No. _____

In the Supreme Court of the United States

ROBERT KESHAUN TURNER,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for a Writ of *Certiorari*
to the United States Court of Appeals
for the Fourth Circuit

Petition for Writ of *Certiorari*

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March 4, 2025

QUESTION PRESENTED

Whether the Fourth Circuit's application of the vehicle search-incident-to-arrest exception to the warrant requirement resolved the meaning of "reasonable to believe" consistently with the plain language of *Arizona v. Gant*, 556 U.S. 332 (2009), and with the broader Fourth Amendment framework set forth by this Court's associated precedent.

PARTIES TO THE PROCEEDING

Petitioner, defendant-appellant below, is Robert Keshaun Turner.

Respondent, appellee below, is the United States of America.

RELATED PROCEEDINGS

United States v. Turner, No. 22-4055 (4th Cir. Dec. 4, 2024).

United States v. Turner, No. 1:20-cr-00350-TDS-1 (M.D.N.C. Jan. 20, 2022, *as amended*, Feb. 26, 2025).

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The published decision of the U.S. Court of Appeals for the Fourth Circuit (the "***Fourth Circuit***") is available at *United States v. Turner*, 122 F.4th 511 (4th Cir. 2024), and reprinted in Appendices C and D to this Petition for Writ of *Certiorari*. 27A–49A; *see also United States v. Turner*, No. 22-4055 (4th Cir. Dec. 4, 2024) (Doc. Nos. 58, 59). Petitioner did not move for rehearing or rehearing *en banc* in the Fourth Circuit.

The Memorandum Opinion and Order of the U.S. District Court for the Middle District of North Carolina (the "***district court***" or the "***Middle District***") regarding Petitioner's motion to suppress evidence is not reported, but is available at *United States v. Turner*, 2021 WL 2435609 (M.D.N.C. 2021), and reprinted in Appendix A to this Petition for Writ of *Certiorari*. 2A–17A; *see also United States v. Turner*, No. 1:20-cr-00350-TDS-1 (M.D.N.C. June 15, 2021) (Doc. No. 16). The Middle District's Criminal Judgment and Amended Criminal Judgment are reprinted in Appendices B and E to this Petition for Writ of *Certiorari*. 18A–26A, 50A–58A; *see also United States v. Turner*, No. 1:20-cr-00350-TDS-1 (M.D.N.C. Jan. 20, 2022, *as amended*, Feb. 26, 2025) (Doc. Nos. 34, 63).

STATEMENT OF JURISDICTION

The Published Opinion and Judgment Order of the U.S. Court of Appeals for the Fourth Circuit were entered on December 4, 2024. *See* 27A, 49A. This Court has jurisdiction by virtue of 28 U.S.C. § 1254(1).

RELEVANT CONSTITUTIONAL PROVISIONS

The Fourth Amendment to the United States Constitution provides 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 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." U.S. Const. Amend. IV.

STATEMENT OF THE CASE

A. Factual Background

On June 2020, Petitioner Robert Keshaun Turner's brother informed local law enforcement in Durham, North Carolina that his Ruger Model SR45 handgun was missing from its usual place in his bedroom, and that he suspected that Petitioner was responsible. Officer David Flores of the Durham Police Department investigated the matter, and a magistrate judge concluded that there was probable cause that

Petitioner had stolen the handgun and issued a warrant for his arrest on that ground. *See* 3A, 29A.

On June 2, 2020, Officer Flores responded to a carjacking report in which the victim alleged that Petitioner, along with an unknown individual, had brandished a "a black and gray Ruger .45 caliber with SR written on it" and demanded the keys to the victim's vehicle. However, the victim subsequently informed law enforcement that Petitioner had returned the vehicle later that same evening. A magistrate judge denied law enforcement's application for another arrest warrant on this ground, concluding that there was not probable cause that Petitioner had committed the alleged carjacking. *See* 3A–4A, 29A–30A.

On June 4, 2020, Officer Flores responded to a shots-fired report at a nearby convenience store.[1] Upon arriving at the scene, Officer Flores recognized Petitioner in the driver's seat of a stationary black Buick waiting to leave the convenience store and placed him under arrest pursuant to the warrant for his brother's missing handgun. There was

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[1] Officer Flores's body-worn camera produced a video recording of the ensuing events, which the parties, the district court, and the Fourth Circuit cited and discussed extensively in the proceedings below. *See* 2A–3A, 5A, 16A, 30A–32A.

no evidence of criminal activity on Petitioner's person, and when law enforcement asked whether there was "anything" in the black Buick, Petitioner responded in the negative. Nevertheless, law enforcement immediately searched the black Buick and found the specific firearm that Petitioner's brother had reported as missing. *See* 4A–6A, 30A–31A.

B. Procedural History

In November 2020, the Grand Jury for the Middle District of North Carolina returned a two-count Superseding Indictment charging Petitioner with possession of a firearm by a convicted felon, in violation of 18 U.S.C. §§ 922(g), 924(a)(2); and possession of a stolen firearm, in violation of 18 U.S.C. §§ 922(j), 924(a)(2).[2] The district court's subject-matter jurisdiction was derived from 18 U.S.C. § 3231.

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[2] The original Indictment, in August 2020, charged Petitioner only with the 18 U.S.C. § 922(g) possession offense.

