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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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PUCKETT *v.* UNITED STATES

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

No. 07–9712. Argued January 14, 2009—Decided March 25, 2009

In exchange for petitioner Puckett's guilty plea, the Government agreed to request (1) a three-level reduction in his offense level under the Federal Sentencing Guidelines on the ground that he had accepted responsibility for his crimes; and (2) a sentence at the low end of the applicable Guidelines range. The District Court accepted the plea, but before Puckett was sentenced he assisted in another crime. As a result, the Government opposed any reduction in Puckett's offense level, and the District Court denied the three-level reduction. On appeal, Puckett raised for the first time the argument that by backing away from its reduction request, the Government had broken the plea agreement. The Fifth Circuit found that Puckett had forfeited that claim by failing to raise it below; applied Federal Rule of Criminal Procedure Rule 52(b)'s plain-error standard for unpreserved claims of error; and held that, although the error had occurred and was obvious, Puckett had not satisfied the third prong of plain-error analysis in that he failed to demonstrate that his ultimate sentence was affected, especially since the District Judge had found that acceptance-of-responsibility reductions for defendants who continued to engage in criminal activity were so rare as "to be unknown."

Held: Rule 52(b)'s plain-error test applies to a forfeited claim, like Puckett's, that the Government failed to meet its obligations under a plea agreement, and applies in the usual fashion. Pp. 4–14.

(a) In federal criminal cases, Rule 51(b) instructs parties how to preserve claims of error: "by informing the court—when [a] ruling . . . is made or sought—of the action the party wishes the court to take, or the party's objection to the court's action and the grounds for that objection." A party's failure to preserve a claim ordinarily prevents him from raising it on appeal, but Rule 52(b) recognizes a limited ex-

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ception for plain errors. "Plain-error review" involves four prongs: (1) there must be an error or defect that the appellant has not affirmatively waived, *United States* v. *Olano*, 507 U. S. 725, 732–733; (2) it must be clear or obvious, see *id.*, at 734; (3) it must have affected the appellant's substantial rights, *i.e.,* "affected the outcome of the district court proceedings," *ibid.*; and (4) if the three other prongs are satisfied, the court of appeals has the *discretion* to remedy the error if it " 'seriously affect[s] the fairness, integrity or public reputation of judicial proceedings,' " *id.*, at 736. The question here is not *whether* plain-error review applies when a defendant fails to preserve a claim that the Government defaulted on its plea-agreement obligations, but what conceivable reason exists for disregarding its evident application. The breach undoubtedly violates the defendant's rights, but the defendant has the opportunity to seek vindication of those rights in district court; if he fails to do so, Rule 52(b) as clearly sets forth the consequences for that forfeiture as it does for all others. Pp. 4–6.

(b) Neither Puckett's doctrinal arguments nor the practical considerations that he raises counsel against applying plain-error review in the present context. The Government's breach of the plea agreement does not retroactively cause the defendant's guilty plea to have been unknowing or involuntary. This Court's decision in *Santobello* v. *New York*, 404 U. S. 257, does not govern, since the question whether an error can be found harmless is different from the question whether it can be subjected to plain-error review. Puckett is wrong in contending that no purpose is served by applying plain-error review: There is much to be gained by inducing the objection to be made at the trial court level, where (among other things) the error can often be remedied. And not all plea breaches will satisfy the doctrine's four prongs. Pp. 7–14.

505 F. 3d 377, affirmed.

SCALIA, J., delivered the opinion of the Court, in which ROBERTS, C. J., and KENNEDY, THOMAS, GINSBURG, BREYER, and ALITO, JJ., joined. SOUTER, J., filed a dissenting opinion, in which STEVENS, J., joined.