No. _____

In the Supreme Court of the United States

TIMOTHY SPRIGGS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Fourth Amendment permits the warrantless search of an immobile RV, i.e., one that is attached to usual residential utilities such as septic and electricity, where the vehicle is being used as a residence on a private residential lot.

2. Whether a defendant who pleads guilty can be denied the acceptance-of-responsibility reduction provided for in United States Sentencing Guidelines § 3E1.1 solely on the basis of having filed a viable, but ultimately unsuccessful, suppression motion raising substantial constitutional questions.

3. Whether a defense attorney's categorical refusal to file a non-frivolous motion to suppress—in a case where such a motion is the only viable defense to the charges—amounts to ineffective assistance of counsel because it strips the client of his right to make fundamental decisions about whether to plead guilty or to fight the charges.

INTERESTED PARTIES

There are no parties to the proceeding other than those named in the caption of the case.

RELATED PROCEEDINGS

United States v. Spriggs, 666 F.3d 1284 (11th Cir. 2012) (No. 10-14919)

Spriggs v. United States, 703 F. App'x 888 (11th Cir. 2017) (No. 15-10659)

Spriggs v. United States, No. 13-14189-cv-JEM, 2019 WL 12021807 (S.D. Fla. Feb. 28, 2019)

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PETITION FOR A WRIT OF CERTIORARI

Timothy Spriggs petitions the Supreme Court of the United States for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit, entered in *United States v. Spriggs*, No. 19-13238, 2022 WL 2345758 (June 29, 2022).

OPINION BELOW

A copy of the decision is contained in the Appendix (App. 1).

STATEMENT OF JURISDICTION

The decision of the United States Court of Appeals for the Eleventh Circuit was entered on June 29, 2022. App. 1. The Eleventh Circuit denied a petition for panel rehearing on September 27, 2022. App. 94. This Court has jurisdiction under 28 U.S.C. § 1254(1). The Eleventh Circuit had jurisdiction under 28 U.S.C. § 1291.

STATUTORY AND OTHER PROVISIONS INVOLVED

The Fourth Amendment provides, in relevant part: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The Sixth Amendment provides in relevant part: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial . . ., and to have the Assistance of Counsel for his defence."

U.S.S.G. § 3E1.1 (Acceptance of Responsibility) provides:

> (a) If the defendant clearly demonstrates acceptance of responsibility for his offense, decrease the offense level by 2 levels.
>
> (b) If the defendant qualifies for a decrease under subsection (a), the offense level determined prior to the operation of subsection (a) is level 16 or greater, and upon motion of the government stating that the defendant has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the court to allocate their resources efficiently, decrease the offense level by 1 additional level.

STATEMENT OF THE CASE

This appeal results from the denial of Petitioner's 28 U.S.C. § 2255 motion for habeas relief, which asserted ineffective assistance based on his plea counsel's flat-out refusal to file a viable motion to suppress evidence and statements resulting from a warrantless search of his home.

The original case dates back to January 2010, when Detective Brian Broughton of the Martin County, Florida Police Department determined that files containing pornographic depictions of minors were being downloaded by a computer located at an address in Hobe Sound, Florida. Det. Broughton obtained a search warrant for the address in Hobe Sound where the offending material was being received.

While executing the search, Det. Broughton walked next-door and encountered Petitioner, the petitioner in this case, who lived with his parents on the adjacent property—on a different lot with a different address. App. 5. Det. Broughton encountered him after wrongly advising Petitioner's parents that he had the authority pursuant to the warrant to search their dwelling, even though it was on a different lot from the address described in the warrant. App. 6. Det. Broughton then seized Petitioner's laptop computer and obtained statements from Petitioner admitting receipt of the relevant images. Later, Det. Broughton obtained a search warrant authorizing law enforcement officers to view the contents of the laptop, where police found files containing images of proscribed sexual conduct. *Id.*

Petitioner was arrested on a one-count federal indictment charging him with receiving on his computer visual depictions of minors engaging in sexually explicit conduct, in violation of 18 U.S.C. § 2252(a)(2) Following the appointment of counsel, Petitioner entered a guilty plea to the indictment. The district court originally imposed a 180-month term of

imprisonment, but following the successful appeal of a guideline calculation error*, see United States v. Spriggs*, 666 F.3d 1284 (11th Cir. 2012), the district court imposed a 126-month prison sentence. App. 7.

