No. 21-1344

In the Supreme Court of the United States

CHRISTIN CAMPBELL-MARTIN
AND ADAM SCOTT LEIVA, PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTION PRESENTED

Whether the totality of the circumstances supported the search of petitioner's SUV incident to petitioners' arrests for providing false identification information, on the ground that it was reasonable to believe that the SUV might contain evidence relevant to those offenses.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-18a) is reported at 17 F.4th 807. The order of the district court (Pet. App. 19a-60a) is unreported but is available at 2020 WL 556400.

JURISDICTION

The judgment of the court of appeals was entered on November 8, 2020. On February 1, 2022, Justice Kavanaugh extended the time within which to file a petition for a writ of certiorari to and including April 7, 2022, and the petition was filed on that date. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following conditional guilty pleas in the United States District Court for the Northern District of Iowa,

petitioners Christin Campbell-Martin and Adam Leiva were each convicted of possessing a controlled substance near a protected location with intent to distribute it, in violation of 21 U.S.C. 841(a)(1) and (b)(1)(A), and 860(a). Campbell-Martin Judgment 1; Leiva Judgment 1. The district court sentenced Campbell-Martin and Leiva, respectively, to 200 and 235 months of imprisonment, each to be followed by ten years of supervised release. Campbell-Martin Judgment 2-3; Leiva Judgment 2-3. The court of appeals affirmed. Pet. App. 1a-18a.

1. Around 10:30 p.m. on May 25, 2018, Officer Nicole Hotz of the Marion (Iowa) Police Department was patrolling a high school parking lot and requesting that occupants leave. Pet. App. 2a, 26a. After observing a red SUV pull into the lot, Officer Hotz parked two spots away from the SUV and noticed that the female driver appeared to be hiding her face behind her hands. *Ibid.* After shining a spotlight to get the driver's attention, Officer Hotz walked up to the SUV; the driver rolled down her window; and Officer Hotz observed that the driver's pupils were constricted and that she was very fidgety, speaking quickly, breathing heavily, and continuously pulling her knees to her chest. *Id.* at 2a-3a, 26a-27a. The two male passengers—one in the SUV's front passenger seat, the other in the back—remained quiet and avoided looking at the officer. *Id.* at 3a, 27a.

Officer Hotz requested identification from the SUV's occupants. Pet. App. 3a, 27a; Gov't C.A. Br. 11. The driver and front-seat passenger denied having any identification with them, but the rear-seat passenger, Justin Harris, gave the officer his Iowa identification card bearing his photograph. Gov't C.A. Br. 11. The officer then asked the driver for her name, date of birth, and

the last four digits of her Social Security Number (SSN). *Id.* at 12. The driver stated that her name was "Shannon McKelvy" and proffered a date of birth, but could not provide the last four digits of an SSN. *Ibid.*; Pet. App. 3a, 26a-27a. The officer asked the front-seat passenger for the same information. Gov't C.A. Br. 12. The front-seat passenger stated that his name was "Favian Estrada," verbally stumbled while proffering a date of birth, and could not provide any SSN information. *Ibid.* He also denied having anything in the car —such as a bank card or a library card—that might identify him. *Id.* at 13.

The driver told Officer Hotz that the SUV's occupants had driven from Ames, Iowa, which was located nearly two hours from Marion. Pet. App. 14. The officer found it extremely unusual to take a trip of that length without bringing any identification. 11/19/2019 Suppression Hr'g Tr. (Tr.) 16. The rear-seat passenger, Harris, also claimed that the vehicle belonged to a "friend of a friend," who had purportedly lent Harris the SUV. Gov't C.A. Br. 13 (citation omitted). The officer considered it a "red flag" that Harris could not identify the SUV's registered owner. *Ibid.*

Officer Hotz returned to her police vehicle to check the information provided to her. Pet. App. 27a. Once there, Officer Hotz obtained information on the name "Shannon McKelvy" from a police dispatcher, who relayed certain "physical characteristics" that did not appear to match those of the driver. Tr. 19. Officer Hotz also checked law-enforcement databases using the name "Fa[v]ian Estrada" and obtained driver's-license information for the name, including a photograph that the officer concluded did not match the front-seat passenger. Tr. 18-19. In light of that photograph, Officer