In September 2013, the North Carolina Superior Court for Durham County sentenced Petitioner to 38 to 58 months' imprisonment for robbery with a dangerous weapon. In February 2020, the North Carolina Superior Court for Durham County convicted Petitioner of being a felon in possession of a firearm. Accordingly, Petitioner was aware of his prohibited status pursuant to 18 U.S.C. § 922(g) at the time of his offense conduct.

(cont.)

Petitioner moved the district court to suppress all evidence resulting from the warrantless search of the black Buick, arguing that it violated the Fourth Amendment because there was no reasonable basis to believe that the vehicle would contain evidence of the crime of arrest. *See* 6A. Having considered the arguments of the parties and the testimony of Officer Flores, the court denied the motion to suppress, citing Petitioner's alleged involvement in the events of June 1 and June 2, 2020 as well as the fact that the arrest occurred "in an area which [Officer Flores] knew to be affiliated with gang activity at a late hour of night." 13A–14A; *see* 7A–17A.[3] The court specifically declined to reach the Government's arguments pursuant to the vehicle exception, but it concluded that it was moot that law enforcement officers began searching

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Furthermore, a special agent from the United States Bureau of Alcohol, Tobacco, and Firearms and Explosives concluded that Petitioner's brother's firearm was manufactured outside the state of North Carolina, and that it accordingly "moved in and affecting interstate commerce prior to Turner's possession of the same," as required by 18 U.S.C. § 922(g).

[3] *See also* 14A ("Based on the crime of arrest, coupled with the surrounding circumstances of which Flores was aware, he had at least a reasonable belief that Turner's vehicle contained evidence of the larceny of the firearm, such that the search of the vehicle incident to arrest was permissible.").

the vehicle before Officer Flores finished arresting Petitioner, pursuant to the inevitable-discovery doctrine. 14A–17A. *See also* 31A–32A.

In June 2021, pursuant to a written plea agreement, Petitioner agreed to plead guilty to possession of a firearm by a convicted felon, in violation of 18 U.S.C. §§ 922(g), 924(a)(2).[4] *See* 33A. The district court adopted an advisory Sentencing Guidelines range of 46 to 57 months' imprisonment, based on an offense level of 19 and a criminal history category of IV, and sentenced Petitioner to 57 months' imprisonment and 3 years' supervised release. 18A–26A; *see* 33A.

Petitioner timely appealed. *See* Fed. R. App. P. 4(b)(1)(A). The Fourth Circuit's jurisdiction was derived from 28 U.S.C. § 1291. On direct appeal, the Fourth Circuit ordered supplemental briefing on three specific issues: (1) the district court's denial of Petitioner's motion to suppress, (2) the calculation of Petitioner's advisory Sentencing Guidelines range, and (3) the consistency of the district court's oral pronouncement of the special conditions of supervised release with its

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[4] Petitioner specifically reserved his right to appeal his conviction and sentence based on the denial of his motion to suppress, pursuant to Fed. R. Crim. P. 11(a)(2)

written judgment. *See* Supplemental Briefing Order, No. 22-4055 (Doc. No. 26) (4th Cir. Oct. 2, 2023). The Fourth Circuit heard oral argument in September 2024, primarily focusing on the Fourth Amendment issues surrounding the warrantless search of the black Buick. *See* Oral Argument Notification, No. 22-4055 (Doc. No. 54) (4th Cir. July 17, 2024); *see also* No. 22-4055 (Doc. No. 57) (4th Cir. Sept. 24, 2024).

The Fourth Circuit affirmed the district court's application of the vehicle search-incident-to-arrest exception by unanimous published opinion. *United States v. Turner*, 122 F.4th 511 (4th Cir. 2024); *see* 49A; *see generally* 27A–48A. The Fourth Circuit explained the second prong of the vehicle search-incident-to-arrest exception articulated in *Gant*, and specifically concluded that the "reasonable to believe" standard associated with that analysis constituted "something less than probable cause." 35A–39A. But it nevertheless proceeded to hold that it "need[ed] go no further today in explicating *Gant*'s 'reasonable to believe' standard," and that "[w]hatever the precise contours of *Gant*'s 'reasonable to believe' standard, that standard is met here." 39A–40A. Like the district court, the Fourth Circuit emphasized Officer Flores's suspicion of Petitioner for the crime of arrest as well as the location in

which the arrest occurred. 39A–41A. The Fourth Circuit likewise did not reach the automobile exception, 34A, but it affirmed the district court's application of the inevitable-discovery exception, 41A–42A.

The Fourth Circuit held that there was no material error involving the district court's oral pronouncement of special conditions of supervised release at Petitioner's sentencing hearing, pursuant to *United States v. Rogers*, 961 F.3d 291 (4th Cir. 2020). 42A–46A. However, the Fourth Circuit vacated Petitioner's sentence and remanded for resentencing based on a technical error in the calculation of the original advisory Sentencing Guidelines range, with the agreement of both parties. *See* 46A–48A, 49A. On remand, the district court imposed an amended sentence of 52 months' imprisonment based on the revised advisory Sentencing Guidelines range. *See* 50A–58A.

REASONS FOR GRANTING THE PETITION

Although law enforcement had a warrant for Petitioner's arrest based on his alleged larceny of a firearm from his brother several days prior, they did not obtain a warrant to search the black Buick in which he was found on the evening of his arrest. Instead, within one minute of his arrest, law enforcement immediately searched that vehicle for any

evidence of criminal activity, before the arresting officer had even informed the searching officers of the basis for the arrest, and certainly before any law enforcement personnel made any effort to determine whether the search was supported by a warrant, by probable cause, or by any exception to the warrant requirement or the exclusionary rule.