Petitioner timely filed his § 2255 motion in May of 2013. He alleged that he received ineffective assistance of counsel because his attorney refused to file a potentially meritorious motion to suppress evidence in the case, and because the attorney's refusal to file that motion led to Petitioner's entry of a guilty plea. In 2014, the magistrate judge to whom the case was referred recommended denying the motion without a hearing. The district court adopted the recommendation and denied relief.

In 2015, Petitioner appealed. The Eleventh Circuit reversed the district court's summary denial of the § 2255 motion and remanded for further proceedings. *See Spriggs v. United States*, 703 F. App'x 888, 892 (11th Cir. 2017). It found that the district court's "wholesale refusal" to consider the Fourth Amendment violation was at odds with this Court's recent decision in *Lee v. United States*, 137 S. Ct. 1958, 1965 (2017).

On remand, the district court referred the case to a magistrate judge who conducted an evidentiary hearing. The magistrate court issued a report recommending denial of relief, but once again failed to determine if the motion to suppress was meritorious. App. 42. The district court adopted the magistrate's report and denied relief. App. 91.

In February of 2020, the Eleventh Circuit granted a certificate of appealability on the question whether

trial counsel was ineffective for failing to file a motion to suppress both the statements made by Petitioner to law enforcement and the evidence of child pornography obtained from Petitioner's laptop computer.

Petitioner argued on appeal (1) that the motion to suppress would have been meritorious; (2) that plea counsel's refusal to file the suppression motion was based on a misunderstanding of applicable law; and (3) that counsel's refusal to file the suppression motion stripped from Petitioner the right to make a fundamental decision about his case—that is, whether to plead guilty or to instead fight the charges. Petitioner further argued that, to satisfy the prejudice prong of *Strickland v. Washington*, 466 U.S. 668 (1984), he need not show that a motion to suppress would have prevailed at the district court level—but only that there is a reasonable probability that it would.

In the underlying case, plea counsel had erroneously told Petitioner that even if the search violated the Fourth Amendment, there would be no relief because the inevitable discovery doctrine excused the violation. In affirming the district court's denial of the § 2255 motion, the Eleventh Circuit recognized that defense counsel's understanding of the inevitable discovery doctrine was "mistaken." App. 24. Nonetheless, the court of appeals found that counsel's *refusal* to file a motion to suppress did not amount to deficient performance because some lawyer somewhere else might have

decided against filing—even if for entirely different reasons than those given by plea counsel. App. 40-41.

Plea counsel had belatedly justified her refusal to file the motion on the theory that, if she had so filed, Petitioner might have lost the acceptance-of-responsibility reduction provided for in the United States Sentencing Guidelines. The court of appeals found this to be reasonable. App. 39. The court of appeals denied the petition for rehearing. App. 94.

REASONS FOR GRANTING THE WRIT

This Court should grant certiorari for several reasons. First, the decision below allows for warrantless searches of RVs that are not readily capable of being moved because they are functionally being used as homes. This incorrect holding improperly expands the automobile and curtilage exceptions to undermine the well-established Fourth Amendment rule that a man's home is his castle. That error warrants correcting.

Second, the decision below contributes to a well-established Circuit split regarding whether the acceptance-of-responsibility reduction may be denied solely on the basis of a non-frivolous suppression motion. Third, the decision below strips defendants of the right to make fundamental decisions about their case. Finally, the questions presented in this case are important, and have significant implications for the millions of Americans who live nomadic lifestyles—or who cannot afford to buy a house, but who can afford to live in a trailer or an RV. The

questions presented arise frequently and will continue to arise frequently.

