view the word ‘exchange’ as synonymous with ‘give’ or ‘hand over’ . . . without appreciating the additional ‘quid-pro-quo’ element[.]” *Id.* at 12-13. The dissent echoes this argument, characterizing the court’s language as “ambiguous and obscure” and suggesting that the word “exchange” did not clearly require the jury to find inducement. *Post* at 7–8 (quoting *United States v. Rossomando*, 144 F.3d 197, 202 (2d Cir. 1998)). We disagree.

In assessing how a reasonable jury would understand words used in jury instructions, dictionary definitions are instructive, although not dispositive. See *United States v. Ng Lap Seng*, 934 F.3d 110, 145 (2d Cir. 2019) (relying on dictionaries to establish the “common meaning” of a jury instruction). The definition of “exchange” is “to part with, give, or transfer *in consideration* of something received as an equivalent,” “to part with *for* a substitute,” or “to give and receive *reciprocally*.” *Exchange*, Webster’s Third New Int’l Dictionary 792 (2002) (emphasis added). That is particularly true when coupled with the word “for,” as it was here. See *id.* (giving as

an example “the boy exchanged his mother’s cow for a handful of beans”). Indeed, commonly used synonyms of “exchange (for)” include “trade (for),” “barter (for),” and “bargain (with)” — the exact concepts that Martin contends were insufficiently communicated to the jury. *Exchange (for)*, Merriam-Webster.com Thesaurus, <https://www.merriam-webster.com/thesaurus/exchange> (last visited Aug. 19, 2026).

We can also look to our precedents and jury instructions from prior cases. Fittingly, we have used “exchange for” in place of “consideration” in the context of the murder-for-hire statute. See *Frampton*, 382 F.3d at 218. And the district court’s jury charge matches almost verbatim a leading treatise on federal criminal jury instructions. See 3 Leonard B. Sand et al., *Modern Federal Jury Instructions – Criminal*, Instr. 60-17 (2025).

These data points support that “exchange for” sufficiently communicated to the jury the nature of the required consideration. See, e.g., *Saint-Jean v. Emigrant Mortg. Co.*, 129 F.4th 124, 154 n.14 (2d Cir. 2025). We do not think that any “skillful parsing” was required to avoid confusion here. *Post* at 7 (quoting *Rossomando*, 144 F.3d at 202).

Moreover, Martin’s requested language — “a quid pro quo or a bargained for exchange” — was no more informative than the version given. Quid pro quo is a legalistic, Latin phrase that translates to “something for something.” *Quid Pro Quo*, Black’s Law Dictionary (12th ed. 2024). That is the essence of an exchange. Like quid pro quo, “bargained-for” is a legal term of art that would be no

more familiar to lay jurors than “consideration.”⁷ If anything, including technical language like “bargained-for”—or the less technical “bargain”—might have misled the jury by suggesting a requirement for haggling or that the agreement to murder Odom must have been an arm’s length transaction. The district court recognized this difficulty, noting that including the phrase “bargained-for exchange” might mislead the jury into thinking that § 1958 reaches only a “traditional hitman case.” App’x at 241. And, when the court raised this problem at the charge conference, Martin’s counsel failed to propose a workable alternative.⁸

Even if Martin’s requested instructions had been “legally correct” and “help[ful],” there would still be no reversible error because “the court’s charge also was correct” and “a reasonable juror

⁸ The dissent interprets the charge conference differently, claiming that the district court recognized “that the facts of the case ill fit the murder-for-hire statute[.]” *Post* at 10 (quotation marks omitted). We disagree with the initial premise—as explained above, the evidence was sufficient for a conviction and nothing about the Government’s case was an “ill fit” with the statute. Furthermore, the court’s colloquy with Martin’s counsel only underscores the confusing nature of Martin’s proposed language. After listening to Martin’s proposal, the court seemed to believe that it was either aimed at § 1958’s “pecuniary value” element, or that it had something to do with the role of the “insurance company” in the murder scheme. App’x at 241. The court did not recognize, and Martin’s counsel did not clarify, that the proposed language was meant to convey that Anderson could not have been coerced. Had the court agreed to include Martin’s proposed language in its ultimate instructions, we think it likely that the jury would have been confused as well.

would have understood [it] correctly.” *United States v. Mulder*, 273 F.3d 91, 105–06 (2d Cir. 2001). If “no erroneous instruction was given” and the defendant’s “claim of prejudice is based on the failure to give any explanation beyond the reading of the statutory language itself,” such “[a]n omission, or an incomplete instruction, is less likely to be prejudicial than a misstatement of the law.” *Henderson v. Kibbe*, 431 U.S. 145, 155 (1977) (discussing prejudice in the habeas context). In sum, whether or not it was “preferable for the court to incorporate [Martin’s] requested instruction as a more specific statement of his defense, the court’s instructions adequately apprised the jury of the defense and do not warrant reversal of [Martin’s] conviction.” *United States v. Vasquez*, 82 F.3d 574, 578 (2d Cir. 1996).