Hotz determined that the front-seat passenger had falsely identified himself. See Pet. App. 28a. The officer returned to the SUV, removed the front-seat passenger from the vehicle, and arrested him for providing false information. *Ibid.* At that point, the passenger told Officer Hotz that his name was Adam Leiva and stated that he had outstanding warrants. *Ibid.*

Meanwhile, a second officer, Sergeant Richard Holland, had arrived at the scene. Pet. App. 27a. Sergeant Holland asked the driver whether a purse on the SUV's back seat belonged to her. *Id.* at 3a. The driver disclaimed ownership of the purse and, for that reason, declined to provide the officer with permission to search it. *Id.* at 3a, 27a-28a, 29a n.3. Sergeant Holland then asked Harris, who was still in the back seat and had claimed that the car had been lent to him, if Harris could look for identification in the purse. *Id.* 3a, 28a. Harris retrieved from the purse, and handed to the sergeant, a driver's license matching the appearance of the SUV's driver, with the name of Campbell-Martin. *Id.* at 3a, 28a-29a; Tr. 89-90, 106. The officers then arrested the driver for providing false identification. Pet. App. 4a, 29a.

Sergeant Holland asked Harris, who had been on his phone trying to contact the person who had purportedly lent him the SUV, whether Harris had reached the SUV's owner. Gov't C.A. Br. 13, 15. Harris told the sergeant that he had asked a friend to have the owner call him, and that the vehicle belonged to someone named April Johnson. *Id.* at 15. Sergeant Holland informed Harris that the SUV was registered to a Kristin Jefferson, not April Johnson. *Ibid.*; Tr. 87. After making further calls, Harris acknowledged that the vehicle was registered to Kristin Jefferson but stated that April

Johnson was a "co-signer" and that April's cousin had lent him the SUV. Gov't C.A. Br. 15. Harris also told Sergeant Holland that his friend was trying to contact the registered owner, but Harris did not state that the owner had been successfully reached. *Ibid.* Sergeant Holland decided to impound the car and asked Harris to exit the vehicle. Pet. App. 4a. When Harris asked whether he could drive the car, Sergeant Holland told him that he could not. *Id.* at 29a. Sergeant Holland later testified that his department's policy was to impound a vehicle when the vehicle's registered owner cannot be contacted to verify that she has provided permission for someone else to use it. Tr. 90-91, 97.

Officers searched the SUV before the vehicle was towed and impounded. Pet. App. 4a, 29a. Sergeant Holland opened the backpack on the SUV's front-passenger floorboard where "Estrada"/"Leiva" had been seated and found a bag containing a substance that he believed to be methamphetamine and that was later determined to be over two pounds (929.5 grams) of methamphetamine. *Ibid.* The search of the SUV also resulted in the securing of nearly $3000 in cash, a small scoop, smaller baggies, an electronic scale, and paperwork addressed to both Leiva and Campbell-Martin. *Ibid.* The search additionally recovered a wallet containing Leiva's photo identification from the SUV's center console. *Id.* at 4a, 58a n.6.

2. After a federal grand jury indicted petitioners for a methamphetamine-possession offense, see Indictment 1-2, petitioners moved to suppress the evidence recovered from the SUV, including the methamphetamine. D. Ct. Doc. 34 (Nov. 4, 2019); D. Ct. Doc. 36 (Nov. 4, 2019). A magistrate judge held an evidentiary hearing and issued a report recommending that the motions be

denied. 2020 WL 1899051. The district court adopted the report in part and denied petitioners' motions. Pet. App. 19a-60a.

As a threshold matter, the district court determined that petitioners lacked "standing" to bring a Fourth Amendment challenge to the search of the SUV because they failed to present evidence of an ownership or possessory interest in the vehicle or evidence that someone with such an interest gave them permission to use it. Pet. App. 39a-43a. The court further concluded that only Leiva, and not Campbell-Martin, had "standing" to challenge the search of the backpack found where Leiva had been seated. *Id.* at 43a-45a, 59a.