Nevertheless, Petitioner respectfully submits that, due to the well-established lack of clarity on the precise substantive boundaries of the "reasonable to believe" standard articulated by this Court in connection with the vehicle search-incident-to-arrest exception set forth in *Arizona v. Gant*, 556 U.S. 332 (2009), the district court and the Fourth Circuit ultimately scoured the record for facts that could have theoretically supported the warrantless search, violating the specific textual requirements of *Gant* as well as the Fourth Amendment principles carefully outlined by this Court in *Gant* and its progeny. Accordingly, and for the reasons set forth in Sections I and II *infra*, Petitioner respectfully requests that this Court grant a writ of *certiorari* on the ground that the U.S. Court of Appeals for the Fourth Circuit decided an important question of federal law that has not been settled by this Court, in a manner that conflicts with the prior published holdings of this Court.

I. The Fourth Circuit's application of the vehicle search-incident-to-arrest exception decided an important question of federal law that has not been settled by this Court and violated core Fourth Amendment principles.

A. Background & Legal Standard

"[S]earches conducted outside the judicial process, without prior approval by judge or magistrate, are *per se* unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions." *Katz v. United States*, 389 U.S. 347, 357 (1967); *see also Cady v. Dombrowski*, 413 U.S. 433, 439 (1973). When the Government seeks to introduce evidence obtained through a warrantless search, it must prove by a preponderance of the evidence that the search was justified under one of those exceptions. *See Coolidge v. New Hampshire*, 403 U.S. 443, 455 (1971); *United States v. Matlock*, 415 U.S. 164, 177 n.14 (1974). Otherwise, the Fourth Amendment requires that the evidence "cannot be used in a criminal proceeding against the victim of the illegal search and seizure."[5] *United States v. Calandra*, 414 U.S. 338, 347 (1974).

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[5] "[E]vidence that is the indirect product of the illegal police activity" may also be suppressed as "fruit of the poisonous tree" when it has *(cont.)*

After all, "the warrant requirement is 'an important working part of our machinery of government,' not merely 'an inconvenience to be somehow 'weighed' against the claims of police efficiency.'" *Riley v. California*, 573 U.S. 373, 401 (2014) (quoting *Coolidge*, 403 U.S. at 481). Nor does this present a factual balancing test by which the privacy interests protected by the Fourth Amendment may be "somehow 'weighed' against [ ] claims of police efficiency." *Riley*, 573 U.S. at 401. Accordingly, as this Court has emphasized, exceptions to the warrant requirement are not "police entitlement[s]" to searches, but rather narrow "exception[s]" that must be "justified" by specific circumstances. *Thornton v. United States*, 541 U.S. 615, 624 (2004) (O'Connor, J., concurring); *see also Wingate v. Fulford*, 987 F.3d 299, 307 (4th Cir. 2021) (noting that the Fourth Amendment seeks to uphold "necessary safeguards against 'arbitrary and boundless' police prejudgments").

"[A] search incident to a lawful arrest is a traditional exception to the warrant requirement of the Fourth Amendment." *United States v.*

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been obtained "by exploitation of that illegality . . . instead [of] by means sufficiently distinguishable to be purged of the primary taint." *United States v. Villa*, 70 F.4th 704, 716 (4th Cir. 2023) (quoting *Wong Sun v. United States*, 371 U.S. 471, 488 (1963)).

Robinson, 414 U.S. 218, 224 (1973); *see also Birchfield v. North Dakota*, 136 S. Ct. 2160, 2174 (2016). This exception rests on the principles that "[o]therwise, the officer's safety might well be endangered," and that the officer may "search for and seize any evidence on the arrestee's person . . . to prevent concealment or destruction." *Chimel v. California*, 395 U.S. 752, 762–63 (1969).

In *Arizona v. Gant*, 556 U.S. 332 (2009), this Court recognized two narrow circumstances under which law enforcement could search a vehicle without a warrant pursuant to a lawful arrest: first, "when the arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search," and second, "when it is reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle." *United States v. Baker*, 719 F.3d 313, 317 (4th Cir. 2013) (internal quotation marks and citations omitted) (citing *Gant*, 556 U.S. at 343, and *Thornton*, 541 U.S. at 632). "When these justifications are absent, a search of arrestee's vehicle will be unreasonable unless police obtain a warrant or show that another exception to the warrant requirement applies." *Gant*, 556 U.S. at 351.

As the district court and Fourth Circuit correctly noted, the first prong of the vehicle search-incident-to-arrest exception articulated in *Gant* is inapplicable to this case: by the time law enforcement began searching the black Buick, Petitioner had already been arrested and securely placed in the back of Officer Flores's squad car. *See* 8A, 35A; *see also Chimel*, 395 U.S. at 763. Therefore, the validity of the district court's admission of evidence stemming from the warrantless search of the black Buick hinges on whether "it [was] reasonable to believe that evidence of the offense of arrest might be found in the vehicle." *Gant*, 556 U.S. at 335 (emphasis added). Petitioner respectfully submits that the unusual factual circumstances of this case require a precise application of the previously-undefined term "reasonable to believe," and that the Fourth Circuit's attempt to avoid this ambiguity conflicts with the textual requirements and Fourth Amendment principles that this Court articulated in *Gant* and its progeny.