The dissent states that “the charge needed to be free of any suggestion that the jury could convict based on a coerced ‘exchange’ rather than actual inducement.” *Post* at 8. While perhaps the district court might have prophylactically instructed the jury not to convict if it found that Anderson acted under duress, that objection was not raised below and Martin disavows it now. *See* Appellant’s Letter at 1 (“The defense . . . never sought—and none was necessary—a charge about Anderson’s mitigating or exonerating motivations. Indeed, on appeal, Appellant never disputed Anderson’s engaged participation.”). Furthermore, giving such a prophylactic instruction might itself have been error because it would have “cast doubt upon the defense proffered.” *United States v. Ramirez*, 482 F.2d 807, 815 (2d Cir. 1973). Martin’s theory at trial was that Anderson, far from being under duress, was in fact the mastermind of the scheme. *See, e.g.*, Trial Tr. at 38 (“The truth is this entire life insurance murder scheme starts

and ends with Ms. Anderson.”); App’x at 184 (“Do you remember telling the detectives that you were the one in control of the finances because you’re better with money[?]”); Gov App’x at 140 (“This is an independent woman who makes her own decisions and those decisions are about making money and getting other benefits.”). The district court thus likely would have erred by *sua sponte* instructing the jury as to duress.

Nevertheless, to the extent Martin or the dissent suggests that some as yet unidentified instruction would have better tailored the charge to “the particular facts of this case,” *post* at 13, we review the district court’s failure to deliver it for plain error. *See United States v. Hunt*, 82 F.4th 129, 139 (2d Cir. 2023) (reviewing an objection for plain error where it was “materially different from the objection” raised at trial). “We typically will not find such error where the operative legal question is unsettled, including where there is no binding precedent from the Supreme Court or this Court.” *United States v. Whab*, 355 F.3d 155, 158 (2d Cir. 2004). We cannot conclude that failure to include specific language “affected [Martin’s] substantial rights” or “cast doubt on the fairness, integrity, or public reputation of judicial proceedings” when we do not even know what such language would be. *United States v. Guldi*, 141 F.4th 435, 446 (2d Cir. 2025). The dissent claims to find plain error here, but in fact merely restates its central objection to our *de novo* analysis of the given jury charge.

Stepping back, the dissent’s position is that the district court should have, on its own, discerned a theory of the case completely at odds with the one that the defense advocated at trial, based solely on the defense’s request for instructions including the words “quid pro

quo,” “bargained-for exchange,” “murderer,” and “solicitor.” Then, according to the dissent, the district court should have fashioned an entirely new clarifying instruction on its own. It should have done so despite Martin’s counsel’s failure to explain such an argument when asked at the charge conference. And it also should have done so even though it might have undermined Martin’s ability to fairly present his actual theory of the case to the jury. That is certainly more than the law and common sense require of our trial court judges. We cannot see plain error in the district court’s failure to follow that unrequested path.

Thus, we conclude that the district court’s given instructions were not erroneous because they accurately stated the requirement that a murder-for-hire be committed “in exchange for” something of pecuniary value, and the district court did not plainly err in declining to give an additional, unidentified instruction further clarifying Martin’s required role in the murder scheme.

2. Aiding and Abetting

Martin also contends that the district court erred by instructing the jury that it could convict Martin on an aiding-and-abetting theory of § 1958 liability. Martin argues that there was no evidence that he was an accomplice to the murder, rather than the principal, and that he could not have aided or abetted anyone because he and Anderson were the only two participants in the crime.