The district court then determined that the searches of the backpack and SUV were reasonable under the Fourth Amendment for two independent reasons. Pet. App. 45a-58a. First, the court determined that officers conducted a valid inventory search because the SUV was impounded and an inventory search was conducted pursuant to Marion Police Department policy, which the officers properly applied "at least up until the discovery of the methamphetamine," *id.* at 51a, and which the officers subsequently and reasonably sought to apply in good faith. See *id.* at 45a-52a. Second, the court determined that the search was a valid search incident to arrest because it was objectively "reasonable" for an officer to have concluded that "evidence of [petitioners'] false information would be present in the SUV," including "additional identifying information" such as "Leiva's license," *id.* at 56a-57a. See *id.* at 52a-58a. The court noted that officers "already possessed evidence that [petitioners] provided false information" before they conducted the search, but explained that such evidence did not invalidate the search because "officers

need not desist when they possess some evidence of an offense." *Id.* at 56a.

3. The court of appeals affirmed. Pet. App. 1a-18a. Without "reach[ing] the question whether [the search] was also a valid inventory search," *id.* at 11a, the court determined that the search of the backpack that led to the discovery of the methamphetamine was a reasonable search incident to arrest under the Fourth Amendment. *Id.* at 10a-13a.

The court of appeals observed, quoting *Arizona* v. *Gant*, 556 U.S. 332 (2009), that officers may search a vehicle incident to the arrest of a recent occupant if it is "reasonable to believe that the vehicle contain[s] evidence of the offense" of arrest. Pet. App. 11a (quoting *Gant*, 556 U.S. at 351). And the court found that in this case, "the totality of the circumstances" showed that "it was reasonable to believe that the vehicle and the backpack contained evidence of the offense of providing false identification information" to the police. *Id.* at 12a-13a. The court explained that although the officers were aware that petitioners had committed the offense of falsely identifying themselves, "they did not have Leiva's actual identification, which would help prove that [he] provided false identification." *Id.* at 12a. The court further explained that it was "reasonable to think that [Leiva's] identification would be in the car." *Ibid.* The court also observed that "[t]he backpack that [had been] siting at Leiva's feet in the [SUV] was a logical place to look for identification such as a driver's license, mail, receipts, credit cards, or checks." *Ibid.* And the court noted that officers had in fact found "paperwork in the backpack with Leiva's real name on it" and found "Leiva's identification in the center console." *Ibid.*

The court of appeals rejected Leiva's contention that the Eleventh Circuit's decision in *United States* v. *Davis*, 598 F.3d 1259 (2010), aff'd, 564 U.S. 229 (2011), had "eliminate[d] the search-incident-to-arrest exception for offenses involving false identification." Pet. App. 12a. The court observed that petitioner relied on what the court viewed as a nonbinding statement in *Davis* in which the Eleventh Circuit stated that the search there was "unconstitutional under *Gant*" because the officers had already verified the defendant's identity when they arrested him for providing a false name. *Ibid.* The court also stated that it disagreed with the Eleventh Circuit's analysis because "[n]othing in *Gant* prohibits the police from searching for additional evidence of an offense" and that, in this case, it was "'reasonable to believe the vehicle contain[ed] evidence of the offense of arrest' because police could have found evidence in the car and in the backpack relevant to the occupants providing false identification information." *Id.* at 12a-13a (quoting *Gant*, 556 U.S. 351) (second set of brackets in original).

ARGUMENT

Petitioners contend (Pet. 25-31) that the court of appeals erred in finding that the search of the vehicle in which they had been traveling was a lawful search incident to arrest. Petitioners further contend (Pet. 10-22)) that the court of appeals' decision conflicts with this Court's decision in *Davis* v. *United States*, 564 U.S. 229 (2011), and decisions of other courts of appeals and a state supreme court. The court of appeals' factbound decision is correct and does not conflict with any decision of this Court, any other court of appeals, or any state court of last resort. In any event, this case would be an unsuitable vehicle because resolving the question

presented in petitioners' favor would not entitle them to relief. No further review is warranted.