B. Ambiguity of "Reasonable to Believe"

At the outset, Petitioner respectfully submits that the "reasonable to believe" standard associated with the second prong of the vehicle search-incident-to-arrest exception articulated in *Gant* is currently

undefined beyond the language of the term itself, as the Fourth, Seventh, and D.C. Circuits have specifically noted. 35A–36A ("Neither the Supreme Court nor this court has articulated the precise quantum of proof necessary to satisfy *Gant*'s 'reasonable to believe' standard."); *United States v. Edwards*, 769 F.3d 509, 514 (7th Cir. 2014) ("The Court in *Gant* did not elaborate on the precise relationship between the 'reasonable to believe' standard and probable cause."); *United States v. Vinton*, 594 F.3d 14, 25 (D.C. Cir. 2010) ("The Supreme Court did not elaborate on the circumstances when it will be 'reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle.'").

The parties agreed, and the district court and the Fourth Circuit both held, that "reasonable to believe" requires a lower evidentiary threshold than that associated with probable cause. 36A–38A ("Our precedent may not conclusively define *Gant*'s "reasonable to believe" standard, in other words, but it does treat that standard as requiring something less than probable cause."), 8A–11A; *see also Edwards*, 769 F.3d at 514; *Baker*, 719 F.3d at 319; *United States v. Rodgers*, 656 F.3d 1023, 1028 n.5 (9th Cir. 2011); *Vinton*, 594 F.3d at 25. The parties further agreed, and the district court and the Fourth Circuit both

held, that "reasonable to believe" is distinct from the concept of "reasonable belief" in the context of serving a warrant within a home pursuant to *Payton v. New York*, 445 U.S. 573 (1980). 8A–10A, 36A–37A; *see United States v. Brinkley*, 980 F.3d 377, 385–86 (4th Cir. 2020) (citing *United States v. Vasquez-Algarin*, 821 F.3d 467, 477 (3d Cir. 2016)); *see also United States v. Davis*, 997 F.3d 191, 201–02 (4th Cir. 2021); *Baker*, 719 F.3d at 319. Otherwise, the boundaries of "reasonable to believe" have not been precisely drawn.[6]

Although the Fourth Circuit specifically noted the ambiguity of the "reasonable to believe" standard and stated that it needed not reach the question, it proceeded to substantively apply that standard to the facts of

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[6] Petitioner respectfully notes that federal caselaw lacks consensus even on the relationship between "reasonable to believe" and the "reasonable suspicion" required to justify a traffic stop pursuant to *Terry v. Ohio*, 392 U.S. 1 (1968). In this case, the Fourth Circuit explicitly declined to reach that question. 39A–40A. The U.S. Court of Appeals for the D.C. Circuit has specifically held that "reasonable to believe" is "akin to the 'reasonable suspicion' standard required to justify a *Terry* search." *Vinton*, 594 F.3d at 25 (citing *Adams v. Williams*, 407 U.S. 143, 146 (1972)). This Court has similarly treated "reasonable belief" as similar to "reasonable suspicion" in the context of a vehicle search accompanying a *Terry* stop, although it made clear that this approach was narrowly tailored to protect the safety of law enforcement. *Michigan v. Long*, 463 U.S. 1032, 1045–1052 (1983).

this case, concluding that law enforcement's suspicion of Petitioner, the location, and Petitioner's criminal history rendered it sufficiently reasonable for law enforcement to believe that the warrantless search of the vehicle would recover evidence of the crime of arrest. *See* 39A (concluding that "[w]e need go no further today in explicating *Gant*'s 'reasonable to believe' standard"); *but see* 39A–41A. Accordingly, the Fourth Circuit effectively decided an unresolved question of Constitutional law that ought to be answered by this Court—in violation of the plain language of *Gant*, as discussed in Section I.C *infra*, and in violation of the broader Fourth Amendment framework set forth by this Court's precedent, as discussed in Section I.D *infra*.

C. Meaning of "Reasonable to Believe"

Petitioner respectfully submits that the Fourth Circuit's efforts to proceed without defining the parameters of "reasonable to believe" resulted in an approach that is inconsistent with this Court's specific instructions in *Gant*. *See* 40A ("Whatever the precise contours of *Gant*'s 'reasonable to believe' standard, that standard is met here."). Critically, the second prong of *Gant* involves two distinct factual nexuses: (1) between the crime of arrest and the individual suspected of

committing it, which is relevant to the arrest warrant or warrantless arrest of that individual; and (2) between the crime of arrest and the location to be searched, which is relevant to the search warrant or warrantless search of that location. Under the plain language of *Gant*, the Government may establish the second prong of the vehicle-search-incident-to-arrest exception only by introducing facts indicating that it was reasonable to believe that the specific vehicle contained evidence of the specific crime of arrest. *See Gant*, 556 U.S. at 335

Thus, Petitioner respectfully submits that, even assuming a substantive burden of proof less than probable cause and greater than reasonable suspicion, the reasonableness of law enforcement's belief supporting the search must rest on some proof of the second nexus beyond the fact of the arrest itself. After all, a search pursuant to arrest necessarily occurs only when law enforcement suspects an individual of a crime. If that fact were sufficient to conduct a warrantless search of the individual's vehicle, this Court's additional requirements set forth by the "reasonable to believe" standard would be effectively meaningless.