Martin is correct that “[a] trial court may give an aiding and abetting charge [only] . . . when the evidence warrants such a charge.” *United States v. Damsky*, 740 F.2d 134, 140 (2d Cir. 1984). But

the aiding-and-abetting instruction was warranted here, since Anderson independently violated § 1958 by promising to pay Martin the insurance proceeds. By conceiving of the plot, brainstorming potential victims, and collaborating with Anderson in her efforts to take out and collect on the insurance policies in Odom's name, Martin aided and abetted Anderson's commission of her own § 1958 violation. That evidence was sufficient for the jury to convict on an aiding-and-abetting theory, and therefore was also sufficient to justify the court's instruction. And, while Martin is correct that "one cannot aid or abet himself," *Havens v. James*, 76 F.4th 103, 120 (2d Cir. 2023), he identifies no reason why one cannot violate § 1958 both as the killer and also as an aider-or-abettor of the payor. The district court therefore did not err by delivering an aiding-and-abetting instruction regarding Martin's culpability under § 1958.

D. Spillover Prejudice

Martin last argues that any error with respect to his § 1958 conviction created impermissible spillover prejudice with respect to his fraud and identity-theft convictions. Because we conclude that there was no reversible error either with respect to the sufficiency of the evidence or the jury instructions, Martin's spillover prejudice challenge must fail as well.

Moreover, the Government presented overwhelming evidence of Martin's guilt on the fraud and identity-theft counts, and the vast majority of the evidence of the murder would have been admissible even absent a § 1958 count in order to prove motive for those counts. *See United States v. Hamilton*, 334 F.3d 170, 182 (2d Cir. 2003)

(considering the nature of the inadmissible evidence and the strength of the Government's case on the remaining counts). Thus, even assuming error with respect to the § 1958 counts, any spillover prejudice would still not require reversal.

CONCLUSION

In conclusion, we hold that the evidence was sufficient to sustain Martin's murder-for-hire convictions, that there was no reversible error in the district court's jury instructions, and that there was likewise no error due to spillover prejudice. The judgment of the United States District Court for the Eastern District of New York is therefore **AFFIRMED**.

CALABRESI, *Circuit Judge*, dissenting:

Cory Martin is clearly guilty of committing murder and fraud. He could have been justly sentenced for those crimes in state court.

He is, however, almost certainly not guilty of committing federal murder for hire. And I think that a jury, properly charged on the elements of murder for hire, likely would have acquitted him of that offense. The majority nevertheless affirms his murder-for-hire convictions. In doing so, I believe they do serious harm to federal-state relations.

I respectfully, but strongly, dissent.

I

I begin with the substance of the murder-for-hire statute, on which the majority and I largely agree. It has been the position of the government in this case that so long as “Anderson agreed to pay Martin . . . after Martin . . . murdered Odom,” nothing “more” was required to establish the consideration element of murder for hire. Gov. Br. 34. That is not right. The federal murder-for-hire statute, 18 U.S.C. § 1958(a), does not cover every murder conspiracy that contemplates an exchange of money between co-conspirators. Rather, it requires traditional consideration, that is, that “the consideration induces the making of the promise

and the promise induces the furnishing of the consideration.” *Ante* at 13 (quoting Restatement (Second) of Contracts § 71 cmt. b (1981)).

My colleagues ably explain why this follows from the plain, unambiguous language of the statute. *See Ante* at 9–14. I would add, though, that other reasons—in particular, federalism reasons—also compel this conclusion. Applying federal murder for hire to include offenses with no real consideration “dramatically intrude[s] upon traditional state criminal jurisdiction.” *Bond v. United States*, 572 U.S. 844, 857 (2014) (citation modified). The Supreme Court has long admonished federal courts not to interpret Congress as expanding federal authority over traditionally state-policed conduct unless Congress makes clear its intent to do so. *See, e.g., id.* at 857–60; *United States v. Bass*, 404 U.S. 336, 349 & n.16 (1971) (collecting authorities). This concern has nothing to do with what crimes Congress *can* give over to federal jurisdiction. It rather has to do with whether Congress *means* to federalize conduct “readily denounced as criminal by the States.” *Bass*, 404 U.S. at 349. And “we must assume that the implications and limitations of our federal system constitute a major premise of all congressional legislation, though not repeatedly recited therein.” *United States v. Five Gambling Devices*, 346 U.S. 441, 450 (1953).