1. The Fourth Amendment to the Constitution guarantees that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated," and further provides that "no Warrants shall issue, but upon probable cause." U.S. Const. Amend. IV. "[T]he text of the Fourth Amendment" thus simply requires that "all searches and seizures * * * be reasonable" but "does not specify when a search warrant must be obtained." *Kentucky* v. *King*, 563 U.S. 452, 459 (2011). "[T]his Court has inferred that a warrant must generally be secured," *ibid.*, but it has also developed multiple "specifically established and well-delineated exceptions" to that rule, *Arizona* v. *Gant*, 556 U.S. 332, 338 (2009) (citation omitted).

One exception, known the search-incident-to-arrest doctrine, recognizes that when law-enforcement officers make an arrest, it is reasonable to search the arrestee's person and the area "within his immediate control" without obtaining a warrant. *Chimel* v. *California*, 395 U.S. 752, 763 (1969). The Court has also determined that "circumstances unique to the vehicle context" further justify a search of a vehicle "and any containers therein" incident to a "lawful arrest" of a recent occupant "when it is 'reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle.'" *Gant*, 556 U.S. at 343-344 (quoting *Thornton* v. *United States*, 541 U.S. 615, 632 (2004) (Scalia, J., concurring in the judgment)); see *Thornton*, 541 U.S. at 631 (Scalia, J., concurring in the judgment) (reasoning that motor-vehicle contexts "give rise to a reduced expectation of

privacy and heightened law enforcement needs") (citations omitted).

The court of appeals in this case correctly determined that the search of petitioners' SUV complied with the Fourth Amendment because it was reasonable to believe that the SUV might contain evidence relevant to petitioners' false-identification offenses. Pet. App. 11a-12a. Officers, for instance, had not yet located the driver's license or any other form of identification document for the front-seat passenger, and individuals regularly travel in vehicles with such documents particularly where they take a long-distance trip of the sort that petitioners claimed in this case. That common-sense observation had already been proven true in this very case before officers searched the SUV: Although the driver (Campbell-Martin) had denied that the purse in the SUV's rear seat was hers, Harris had retrieved her driver's license from the purse and gave it to officers. See p. 4, *supra*.

The officers had not yet found any identification papers for Leiva, and they also could not be confident that the Campbell-Martin driver's license was the driver's only form of identification. It was reasonable to believe that other documents bearing on identity (and hence relevant to the false-identification offenses) might be found in the backpack that was in the SUV in plain view. Such containers regularly hold individuals' paperwork and, in this case, documents with petitioners' actual names were found in the backpack. See p. 5, *supra*. Leiva's wallet with his identification card were also found in the SUV's center console. *Ibid.* Those items all constituted evidence relevant to the false-identification offenses for which petitioners were arrested.

2. Petitioners acknowledge (Pet. 28) that officers could have concluded, before the search, that a search "might" reveal "materials in the [SUV] that would have further proved the case against Petitioners." Petitioners nevertheless argue (Pet. 28-29) that "[a]dditional evidence" like that here "is simply cumulative" and that "there was no more evidence to be found" in this case "because the police had already verified both Petitioners' identities." That argument is unsound.

The relevant Fourth Amendment reasonableness inquiry that justifies "a search incident to a lawful arrest" is whether it would be "'reasonable to believe evidence *relevant to* the crime of arrest might be found in the vehicle,'" *Gant*, 556 U.S. at 343 (citation omitted; emphasis added), not whether non-cumulative evidence might be found. After all, in *every* case involving a search incident to a warrantless yet "lawful arrest," *ibid.*, evidence of the relevant crime that is obtained after the arrest will *always* be cumulative, because the officer necessarily had enough preexisting evidence to justify the arrest itself. See *Atwater* v. *City of Lago Vista*, 532 U.S. 318, 354 (2001) (holding that "the standard of probable cause" applies to "'all arrests'" and an arrest is lawful if the "officer has probable cause to believe that [the] individual has committed even a very minor criminal offense in his presence").