I. The Court should grant certiorari because the decision below was wrong on the Fourth Amendment question.

The Fourth Amendment is predicated on the common-law notion that "a man's house is his castle," and "to enter a man's house without a proper warrant" is to "attack the liberty of the subject and destroy the liberty of the kingdom." *Lange v. California*, 141 S. Ct. 2011, 2022 (2021) (internal quotation marks and citations omitted). Those protections are just as important when the "castle" is an RV that is not readily mobile because it is being used as a home—as evidenced by its septic and electrical connections; its patio and awning; and its location in the center of a parcel of real estate in a residential neighborhood. A warrantless search of such a dwelling is no different than a warrantless search of a home, and the Eleventh Circuit was wrong to hold otherwise. This Court should grant certiorari to correct that grave Fourth Amendment error.

Petitioner's motion to suppress was not only colorable; it was meritorious. Police searched Petitioner's home, an RV on a standalone residential lot, without first obtaining a warrant. None of the exceptions to the warrant requirement applied in this case. The Eleventh Circuit correctly found that plea counsel's reliance on the inevitable discovery doctrine was misplaced, but the panel erred in analyzing the other exceptions.

This Court should grant certiorari to make clear that the automobile exception, as described in *California v. Carney*, 471 U.S. 386 (1985), does not extend to an immobile motor home used as a full-time residence on a residential parcel of land. *Carney* made clear that the automobile exception applies only to vehicles "situated such that it is reasonable to conclude that the vehicle is not being used as a residence." *Id.* at 394. It listed as relevant factors: "its location, whether the vehicle is readily mobile or instead, elevated on blocks, whether the vehicle is licensed, whether it is connected to utilities, and whether it has convenient access to a public road." *Id.* at 394 n.3.

These factors weigh heavily in favor of requiring a warrant to search Petitioner's home. The home was located on a residential lot; it was the only structure on that residential lot; and it was plainly being used as a home. Police knew it was hooked up to internet, and the septic connection alone demonstrated that the vehicle was affixed to the ground and not merely parked in the driveway. There is no evidence in the record that the vehicle was licensed for travel, that its tires were inflated, or that the engine was functional. Nor is there any evidence with respect to the amount of time it would take to safely disconnect and seal the septic tank and other connections; to dismantle and untether the awnings and patio attachment; and whether any of that could be done more quickly than having a house mover come and lift a wood-frame home off of its foundation and wheel it away.

The question in Petitioner's case is answered by a straightforward application of *Collins v. Virginia*, 138

S. Ct. 1663, 1671 (2018), where this Court explained that the automobile exception has no application to a warrantless search of a vehicle on private property. As this Court held: "[N]othing in our case law . . . suggests that the automobile exception gives an officer the right to enter a home or its curtilage to access a vehicle without a warrant." *Id.* at 1671. In this case, police did precisely that—they entered the curtilage surrounding Petitioner's home (that is, the RV), and then proceeded to search the RV without a warrant.

The curtilage and good-faith exceptions likewise do not apply here. The Eleventh Circuit found that a reasonable officer might have thought the warrant for the adjacent lot also gave him license to search the home next-door, under either the automobile or the curtilage exception. App. 32, 35. But the curtilage doctrine has never extended from one parcel to another, and no reasonable officer would have a good-faith belief that a warrant to search one address extends to the curtilage of an entirely different address. App. 76 (district court notes Spriggs's arguments with respect to curtilage might be "persuasive were this Court hearing this matter as a motion to suppress"). An RV on a different lot is not within the curtilage of a home to be searched.

Police in this case obtained a search warrant for 11501 Southeast Ella Avenue. Petitioner's RV was parked on the adjacent lot, which had a street address of 11491. County property records showed that the two lots were platted as distinct parcels, and that the lot where the RV was parked had a separate address. When police searched the RV, they knew that they had

not included any part of the Spriggs dwelling or the plot of land on which it stood in their photographs of the premises that were submitted with the warrant application. Nor did police make any claim of curtilage after the search was conducted. Instead, police wrongly claimed consent—an argument the district court rejected. *See* App. 77.