This approach is consistent with established caselaw on exceptions to the warrant requirement. This Court has repeatedly warned that

warrant exceptions must be founded on more than law enforcement's "hunch," "suspicion," or other subjective "belief" that evidence of a crime might be nearby the individual they suspect to have committed it. *See Brinegar v. United States*, 338 U.S. 160, 175 (1949). As discussed in Section I.B *supra*, even under the lower standard of reasonable suspicion applied to *Terry* stops, this Court has required some additional showing of proof that the vehicle might contain a threat to officer safety, such as seeing a knife in plain view.[7] *See*, *e.g.*, *Long*, 463 U.S. at 1045–1052.

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[7] Petitioner respectfully notes that this approach closely resembles the Fourth Circuit's approach to the "reasonable to believe" standard as a descriptive matter. *See United States v. Lyles*, 910 F.3d 787, 790–91, 794 (4th Cir. 2018) (holding that the Government must establish an exception to the warrant requirement by introducing "supporting facts . . . to tip the scales"); *see also United States v. Buckman*, 810 F. App'x 184 (4th Cir. 2020) (finding "fair probability" that vehicle might contain relevant evidence where arrestee was apprehended 15 minutes after leaving a scene known to involve a firearm); *United States v. Norman*, 935 F.3d 232, 236 (4th Cir. 2019) (affirming admission of evidence from warrantless search of vehicle where law enforcement "observ[ed] a suspicious baggie and a large amount of cash in plain view"); *United States v. Laws*, 746 F. App'x 187, 189 (4th Cir. 2018) (affirming admission of evidence from warrantless search of vehicle where law enforcement officers had an independent, reliable, factual basis to believe that the defendant possessed a firearm at the time of his arrest); *United States v. Ortiz*, 669 F.3d 439, 446 (4th Cir. 2012) (affirming admission of evidence from warrantless *(cont.)*

Even Officer Flores repeatedly asked Petitioner whether there was anything problematic in the vehicle while conducting the arrest, seemingly attempting to establish a factual connection to the crime of arrest before searching the black Buick.

Moreover, Petitioner respectfully submits that this approach to the plain textual requirements articulated in *Gant* does not result in an unduly onerous factual burden on the Government in the context of most Fourth Amendment search proceedings.[8] In most cases, the facts supporting the first nexus (between the crime of arrest and the individual suspected of committing it) will also comfortably support the second nexus (between the crime of arrest and the location to be searched): such as, for example, if a defendant has drug paraphernalia on his person at

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search of vehicle where law enforcement found a firearm and drug trafficking paraphernalia on the defendant's person).

[8] Similarly, Petitioner respectfully submits that requiring that the "reasonable to believe" prong rest on a connection between the crime of arrest and the location to be searched does not unduly discount the personal expertise and experience of law enforcement officers. Instead, this approach simply asks those individuals to present their expertise through the proper channels by applying for a warrant or proving an exception, as required by the Fourth Amendment and this Court's associated caselaw, rather than as an *ex post* justification of their failure to pursue those channels.

the time of arrest, or if a defendant is arrested after being identified leaving a bank robbery. *See*, *e.g.*, n.7 *supra*. Even when those facts are not identical, this approach would ask the Government to make only a minor showing to draw a connection from the first nexus to the second nexus. Petitioner respectfully submits that this factual dynamic serves as the general basis for this Court's suggestion that—in cases like *Thornton v. United States*, 541 U.S. 615, and *New York v. Belton*, 453 U.S. 454 (1981)—the crime of arrest might supply a basis to believe that evidence of that crime would be found in the vehicle.

D. "Reasonable to Believe" & Fourth Amendment Caselaw

Finally, Petitioner respectfully submits that the Fourth Circuit's application of the "reasonable to believe" standard is erroneous not only because it confuses the first factual nexus with the second factual nexus, as specifically required by the plain language of *Gant*, but also because it is inconsistent with the Fourth Amendment principles articulated in this Court's published caselaw. Allowing the first nexus, standing alone, to serve as a basis for the second nexus would effectively require a presumption that law enforcement's suspicion that an individual committed a crime categorically makes it reasonable for them to believe

evidence of that crime might be in any vehicle occupied by that individual, with or without a search warrant, at any time, in any location, regardless of the supporting evidence or lack thereof.[9] Petitioner respectfully submits that this interpretation of "reasonable to believe" would create significant tension with existing Fourth Amendment jurisprudence.

Most significantly, the Fourth Circuit's approach would potentially cause all outstanding arrest warrants to simultaneously function as vehicle search warrants. This would not only eviscerate the "reasonable to believe" prong of the vehicle search-incident-to-arrest exception articulated in *Gant*, as discussed in Section I.C *supra*, but also make a nullity of the broader automobile exception. Petitioner respectfully notes that although the Fourth Circuit took pains to preserve the validity and efficacy of the vehicle search-incident-to-arrest exception, it failed to

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[9] Alternatively, this approach could be framed as a presumption that it is categorically reasonable to believe that evidence of certain specific crimes—such as firearm or drug offenses—might be found in a nearby vehicle. Even so, Petitioner respectfully submits that this attempts to substitute evidence of the nexus between the crime of arrest and the location to be searched with evidence of the crime of arrest alone.

consider the equivalent effects of its approach on the automobile exception. *See* 36A, 38A–39A. To the contrary, Petitioner respectfully submits that the Fourth Circuit's willingness to hold the Government to a significantly lower burden simply because a defendant was arrested standing next to a vehicle would create significant perverse incentives within the broader context of the Fourth Amendment. Given the general prevalence of unexecuted arrest warrants, this approach would potentially empower law enforcement to fish for evidence by simply arresting a suspect while driving and immediately searching their vehicle pursuant to that arrest, without ever satisfying probable cause (either by obtaining a search warrant or establishing the automobile exception).