In addition, as *Gant*'s reference to "relevant" evidence suggests, the reasonableness of a vehicle search incident to a lawful arrest reflects a strong law-enforcement interest in securing such additional evidence. The government must be prepared to prove at trial guilt beyond a reasonable doubt, a much more stringent standard than the probable cause necessary to support the arrest. And the government must be prepared to do so

with evidence that courts will find to be admissible; for example, where an officer has made an arrest based on the arrestee's own statements, a court may exclude those statements from evidence at trial. An officer thus has little way to accurately predict what evidence will ultimately be required to prove the crime. Petitioners' proposed rule against a search for "additional evidence" is thus not only self-defeating (because any post-arrest evidence will always be additional evidence), but also impractical and inadvisable. It would make little sense to treat Officer Hotz's probable cause to arrest the SUV's front-seat passenger for providing false identification information, based on the passenger's statement that his name was "Favian Estrada" and the officer's subsequent review of a driver's-license photograph for an individual with that name (see pp. 3-4, *supra*), as preclusive of an effort to secure additional evidence (*e.g.*, Leiva's identification affirmatively showing his identity) that might be necessary to establish guilt.

Petitioners are incorrect in asserting (Pet. 29) that the court of appeals' faithful application of *Gant*'s relevant-evidence standard suggests that "police could search a car any time they arrested an occupant." As petitioners recognize (Pet. 5, 13, 26), *Gant* itself explained that "[i]n many cases, as when a recent occupant is arrested for a traffic violation, there will be no reasonable basis to believe the vehicle contains relevant evidence," *Gant*, 556 U.S. at 343. That observation, which applies to the quantitatively significant category of traffic-violation arrests, reflects that the act constituting a traffic violation will not normally be reflected in items found in a vehicle. Likewise, a vehicle search may not be warranted incident to an arrest for the offense of "driving without a license, failing to provide proof of

insurance, [or] failing to wear a seatbelt," Pet. 27. Those offenses all involve crimes of omission for which one might not reasonably expect relevant evidence to be found in the arrestee's vehicle. But petitioners err in advancing an offense-specific rule that would preclude any possibility that officers might reasonably determine, based on the totality of the circumstances, that a vehicle might contain evidence relevant to the crime.

3. Petitioners contend (Pet. 12-16) that the court of appeals' Fourth Amendment decision conflicts with this Court's decision in *Davis* v. *United States*, 564 U.S. 229 (2011). No such conflict exists.

Davis considered the good-faith exception to exclusion and "h[e]ld that searches conducted in objectively reasonable reliance on binding appellate precedent are not subject to the exclusionary rule." *Davis*, 564 U.S. at 232. The parties in *Davis* limited their arguments in this Court to the good-faith exception and did not address whether the underlying vehicle search violated the Fourth Amendment.[1] *Davis* accordingly noted that

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[1] Davis's petition for a writ of certiorari sought review only of the good-faith question. Pet. at i, 5-18, *Davis*, *supra* (No. 09-11328). The government's brief in opposition agreed that the good-faith question warranted review but argued that the Court should grant certiorari to decide that issue in another then-pending case. Br. in Opp. at 9-12, *Davis*, *supra*. The brief in opposition did not address whether the underlying search itself was reasonable under the Fourth Amendment, an issue that, if contested, would have posed a potential barrier to the Court's consideration of the good-faith question presented in the petition. The parties' merits briefs similarly contained no arguments about whether the underlying search was constitutional, reflecting that the parties had simply assumed for purposes of the litigation in this Court that the underlying search violated the Fourth Amendment. See Pet. Br. at 10-60, *Davis*, *supra*; U.S. Br. at 9-55, *Davis*, *supra*.

Eleventh Circuit had determined that the vehicle search violated the Fourth Amendment, *id.* at 236, but then considered (and affirmed) the Eleventh Circuit's good-faith-exception holding without independently considering whether the underlying search was constitutional. See *id.* at 239-250.