Murder, of course, is traditionally prosecuted by the states. If Congress sought to authorize federal courts to displace our state counterparts and adjudicate all profit-motivated murders, it might well have the power to do so (at least where interstate commerce is involved). But there is no reason to think it has done so here, under the heading of murder “for hire.” Indeed, there is every reason to think that it has not. The majority and I agree that the unambiguous language of the statute limits the offense to cases involving conventional inducement. *See Ante* at 9–14. And the title of the statute, “Use of interstate commerce facilities in the commission of murder-for-hire,” 18 U.S.C. § 1958, though, as the majority notes, not in itself determinative, underscores this. The “for-hire” language makes clear that the statute is addressed to murders that are done *for hire*, rather than any murder that involves the exchange of money.

The context in which the statute was enacted also shows that Congress sought to address murder for hire because of its relation to organized crime, and it did not seek to address all murders for profit. *See* S. Rep. No. 98-225, at 304–05 (1984). Congress intended that the offense would implicate a “person who ordered the murder” on the one hand and a “hit man” on the other. *Id.* at 306.

Finally, it is worth emphasizing that in the forty-year history of federal murder-for-hire prosecutions preceding this case, no court has ever adopted the

reading of the statute advanced by the government.¹ And the majority, while managing to affirm the conviction, in no way accepts the government's theory.

II

We can agree, then, that a murder conspiracy that contemplates the exchange of money is not federal murder for hire if the money-giver did not *induce* the murderer. That nuance might not need to be expressly imparted to a jury in “the traditional hitman case,” App’x 241, where the relationship between a contract killer and the person who paid that killer is manifest.

But as the trial court recognized, “This isn’t that case.” *Id.*

The key government witness and supposed inducer, Adelle Anderson, testified that the would-be murderer for hire, Cory Martin, was also her abuser.

As the government put it at trial,

Brandy Odom and the defendant’s girlfriend, Adelle Anderson, worked for the defendant. He was their pimp. They lived and worked out of his house in Queens. . . . [E]very dollar that they earned from sex work went to line the defendant’s pockets. He demanded that

¹ The government identifies but a single case in which it successfully prosecuted murder-for-hire with no apparent bargained-for consideration—and the arguments made here were not addressed in that case. *See United States v. Winter*, 33 F.3d 720, 721–22 (5th Cir. 1994). In all the other cases the government cites as having “established murder-for-hire on similar facts,” Gov. Br. 34, someone sought to induce the murderer to kill as consideration for pecuniary gain.

they call him “Daddy.” He controlled every aspect of their lives, down to what they ate, and even when or if they could even shower.

App’x 111; *see, e.g.*, App’x 115–23 (testimony by Anderson on Martin’s abuse of and control over her, her children, and Odom); App’x 132–33 (“Cory had total control of my life. I couldn’t do anything.”).

If Anderson’s testimony is to be believed, then Martin controlled not only her life and Odom’s life but also the conspiracy between him and Anderson to murder Odom. Anderson testified that, in Martin’s own words, “this was his killing.” App’x 128. She testified that Martin—not she—decided on his own initiative that Odom was the ideal target for a murder-for-insurance-money scheme. App’x 137. And she testified that she, as the would-be life insurance beneficiary, was to channel the money directly to Martin as she did all her income. App’x 128. In sum, the government’s star witness testified that Martin proposed and orchestrated the scheme, whereas she merely acquiesced to Martin’s directives, including agreeing that she would give the anticipated insurance money directly to Martin as soon as she obtained it.

For her role in the conspiracy, Anderson was sentenced to probation without objection from the government. And that is worth underscoring. It is doubtful that any judge would sentence Anderson to probation if the judge

thought the facts were anything like what the majority describes them to be. And it is inconceivable that on the majority's account of the facts, the government would acquiesce to such a sentence, however useful Anderson's testimony might have been.

Against this backdrop, it is hard to believe that Martin was, in fact, induced by Anderson to kill Odom. And indeed, if no reasonable jury could find beyond a reasonable doubt that he was, then he was entitled to a judgment of acquittal on the murder-for-hire charges as a matter of law. Instead, though, Martin's trial counsel unwisely suggested that Anderson was somehow pulling the strings of her trafficker in order to eliminate a romantic rival and/or derive personal benefit from the insurance money. And the majority relies on that theory, along with other speculated ways in which Anderson could have conceivably benefitted from Odom's demise, to say that a jury could have found that Anderson induced Martin to kill Odom. *See Ante* at 14–21.