County records showed that all of the lots in Petitioner's neighborhood were divided into equally sized parcels. No reasonable officer would have thought that the warrant to search the house included a dwelling on an adjacent property. Indeed, searching officers used the term "next door" to refer to the RV; the warrant application described in detail the house and included a photograph *only of the house*; county property records showed that the two lots were plotted as two distinct parcels; and the warrant application made no reference whatsoever to the 11491 lot, the RV parked there, or the Spriggs family. App. 48-49.

The decision below improperly relied on cases holding that a warrant to search an address also allows police to search vehicles parked within the curtilage. In such cases, the vehicles were parked *in the driveway*, or on the lot to be searched—in other words, on the property for which police had a warrant. *See e.g. United States v. Napoli*, 530 F.2d 1198 (5th Cir. 1976) (warrant authorizing search of single-family dwelling encompassed a camper parked in the driveway). Until now, the rule announced in that line of cases has never been expanded so broadly to allow for the search of a RV *on a completely different lot*. This Court should grant certiorari to establish the

limits of both the automobile exception and the curtilage exception.

II. The Court should grant certiorari to resolve the Circuit split regarding suppression motions and the acceptance-of-responsibility reduction.

The Court should also grant certiorari to resolve the entrenched Circuit split that was deepened by the decision below. In holding that plea counsel was correct that Petitioner was at risk of losing the acceptance-of-responsibility reduction if he filed a suppression motion, the Eleventh Circuit held that a suppression motion alone, without more, can be a basis for denying a defendant at least one of the three potential reduction points for acceptance of responsibility under U.S.S.G. § 3E1.1(b).[1] This contradicted the Eleventh Circuit's own prior decision in *United States v. Rodriguez*, 959 F.2d 193, 197 (11th Cir. 1992), which had held that mere exercise of constitutional rights by an accused is not a basis for denying a reduction for acceptance of responsibility. It also contributes to an entrenched Circuit split.

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[1] U.S.S.G. § 3E1.1 provides that the defendant's offense level should be decreased by two points if he "clearly demonstrates acceptance of responsibility" and by an additional point in cases involving an offense level 16 or greater "upon motion of the government stating that the defendant has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the court to allocate their resources efficiently." § 3E1.1(b).

On one side of the split are the Ninth Circuit, the Tenth Circuit, the Second Circuit, and the D.C. Circuit. These courts have held, correctly, that a defendant cannot be denied the acceptance-of-responsibility reduction based only on filing a suppression motion. *See United States v. Kimple*, 27 F.3d 1409 (9th Cir. 1994); *United States v. Marquez*, 337 F.3d 1203 (10th Cir., 2003); *United States v. Vargas*, 961 F.3d 566 (2d Cir. 2020); *United States v. Price*, 409 F.3d 436 (D.C. Cir. 2005).

In *United States v. Kimple*, the Ninth Circuit held that the district court improperly withheld the third point of acceptance where the defendant waited over a year to enter a plea and during that time he had filed a motion to suppress. 27 F.3d 1409 at 1414. The court there reasoned: "Although the district court may properly deny the reduction because Kimple failed to notify authorities of his intent to plead guilty before the Government was able to avoid trial preparations, or before the court had set the calendar for trial, it cannot deny the reduction on the basis that Kimple exercised his constitutional rights at the pretrial stage of the proceedings." *Id.* *See also United States v. Knight*, 710 Fed. App'x 733 (9th Cir. 2017).