In suggesting that *Davis* definitively decided that issue, petitioners rely (Pet. 2, 13, 27) on a passage from the opinion in the paragraph elaborating on the "question in th[e] case," *i.e.*, whether "the exclusionary rule" applies "when the police conduct a search in objectively reasonable reliance on binding judicial precedent." *Davis*, 564 U.S. at 239. That paragraph included a sentence describing the parties' views about whether the vehicle search complied with appellate precedent that *Gant* had abrogated years after officers conducted the search: "Although the search turned out to be unconstitutional under *Gant*, all agree that the officers' conduct was in strict compliance with then-binding Circuit law." *Ibid.* Particularly in the absence of any analysis of the search's constitutionality in the first instance, *id.* at 239-250, and the absence of any briefing of the Fourth Amendment issue to the Court, the Court's statement that "the search turned out to be unconstitutional under *Gant*" (*ibid.*) appears to reflect an acknowledgement of the uniform premise that the search was unconstitutional, and that the good-faith question should therefore be treated as dispositive. See *id.* at 253 (Breyer, J., dissenting) (describing the Court as "conceding" the Fourth Amendment issue). The Court had no reason to resolve the distinct and unbriefed Fourth Amendment issue, which was a nonjurisdictional premise for the good-faith question that the Court actually resolved, and it is unlikely to have done so in a sentence. Even

less likely is the adoption of the sort of circumstance-independent rule that petitioners press, under which no vehicle search incident to a false-identification arrest is supportable.

4. Petitioners also contend (Pet. 16-22) that the court of appeals' decision conflicts with decisions predating this Court's decision in *Davis*, namely, the Eleventh Circuit's own decision in *Davis*, 598 F.3d 1259 (2010), aff'd, 564 U.S. 229 (2011), and the decisions in *United States* v. *Buford*, 632 F.3d 264 (6th Cir.), cert. denied, 565 U.S. 931 (2011); *United States* v. *McCane*, 573 F.3d 1037 (10th Cir. 2009), cert. denied, 559 U.S. 970 (2010); and *People* v. *Chamberlain*, 229 P.3d 1054 (Colo. 2010) (en banc). Petitioners are incorrect.

In *Davis*, a police officer had arrested Davis for providing a false name after bystanders informed the officer of Davis's true name and the officer "verified" that name with a police dispatcher using Davis's birth date. *Davis*, 598 F.3d at 1261. After the district court upheld the vehicle search incident to Davis's arrest and Davis appealed, this Court decided *Gant*, which abrogated the circuit precedent that had been used to justify the search. *Ibid.* The Eleventh Circuit perceived "no serious dispute" that the vehicle search incident to that arrest "violated Davis's Fourth Amendment rights" in light of *Gant* where the officer "had already verified Davis's identity when he arrested him for giving a false name." *Id.* at 1263. That conclusion, however, was not necessary to the Eleventh Circuit's judgment because, as the court itself explained, it did not "dictate the outcome of th[e] case," *ibid.*, which the court resolved by affirming the district court's denial of Davis's suppression motion on good-faith-exception grounds, *id.* at

1263-1268. Cf. Pet. App. 12a (viewing statement as non-binding).

Even if treated as a considered conclusion, the Eleventh Circuit's discussion of the Fourth Amendment issue in *Davis* would not control the facts of this case. The court's decision did not categorically reject any possibility of a lawful vehicle search incident to an arrest for providing a false name, irrespective of the particular circumstances. The court stated that "'police could not expect to find evidence [of Davis's offense] in the passenger compartment'" where the officer "had already verified Davis's identity." *Davis*, 598 F.3d at 1263 (citation omitted). That brief discussion did not identify or discuss any factors that might potentially have given officers a reasonable basis to believe that relevant evidence might have been found in the vehicle. And because *Gant* had been decided after the district court record in *Davis* had been developed, that record did not include information designed to show that, under *Gant*, it was reasonable to believe such evidence might have been found. In subsequent cases, however, the Eleventh Circuit has determined that officers may conduct a vehicle search incident to an arrest in order to obtain additional evidence of the offence for which they have evidence supporting probable cause, if the circumstances make it reasonable to believe such evidence might be found in the vehicle.[2]

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[2] See, *e.g.*, *United States* v. *Adigun*, 567 Fed. Appx. 708, 713-714 (11th Cir.) (per curiam) (upholding constitutionality of vehicle search incident to an arrest for identity theft even though the arrestee during the traffic stop had "produced a driver's license with the [false] name" that "the officers knew" the arrestee had used to commit identity theft), cert. denied, 574 U.S. 1002 (2014); *United States* v. *Gray*, 544 Fed. Appx. 870, 879, 884 (11th Cir. 2013) (per