Furthermore, Petitioner respectfully submits that the Fourth Circuit's approach would largely abandon the traditional justifications for a warrantless search incident to arrest under the Fourth Amendment. If the Government's suspicion of an arrestee is sufficient to justify a warrantless search of their vehicle, the vehicle search-incident-to-arrest exception would no longer rest on any legal or factual assurance that the warrantless search was necessary to prevent the concealment or

destruction of evidence. Justice Scalia's concurrence in *Thornton*, 541 U.S. at 625–632, persuasively argues that warrant exceptions must be limited to facts involving officer safety or imminent concealment or destruction of evidence (and not "explanatory" searches).[10] For the foregoing reasons, Petitioner respectfully submits that the Fourth Circuit applied the vehicle search-incident-to-arrest exception in violation of this Court's published instructions in *Gant* and its progeny.

II. This case presents an appropriate opportunity for this Court to clarify the meaning of "reasonable to believe" for purposes of the vehicle search-incident-to-arrest exception.

A. Unusual Factual Circumstances

Petitioner respectfully submits that this case is an appropriate vehicle for detailed consideration of the "reasonable to believe" standard because it presents nearly the opposite circumstances from the easily-justified warrantless vehicle searches-incident-to-arrest contemplated by *Thornton v. United States*, 541 U.S. 615, and *New York v. Belton*,

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[10] Petitioner respectfully notes that because the "reasonable to believe" standard applies only when the defendant was already secured at the time of the search, the safety of law enforcement will rarely be relevant to application of that standard. After all, if the first prong of the vehicle search-incident-to-arrest exception were applicable, that would likely justify the warrantless search and render the second prong moot.

453 U.S. 454—where the facts supporting the first nexus (between the crime of arrest and the individual suspected of committing it) also support the second nexus (between the crime of arrest and the location to be searched). Unlike as in the facts of those cases, the circumstances of the arrest and search in this case are causally and temporally removed from the circumstances of the crime of arrest itself. Officer Flores arrived on the scene to investigate an entirely unrelated criminal offense, not Petitioner's alleged larceny of a firearm; in his own words, he did not "have any indication that [ ] Turner was there."

As a result, this case features none of the evidence that would normally make it reasonable for law enforcement to believe that the vehicle contained evidence of the crime of arrest. Petitioner respectfully submits that Fourth Circuit caselaw involving the second prong of the *Gant* vehicle search-incident-to-arrest analysis highlights the lack of evidence connecting the black Buick to the crime of arrest, even under the broadest possible reading of the record. The record contains no evidence connecting a black Buick with Petitioner's prior alleged offenses, nor any evidence connecting Petitioner to a black Buick (beyond his presence in that vehicle upon arrest). *See Buckman*, 810 F. App'x

at 186 (affirming a warrantless vehicle search where the defendant was apprehended 15 minutes after he was identified leaving a scene known to involve a firearm). Similarly, there was no evidence that Petitioner occasionally, regularly, or constantly carried a firearm on his person, in a black Buick, or in any other vehicle, nor that Petitioner was likely to be carrying a firearm on the evening of his arrest. *See Laws*, 746 F. App'x at 189 (affirming a warrantless vehicle search where law enforcement had an independent, reliable, factual basis to believe that the defendant possessed a firearm at the time of arrest).

Significantly, the Fourth Circuit has affirmed warrantless vehicle searches in published opinions where law enforcement found firearms or drug paraphernalia in the defendant's possession or observed those items in plain view within the vehicle. *Norman*, 935 F.3d at 236; *Ortiz*, 669 F.3d at 446. Here, there was no evidence of criminal activity on Petitioner's person, nor in plain view inside the black Buick, nor in Petitioner's responses to Officer Flores's inquiries. Nevertheless, the Fourth Circuit specifically relied on the absence of such evidence in support of its application of the "reasonable to believe" standard. 41A. This effectively permits both the presence and absence of relevant

evidence to serve as a basis for the vehicle search-incident-to-arrest exception. Petitioner respectfully submits that this highlights the extent to which the Fourth Circuit's approach makes an effective nullity of the "reasonable to believe" standard as articulated in *Gant*, as discussed in Sections I.C and I.D *supra*.

Any of these facts may have sufficiently established that it was reasonable for law enforcement to believe that there was evidence of the stolen firearm in the black Buick. But none of them are present; instead, law enforcement appears to have observed Petitioner being taken to Officer Flores's squad car and immediately searched his vehicle based solely on the fact that he was seated in the driver's seat of that vehicle. Because this fact does not necessarily bear anything more than a superficial factual relationship to the specific offense of arrest—Petitioner's alleged larceny of a firearm from his brother three days prior—it falls far short of establishing law enforcement's "reasonable belief" that evidence of that offense might be found in the vehicle.

Instead, Petitioner respectfully submits that this fact essentially constitutes the "hunch" or "bare suspicion" that this Court has cautioned does not necessarily support a warrantless search incident to arrest.

Brinegar, 338 U.S. at 175. The lack of causal relationship between the crime of arrest and the arrest itself makes this case different from the typical circumstances contemplated by the vehicle search-incident-to-arrest exception, but it presents no less serious a violation of Petitioner's Fourth Amendment rights. Petitioner respectfully submits that, to the contrary, borderline factual circumstances like those at hand often present clear and important opportunities for this Court to clarify the boundaries of relevant Constitutional law.