The Tenth Circuit reached the same conclusion in *United States v. Marquez*, 337 F.3d 1203 (10th Cir., 2003). There, the district court had found that the defendant was not entitled to the third point for acceptance on the theory that "his plea was entered on the eve of trial, and only after a lengthy suppression hearing which required the attendance of all but one of the government's witnesses." *Id.* at 1211. The Tenth

Circuit reversed. It held that "both reasons offered by the district court constitute impermissible grounds upon which to base a denial of the third level reduction under § 3E1.1(b)(2)." *Id.*

In *United States v. Vargas*, 961 F.3d 566 (2d Cir. 2020), the Second Circuit agreed with the Tenth Circuit that "where a defendant has filed a non-frivolous motion to suppress, and there is no evidence that the government engaged in preparation beyond that which was required for the motion, a district court may not rely on the fact that the defendant filed a motion to suppress requiring a 'lengthy suppression hearing' to justify a denial of the third level reduction under § 3E1.1(b)(2)." *Id.* at 584 (citing *Marquez*, 337 F.3d at 1212).

The D.C. Circuit held the same in *United States v. Price*, 409 F.3d 436 (D.C. Cir. 2005). It found that the plain text of U.S.S.G. § 3E1.1(b)(2) applied because "[w]hile the government did have to prepare for a suppression hearing," it "never had to prepare for trial." 409 F.3d at 433-44. "Therefore, under the plain language of U.S.S.G. § 3E1.1(b)(2), Price was entitled to a third-level reduction in his offense level." *Id.* at 444.

On the other side of the split are the Fifth Circuit, the Sixth Circuit, and the Eleventh Circuit. These Courts have held that at least the third point for acceptance can be denied based on the defendant's filing a motion to suppress. *See United States v. Longoria*, 958 F.3d 372 (5th Cir. 2020); *United States v. Collins*, 683 F.3d 697 (6th Cir. 2012).

The Fifth Circuit initially expressed doubt over this position. It considered, in *United States v. Silva*, 865 F.3d 238 (5th Cir. 2017), the import of the 2013 enactment of Amendment 775 to the Sentencing Guidelines. That Amendment states that "[t]he government should not withhold a motion based on interests not identified in [U.S.S.G.] 3E1.1," which again refers to pleading guilty and to allowing the government to avoid preparing for trial. The Fifth Circuit noted in *Silva* that it was "unclear" to what extent Amendment 775 was meant to reject the Circuit's "previous rule that a suppression hearing may justify withholding a Section 3E1.1(b) reduction." 865 F.3d at 244. The Fifth Circuit later held, in *United States v. Longoria*, 958 F.3d 372 (5th Cir. 2020), that Amendment 775 did not "clearly overrule our caselaw allowing the government to withhold the third point when it must litigate a suppression motion." *Id.* at 376. In so holding, however, the Fifth Circuit noted that "[i]f we were writing on a blank slate, Longoria might have a compelling argument" because "Section 3E1.1(b) speaks of 'trial,' not pretrial hearings, and preparing for a suppression hearing usually requires less time and resources than trial preparation." *Id.*

In *United States v. Collins*, 683 F.3d 697 (6th Cir. 2012), the Sixth Circuit held that the government's decision to withhold the § 3E1.1(b) motion "was not arbitrary or unconstitutionally motivated." *Id.* at 707. And, in Petitioner's case, the Eleventh Circuit held that "[t]he guidelines recognize that both timeliness of a plea and the conservation of resources—government resource and the court's—may be considered by the

prosecution in deciding whether to award the additional one-point reduction." App. 39. This is an incorrect reading of the applicable guideline.

The Ninth, Tenth, Second, and D.C. Circuits have the right view. This Court should grant certiorari to make clear that, under the plain language of USSG 3E1.1(b)(2), and under constitutional principles, the third point for acceptance cannot be denied based solely on the defendant's filing a non-frivolous motion to suppress.

III. The Court should grant certiorari because the decision below incorrectly applied the *Strickland* test and created a rule that violates defendants' fundamental rights.