The Sixth Circuit's decision in *Burford* and the Tenth Circuit's decision in *McCane* are further afield. In both cases, the government conceded that the underlying searches were unconstitutional and the appellate panels simply accepted that concession before resolving the government's good-faith-exception arguments (and the appeals) in the government's favor. *Buford*, 632 F.3d at 270; *McCane*, 573 F.3d at 1040. And the relevant offenses in *Burford* and *McCane* were materially different from the offenses of arrest here. See *Buford*, 632 F.3d at 267 (reversing suppression of evidence from search incident to arrest based on an outstanding warrant for an unspecified probation violation); *McCane*, 573 F.3d at 1039 (affirming denial of suppression of evidence incident to arrest for driving with a suspended license); see also *United States* v. *Madden*, 682 F.3d 920, 924, 926 (10th Cir. 2012) (affirming on good-faith-exception grounds the district court's denial of suppression of evidence from a search incident to arrest for "two outstanding municipal misdemeanor traffic warrants"). Those decisions therefore do not speak to whether it was reasonable to search the SUV in this case incident to petitioners' arrests for providing false identification information.

Finally, the Supreme Court of Colorado in *People* v. *Chamberlain*, *supra*, addressed circumstances different from those presented here. In *Chamberlain*, the arrestee had been stopped twice by the police for traffic infractions. During the first stop in early December

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curiam) (upholding vehicle search incident to drug arrest after bag containing white powder that "field-tested positive for cocaine" was found on arrestee's person "because [the search] reasonably could have yielded further evidence of drug crimes"), cert. denied, 572 U.S. 1028, and 572 U.S. 1144 (2014).

2008, she had "presented" her driver's license to the officer "without qualification," *i.e.*, without disclosing that she had recently moved at "the end of November" from the address listed on the license. *Chamberlain*, 229 P.3d at 1055, 1058. During the second stop less than two weeks later on December 20, she again "gave the officer her driver's license" but, "when prompted, she indicated that she had been living at a different address from the one listed on her license." *Id.* at 1055. After the second officer learned that she had failed to disclose her new address during the first stop, the officer arrested her for "false reporting" and conducted a vehicle search incident to her arrest. *Ibid.*

The Supreme Court of Colorado observed that officers "were already in possession of the driver's license listing the [arrestee's] former address, her registration, and her proof of insurance" and that it was not "reasonable to believe [that the arrestee's] vehicle might contain additional documentary evidence corroborating her admission." *Chamberlain*, 229 P.3d at 1058. That conclusion presumably reflects the understanding that the arrestee had moved less than a month before her arrest and that nothing in the case suggested that it would be reasonable to believe that documents showing that she had moved might be found in her vehicle. Indeed, the court emphasized that the relevant test turns not only on the "nature of the offense" but also requires consideration of "the particular circumstances surrounding the arrest" that might give officers a "reasonable expectation" of discovering evidence relevant to the offense. *Id.* at 1057. The court ultimately stated that the vehicle search was not reasonable "without more" than the mere "possib[ility]" of finding such evidence. *Id.* at 1058. The fact-specific decision in *Chamberlain* does

not establish that the Supreme Court of Colorado would reach a different outcome from the decision here on the particular facts of this case.

5. In any event, this case would be an unsuitable vehicle to consider the question presented because alternative grounds independently support the decision below. See *Schiro* v. *Farley*, 510 U.S. 222, 228-229 (1994) (stating that a prevailing party may defend the judgment on review on alternative grounds). In particular, the district court correctly recognized that the search of the SUV (and the backpack on the front passenger side) was independently justified by the inventory-search doctrine, which permits the impoundment and search of a vehicle based on standardized criteria in an established police-department policy. Pet. App. 45a-52a; see *Florida* v. *Wells*, 495 U.S. 1, 3-5 (1990); *Colorado* v. *Bertine*, 479 U.S. 367, 371-376 (1987). And the district court's determination on that issue justifies the search in this case, regardless of whether the court of appeals erred in its application of the search-incident-to-arrest doctrine.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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JULY 2022