B. Factual Basis for "Reasonable to Believe"

Furthermore, Petitioner respectfully submits that the specific facts supporting the Fourth Circuit's application of the "reasonable to believe" standard are vague and largely circumstantial, requiring this Court to determine the substantive boundaries of that term. The Fourth Circuit relied on two facts as bases for law enforcement's belief that the vehicle contained evidence of the crime of arrest: (1) that the individual they suspected of that crime was operating that vehicle when they arrived, and (2) that the incident occurred in a notoriously high-crime area. *See* 40A–41A; *see also* 13A–14A.

As an initial matter, Petitioner respectfully submits that the district court and the Fourth Circuit incorrectly concluded that the subjective knowledge held by specific law enforcement officers was irrelevant to the validity of the warrant exception, seemingly concluding that law enforcement inevitably would have searched the vehicle upon Officer Flores's return to the scene. *See* 15A–17A, 41A–42A. Petitioner respectfully submits that the inevitable-discovery exception is inapplicable to the facts available in the record, for the reasons discussed in Section II.C *infra*.[11] As relevant to the vehicle search-incident-to-arrest exception, Officer Flores never even informed the searching officers of the basis for the arrest, much less the specific facts that allegedly made it reasonable for him to believe that evidence of that crime might be inside the black Buick. Accordingly, the searching officers were not "acting on the information and instructions of other officers," as

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[11] The independent-source doctrine—an exception to the exclusionary rule, not to the warrant requirement—is likewise inapplicable to this case because it requires that law enforcement have later recovered the same evidence by lawful means, which did not occur here. *See Nix v. Williams*, 467 U.S. 431 (1984); *Segura v. United States*, 468 U.S. 796 (1984); *Murray v. United States*, 487 U.S. 533 (1988).

would be required for Officer Flores's subjective knowledge to be considered their collective knowledge. *See United States v. Massenburg*, 654 F.3d 480, 492 (4th Cir. 2011).

Petitioner further respectfully submits that Officer Flores's knowledge of the events preceding Petitioner's arrest is inadequate to establish the second prong of the *Gant* vehicle-search-incident-to-arrest exception as a matter of law, even if that knowledge were considered an eligible basis for different law enforcement officers to immediately search the vehicle. Again, Officer Flores was not aware of any evidence connecting the black Buick to any of the preceding crimes or even to Petitioner, any evidence connecting the black Buick or Petitioner to the shots-fired call, any evidence on the scene that suggested a firearm might be in the vehicle, or any evidence that Petitioner might be armed. The alleged theft of the firearm and the alleged carjacking occurred several days earlier and had no factual or legal relationship to the black Buick, the convenience store, or the shots-fired call.[12] Instead, Officer Flores's

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[12] Turner respectfully notes that the Government later informed the district court that it could not "carry its burden to show by a preponderance of the evidence" that Petitioner was involved in the events allegedly preceding his arrest, as a factual matter.

alleged knowledge of Petitioner's activities leading up to the arrest essentially rested on a theory that people who have guns usually have them nearby. But Fourth Amendment jurisprudence generally rejects law-enforcement-created rules such as "if there is one firearm, another is nearby" as a basis for law enforcement suspicion. *See Wingate*, 987 F.3d at 307 (citing *United States v. Black*, 707 F.3d 531, 541 (4th Cir. 2013)).

Petitioner respectfully submits that Officer Flores's knowledge of Petitioner's criminal history similarly fails to draw the appropriate factual connection between the crime of arrest and the black Buick. Knowledge of a specific individual's criminal history is generally insufficient to support reasonable suspicion, in order to safeguard "vulnerable members of our community" from unwanted harassment based on who they are and where they live.[13] *See United States v. Foster*, 634 F.3d 243, 246–49 (4th Cir. 2011). Accordingly, law enforcement

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[13] The Government relied on *United States v. Dyer*, 580 F.3d 386 (6th Cir. 2009), for the proposition that a defendant's criminal history is relevant to probable-cause determinations. But that case arose in the context of an application for a search warrant. Petitioner does not dispute that a judge could have considered his criminal history in deciding whether to issue a search warrant for the black Buick, but Officer Flores did not apply for such a warrant.

must pair any knowledge of a criminal record with more "concrete" factors in order to justify warrantless stops and searches. *See Foster*, 634 F.3d at 247; *United States v. Sprinkle*, 106 F.3d 613, 617 (4th Cir. 1997).

Finally, searching officers were aware that the arrest was made near the shots-fired call in a location allegedly known for crime, gang, and gambling activity, but Petitioner respectfully submits that this likewise fails to satisfy the "reasonable to believe" standard.[14] Mere presence in a high-crime area is generally insufficient to establish probable cause, and this factor is only "minimally probative" in reasonable-suspicion analysis. *See Wingate*, 987 F.3d 299; *see also United States v. Bumpers*, 705 F.3d 168, 175 (4th Cir. 2013); *United*

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[14] Petitioner respectfully notes that the shots-fired call to which law enforcement responded on the evening is irrelevant to this analysis, because the search-incident-to-arrest exception permits law enforcement to proceed with a warrantless search only for evidence of the crime of arrest (as opposed to the vehicle exception, which permits searches for evidence of any crime based on the steeper standard of probable cause). *See United States v. Kellam*, 568 F.3d 125, 136 n.15 (4th Cir. 2009). In any event, there was no evidence that the shots-fired call involved a black Buick or someone matching Petitioner's description, and law enforcement had already secured the scene and arrested a suspect when Officer Flores arrived. *See Buckman*, 810 F. App'x at 186.