I agree, though skeptically, that the evidence, if read in the light very much most favorable to the government, could suffice to establish that fact. So, like the majority, I shall treat the evidence as sufficient. The question then becomes whether the jury was adequately instructed so that it understood that to convict Martin of murder for hire, it needed actually to make such a factual finding.

It clearly was not. The trial court instructed the jury that the “consideration” element required only that “before the murder there was a mutual agreement, understanding or promise that something of value would be exchanged for committing the murder.” App’x 281. The majority holds that this instruction required the jury to conclude, before convicting, that “Martin’s promise to murder induced Anderson’s promise to pay and that Anderson’s promise to pay induced Martin’s promise to murder.” *Ante* at 21. I disagree. I read that instruction as permitting the jury to convict regardless of whether Anderson *induced* Martin to murder Odom, so long as Anderson and Martin shared an “understanding” that she would give him the insurance proceeds after the killing.

“Through a skillful parsing of the court’s charge, one might attempt to downplay the potential confusion arising from” it. *United States v. Rossomando*, 144 F.3d 197, 202 (2d Cir. 1998). The majority, for its part, suggests that the jury could only have read the words “exchanged for” as requiring inducement, albeit *sub silentio*. See *Ante* at 25–26.² That, for me, is “simply too ambiguous and obscure to

² The majority relies on dictionaries to explain the jury instructions. Judges today have a habit of going to dictionaries to explain ambiguous statements. I believe this is as misguided as judges’ onetime habit of citing statements by individual legislators to

inspire confidence.” *Rossomando*, 144 F.3d at 202. Given the facts of this case, the charge needed to be free of any suggestion that the jury could convict based on a coerced “exchange” rather than actual inducement.

The majority also notes that the jury charge was drawn “almost verbatim” from *Modern Federal Jury Instructions*, “a leading treatise on federal criminal jury instructions.” *Ante* at 26. A model jury instruction may constitute error—including plain error—where it does not account for the factual predicates of the particular case. Indeed, we have repeatedly held as much for charges drawn from this very treatise. *See Rossomando*, 144 F.3d at 201–03; *United States v. Kopstein*, 759 F.3d 168, 180–82 (2d Cir. 2014).

The majority concedes that the trial court could have said more and instructed the jury not to convict if it found that Anderson was coerced or otherwise non-inducing. *See Ante* at 28. It nevertheless affirms Martin’s murder-for-hire convictions by asserting that Martin failed to raise an objection along those lines.

explain the meaning of laws, and for the same reason: One can almost always find dictionaries that will interpret the language as one wishes.

But apart from that, juries do not use dictionaries to understand court instructions. They use the commonsense meaning that ordinary people give to those words.

Yet Martin did, of course, object at trial to the jury charge on the consideration element for not including more inducement-explicit language like “traditional . . . bargained-for exchange,” “quid pro quo,” and “murderer/solicitor.” App’x 58–59. And, tellingly, the trial court did not deny Martin’s objection, as the majority implies, on the basis that Martin’s proposed language was “not additive” or “no more informative than the version given.” *Ante* at 24, 26. Instead, the court deemed his proposed jury instructions “[un]relate[d] to the facts of the case.” App’x 241 (emphasis added). Specifically, the court stated: “I think the language you’re proposing is more in line [with] a different sort of a contract murder. The language you’re proposing is language in, you know, sort of the traditional hitman case which this case isn’t. I think that’s misleading.” *Id.* The government, in opposing Martin’s proposed instruction, said: “It’s just confusing and it doesn’t relate to the facts of this case.” *Id.* And the court reiterated: “I just don’t think it relates to the facts of the case which is why I didn’t include it in the first place. . . . [Y]ou’re talking about the solicitor, I mean this isn’t that case.” *Id.*

The majority now tries to separate Martin’s actual, requested instruction from a supposedly recondite, “unidentified” instruction that would have clarified the need for genuine inducement rather than a coerced exchange. *Ante* at 29. In

other words, the majority suggests that the requested instruction failed to “direct the trial court’s attention” to the problem before us and hence preserve it for appeal, *United States v. Masotto*, 73 F.3d 1233, 1237 (2d Cir. 1996) (quotation omitted)—and therefore, that it even would have been “error” for the trial court to address the problem, *Ante* at 28.

