

ALITO, J., concurring

**SUPREME COURT OF THE UNITED STATES**

No. 06–1456

HUMBERTO FIDEL REGALADO CUELLAR,  
PETITIONER *v.* UNITED STATES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE FIFTH CIRCUIT

[June 2, 2008]

JUSTICE ALITO, with whom THE CHIEF JUSTICE and JUSTICE KENNEDY join, concurring.

I join the opinion of the Court but write briefly to summarize my understanding of the deficiency in the Government’s proof.

As the Court notes, *ante*, at 10, the Government was required in this case to prove that petitioner knew that the plan to transport the funds across the Mexican border was designed at least in part to “conceal or disguise the nature, the location, the source, the ownership, or the control” of the funds. 18 U. S. C. §1956(a)(2)(B)(i).

Transporting the funds across the border would have had the *effect* of achieving this objective if, once the funds made it into Mexico, it would have been harder for law enforcement authorities in this country (1) to ascertain that the funds were drug proceeds (“nature”), (2) to find the funds (“location”), (3) to determine where they came from (“source”), (4) to ascertain who owned them (“ownership”), or (5) to find out who controlled them (“control”). But as the Court notes, *ante*, at 15, the prosecution had to prove, not simply that the transportation of the funds from the United States to Mexico would have had one of these *effects*, *ibid.*, but that petitioner *knew* that achieving one of these effects was a *design* (*i.e.*, purpose) of the transportation.

ALITO, J., concurring

As the Court also notes, *ante*, at 16, n. 8, a criminal defendant’s intent is often inferred. Here, proof of petitioner’s knowledge and of the intent of the person or persons who “designed” the transportation would have been sufficient if the prosecution had introduced evidence showing, not only that taking “dirty” money across the border has one or more of the effects noted above, but that it is commonly known in the relevant circles (that is, among those who design and carry out “such transportation,” §1956(a)(2)(B)) that taking “dirty” money to Mexico has one of the effects noted above. Such evidence would permit a trier of fact to infer (1) that the person or persons who “designed” the plan to have the funds taken to Mexico intended to achieve the effect in question and (2) that a person like petitioner (that is, a person who is recruited to transport the funds) knew that this was the design.

Of course, if the prosecution had introduced such evidence, the defense could have countered with any available proof showing (1) that in fact the achievement of these effects was not a design of the transportation or (2) that petitioner in fact did not know that achieving one of these effects was a purpose of the plan. It would have then been up to the trier of fact to decide whether the statutory elements had been adequately proven.

At petitioner’s trial, as the Court notes, *ante*, at 16, the Government introduced some evidence regarding the effect of transporting illegally obtained money to Mexico, but the Government has not pointed to any evidence in the record from which it could be inferred beyond a reasonable doubt that a person like petitioner knew that taking the funds to Mexico would have had one of the relevant effects. For this reason, I agree with the Court that petitioner’s conviction cannot be sustained.