Petitioner received ineffective assistance of counsel. That ineffective assistance led him to enter a guilty plea rather than to pursue a suppression motion that could have resulted in the complete dismissal of the charges against him. The motion was meritorious, for the reasons discussed in Part I, *supra*. That is enough to satisfy the performance prong of *Lee*. "The failure of an attorney to inform his client of the relevant law clearly satisfies the first prong of the *Strickland* analysis." *Hill v. Lockhart*, 474 U.S. 52, 62 (1985) (White J., concurring). "No reasonable lawyer would forgo competent litigation of meritorious, *possibly* decisive claims." *Kimmelman v. Morrison*, 477 U.S. 365, 382 (1986). The *Strickland* performance test is satisfied for other reasons as well—reasons significant enough to warrant granting certiorari.

This case lies at the intersection of two principles integral to the attorney-client relationship: (1) that

strategic decisions are generally left to the attorney; and (2) that fundamental decisions about case resolution are to be made by the defendant. *See, e.g. Jones v. Barnes*, 463 U.S. 745, 751 (1983) ("the accused has the ultimate authority to make certain fundamental decisions regarding the case, as to whether to plead guilty") (citing *Wainwright v. Sykes*, 433 U.S 72, 93 n.1 (1977) (Burger, C.J., concurring); ABA Standards for Criminal Justice 4-5.2, 21-2.2 (2d ed. 1980).

The first principle cannot override the second, and the Eleventh Circuit in its decision does precisely that. The decision below erred by characterizing incorrect advice that left the defendant with no choice but to plead guilty as merely "strategic" and thus entitled to deference under the performance prong of *Lee*. That is wrong. One of the core teachings of *Lee* is that defendants are entitled to conduct their own cost-benefit analysis in deciding how to resolve their case. *See Lee v. United States*, 137 S. Ct. 1958, 1966 (2017) (recognizing that the particular hardships of conviction may warrant a defendant's taking some risk, even against "long odds," to vindicate constitutional rights).

It would be one thing if plea counsel told Petitioner that she advised against filing the motion and provided him legally accurate justifications to buttress that advice. But that is not what happened ere. Instead, plea counsel told Petitioner that she flat-out refused to file the motion—and her reasons for that refusal were entirely erroneous. *See* App. 24. (recognizing that counsel said "she would not be filing a motion to suppress" and that her understanding of the inevitable

discovery doctrine was "mistaken"). The panel erred in finding plea counsel's performance to be sufficient under the Sixth Amendment and this Court's precedents.

This Court should grant certiorari because the decision below creates a rule that strips defendants of the right to make fundamental decisions about their case, such as whether to plead guilty or to fight the charges. Plea counsel's conduct effectively violated this Court's clear instruction that "[c]ounsel lacks authority to consent to a guilty plea on a client's behalf." *Florida v. Nixon*, 543 U.S 175, 187 (2004). *See also McCoy v. Louisiana*, 138 S. Ct. 1500, 1505 (2018) ("We hold that a defendant has the right to insist that counsel refrain from admitting guilt, even when counsel's experienced-based view is that confessing guilt offers the defendant the best chance to avoid the death penalty"). Based on plea counsel's ineffectiveness, Petitioner was not able to make a fundamental decision about his case.

After all, a plea that is entered on the basis of an attorney's incorrect statements about applicable law and ensuing refusal to challenge an illegal search cannot be considered knowing and voluntary. There is a reasonable probability that, with the benefit of effective counsel, Petitioner would have chosen to fight the charges, even if that meant assuming some risk as to the length of his potential sentence. But due to plea counsel's ineffective assistance, Petitioner was robbed of that freedom of choice. Counsel's refusal to file the motion to suppress left Petitioner with no option but to plead guilty. Had Petitioner's attorney correctly advised him with respect to the suppression motion, he

would have asked to fight the charges rather than pleading guilty. And had the suppression motion been filed, there is a reasonable probability that the outcome would have been different.