That cannot be reconciled with the record. Martin’s requested instruction directed the trial court’s attention to the government’s burden of establishing “traditional . . . bargained-for exchange.” In response, the court acknowledged that “the facts of the case” bore seemingly no relation to traditional bargained-for exchange, *quid pro quo*, or the solicitation of a murder. And that should have made the problem with the actual instructions quite clear. But rather than sustain Martin’s objection or probe the issue further, the court rejected Martin’s proposed language out of hand as “misleading.” That is, the court apparently recognized the problem now raised on appeal—that “the facts of the case” ill fit the murder-for-hire statute—and pressed on anyway.

Because Martin’s objection sufficiently directed the trial court’s attention to the challenge he raises on appeal, I believe that challenge was preserved. And because the erroneous jury charge was not harmless (and indeed, quite probably

resulted in a wrongful conviction), Martin’s murder-for-hire convictions should be vacated.

Finally, even if Martin’s challenge to the jury instructions were forfeited — that is, if the majority were correct that Martin failed to raise this objection below — I would nonetheless vacate on the plain error standard.

For us to rectify an error that a defendant failed to object to at trial, there must be (1) error, (2) that is plain, (3) that affects substantial rights, and (4) that seriously affects the fairness, integrity, or public reputation of judicial proceedings. *United States v. Bleau*, 930 F.3d 35, 39 (2d Cir. 2019) (per curiam). Each of these requirements is present here.

Unlike the majority, I believe there was error. As discussed above, the jury charge allowed the jury to convict Martin in the absence of actual inducement.

The error is also plain. “Whether an error is plain can depend on well-settled legal *principles* as much as well-settled legal *precedents*. Thus, even absent binding case law, an error can be plain if it violates an absolutely clear legal norm Accordingly, our court has said that an error is plain when it violates the plain language of [a] statute.” *United States v. Montague*, 67 F.4th 520, 535 (2d Cir. 2023) (citation modified), *vacated on other grounds*, 144 S. Ct. 2654 (2024). The error here violated the plain language of the relevant statute. As the majority acknowledges,

the statute is unambiguous: Murder for hire cannot lie unless there is something close to traditional, contract-law consideration/inducement. The jury charge—given the particular facts of this case—suggested otherwise. For that reason alone, I believe the error was plain. And if the plain language alone were not enough, it is “absolutely clear,” *id.*, that our precedents do not countenance a seemingly never-before-adopted conception of federal murder for hire that would effect a displacement of state criminal jurisdiction with no apparent basis in the text or purpose of the statute. *See supra*.

The error affected Martin’s substantial rights. If the jury—properly instructed—could not find that Anderson induced Martin to kill Odom, then it would have acquitted him. *See, e.g., United States v. Solano*, 966 F.3d 184, 193–94 (2d Cir. 2020).

Finally, the error seriously affects at least the fairness and integrity, if not also the public reputation, of judicial proceedings. Martin was convicted “based on a far broader conception of [the statute] than the law permits,” and that “fundamentally undermines the fairness of [Martin’s] conviction[s].” *United States v. Omotayo*, 132 F.4th 181, 197 (2d Cir. 2025).

For these reasons, the jury charge on consideration was, in my view, not only error but plain error. I would therefore vacate Martin's murder-for-hire convictions even if his challenge were forfeited, which I believe it was not.

* * *

The essence of my dissent is very simple. A charge that might well be adequate in most murder-for-hire cases was plainly inadequate and misleading on the particular facts of this case. That the charge was inadequate was clearly—if inelegantly—brought to the district court's attention. The district court recognized the problem and yet did nothing. The result was a conviction that would have been unlikely if there had been a proper charge.

The majority opinion is not unjust to Martin given his vile criminal history, but it is unjust in its treatment of the law. The majority incorrectly deems forfeited an issue that the trial judge addressed in open court in response to defense counsel's objections. And then, the majority finds that even if the instructions to the jury might have allowed the jury to convict without finding true consideration, that was not plain error—despite the plain language of the statute, the title of the statute, the context in which the statute arose, the historical application of the statute, and the federalism principles in which the statute is situated. This result needlessly muddles our standards both of issue preservation and of plain error.

More broadly, I repeat that the shoehorning of this garden-variety murder conspiracy into federal court disserves our federalist system. It will support those who criticize federal courts as thinking that we should exert jurisdiction because state courts are inadequate, when the opposite is often true. Our Federalism is based on the notion that states and state courts are best suited to deal with issues that are traditionally state crimes. For federal courts to act as if we can do better is a dangerous form of activism.

I respectfully, but strongly, dissent.