The Eleventh Circuit's decision suggests that forcing a defendant to plead guilty, and doing so based on a misunderstanding of applicable law, does not violate a defendant's right to effective assistance of counsel in cases where alternative counsel *might* have advised a defendant that he *might* lose a motion to suppress. This is wrong: First, the realities of criminal defense practice are that there is no unicorn suppression motion that is guaranteed to succeed. Any competent attorney will always advise that a defendant *might* lose such a motion, even a strong one. But there is significant daylight between that advice and between plea counsel's refusal to file here. Plea counsel's advice in this case was not a recommendation. It was fiat: No suppression motion would be filed. This cannot be properly characterized as mere advice. If the motion to suppress is colorable, and if it is a defendant's only colorable defense to the charges, then whether to file is a fundamental case decision that the defendant is entitled to make.

Certiorari is also warranted because the Eleventh Circuit misapplied this Court's decision in *Jones v. Barnes*, 463 U.S. 745 (1983), which does not expand so broadly as to authorize denying relief on the basis of a refusal to defend the defendant against charges at the pretrial stage of the case, particularly in cases where this one where the defendant expressly requests to pursue such a defense. *Cf. id.* at 751 (focusing on

appellate rights *after* conviction). The panel likewise misapplied *Premo v. Moore*, 562 U.S. 115, 124 (2011), where this Court found nothing about the advice given by the defendant's counsel, with respect to the suppression motion, to be unreasonable. That is a sharp contrast to this case, where even the panel acknowledged that the actual advice given by plea counsel was eminently unreasonable.

IV. The Court should grant certiorari because the question presented is important.

Finally, the Court should grant certiorari because the question presented is significant and is likely to arise frequently. This case has implications for millions of Americans' Fourth Amendment rights, especially given the increasing popularity in recent years of RVs and similar dwellings. Nomadic existences—and the practice of residing in homes that are capable of moving from one place to another but that often remain fixed for long periods of time—have become ubiquitous.

"There have always been itinerants, drifters, hobos, restless souls. But now, in the second millennium, a new kind of wandering tribe is emerging. People who never imagined being nomads are hitting the road. They're giving up traditional houses and apartments to live in what some call "wheel estate"—vans, secondhand RVs, school buses, pickup campers, travel trailers, and plain old sedans. They are driving away from the impossible choices that face what used to be the middle class," author Jessica Bruder wrote in the foreword to her 2017 nonfiction book, *Nomadland*—which would later become an Academy-

Award winning motion picture. *See* Jessica Bruder, *Nomadland: Surviving America in the Twenty-First Century*, WW Norton & Co. (Sept. 2017).

Also fueling this nomadic trend is the increasing availability of remote work, which ballooned during the Covid-19 pandemic. This has yielded an entire class of so-called "digital nomads," and "[b]y 2025, some studies estimate that a whopping 35.7 million Americans or 22% of the workforce, will be remote workers. Thanks to the pandemic, more people are choosing to embrace a location-independent, technology-enabled lifestyle that allows them to travel and work remotely." Caroline Castrillon, "Why the Digital Nomad Lifestyle Is on the Rise," Forbes.com (July 17, 2022), available at https://www.forbes.com/sites/carolinecastrillon/2022/07/17/why-the-digital-nomad-lifestyle-is-on-the-rise/?sh=590be3184934 (last accessed Jan. 22, 2023).

Petitioner is one of a staggering number of Americans whose home is an RV or similar home/vehicle hybrid. His RV, at the time it was searched, was much more of a castle than it was a readily mobile vehicle. Because the Eleventh Circuit deemed it subject to the automobile exception, the decision below threatens the Fourth Amendment rights of all people with similar homes.

The questions presented by this case are likely to arise frequently. This Court should grant certiorari because the time for clarity is now. There is no need for the questions presented by this case to percolate further—nearly all the Circuits have spoken on the

acceptance of responsibility question; and the other two questions strongly implicate defendants' fundamental rights.

CONCLUSION

Based upon the foregoing petition, the Court should grant a writ of certiorari to the Court of Appeals for the Eleventh Circuit.

Respectfully submitted,

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