States v. Curry, 965 F.3d 313, 331 (4th Cir. 2020); *but see Illinois v. Wardlow*, 528 U.S. 119, 124 (2000) (holding, in the context of a *Terry* stop, that headlong flight from a high-crime area can support reasonable suspicion to justify a warrantless investigative stop)

In sum, Petitioner respectfully submits that the searching officers' decision to proceed without even speaking with Officer Flores constitutes the "arbitrary and boundless police prejudgment" against which the Fourth Circuit has correctly warned. *Wingate*, 987 F.3d at 307. Law enforcement observed Petitioner's arrest in an area that they considered to be inherently prone to criminal activity, so they immediately searched Petitioner's vehicle. But exceptions to the warrant requirement must be narrowly tailored to their purposes, not treated as a law enforcement "entitlement" to searches. *Thornton*, 541 U.S. at 624. Because the record does not contain any "supporting facts" that would make it reasonable for law enforcement to believe that evidence of the crime of arrest would be found in the black Buick—beyond the alleged crime of arrest itself and Petitioner's presence in a "high-crime area"—Petitioner respectfully submits that the Government failed to establish that the search-incident-

to-arrest exception applied, and that the Fourth Circuit's decision to proceed regardless merits correction and clarification from this Court.

C. Alternative Exceptions

Lastly, Petitioner respectfully submits that this case is an appropriate vehicle for further analysis of the second prong of the vehicle search-incident-to-arrest exception articulated in *Gant* because no other exceptions to the warrant requirement can justify the warrantless search at issue. The Government only relied on one other potential exception: the vehicle exception, which "permits police officers to search a vehicle for evidence of any crime, not just the crime of arrest, but only on a showing of probable cause rather than a mere reasonable belief."[15]

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[15] Petitioner respectfully submits that any other exceptions to the warrant requirement were ineligible for the Fourth Circuit's consideration and are ineligible for this Court's consideration on waiver grounds. Because the Government "failed to raise and preserve the issue in the district court," it has "waived consideration of that issue on appeal absent exceptional circumstances." *Holland v. Big River Minerals Corp.*, 181 F.3d 597, 605 (4th Cir. 1999); *see also United States v. Zayyad*, 741 F.3d 452, 459 (4th Cir. 2014) ("To preserve an argument on appeal, [a party] must object on the same basis below as he contends . . . on appeal."); *Hensley on behalf of N. Carolina v. Price*, 876 F.3d 573, 581 n.5 (4th Cir. 2017) (concluding that, "by failing to preserve the issue in their *(cont.)*

Baker, 719 F.3d at 319. But neither the district court nor the Fourth Circuit reached the issue. *See* 10A, 14A–15A, 34A. Petitioner respectfully submits that the issue is unlikely to play a role in this Court's analysis in any event; the automobile exception would be relevant only if the vehicle search-incident-to-arrest exception did not apply, and facts that failed to satisfy the "reasonable to believe" standard would certainly fall short of establishing probable cause.[16]

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opening brief," a party "waive[s] it," and "[n]o subsequent filing can revive it").

Even if this Court were to set aside the waiver, Petitioner respectfully submits that no party, nor the district court or Fourth Circuit, has identified another applicable exception to the warrant requirement. For example, the good-faith exception is likely inapplicable because it is generally reserved for special situations rather than common warrantless searches and seizures. *United States v. Leon*, 468 U.S. 897 (1984) (where a magistrate erroneously issued a warrant); *Arizona v. Evans*, 514 U.S. 1 (1995) (where a database erroneously informed police that they have a warrant); *Herring v. United States*, 555 U.S. 135 (2009) (same); and *Illinois v. Krull*, 480 U.S. 340 (1987) (where an unconstitutional statute purported to authorize the search).

16 Petitioner respectfully submits that the only possible ground supporting the automobile exception would be that although it was not "reasonable to believe" that the black Buick contained evidence, there was probable cause that it contained evidence relating to the shots-fired call. But, as discussed in Sections II.A and II.B *supra*, law enforcement had already secured the scene and apprehended a

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As referenced in Section II.B *supra*, both the district court and the Fourth Circuit did rely on the inevitable-discovery exception to the warrant requirement to some extent, but Petitioner respectfully submits that the relevant analysis does not comply with the established requirements of that doctrine.[17] *See* 15A–16A, 41A–42A. The inevitable-discovery exception "allows the Government to use evidence gathered in an otherwise unreasonable search if it can prove by a preponderance of the evidence that law enforcement would have ultimately or inevitably discovered the evidence by lawful means." *United States v. Seay*, 944 F.3d 220, 223 (4th Cir. 2019), *as amended* (Dec. 4, 2019) (citing *United States v. Bullette*, 854 F.3d 261, 265 (4th Cir. 2017), and *Nix*, 467 U.S. at 444). As relevant here, this could include "an 'inventory search' of the arrestee's possessions so long as it is done 'according to

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suspect by the time they searched the vehicle, and there were no facts linking Petitioner or a black Buick to the shots-fired call.

[17] Petitioner respectfully notes that the inevitable-discovery doctrine was challenged on direct appeal, despite the Fourth Circuit's assertion to the contrary. *See* 41A; *but see* Appellant's Supplemental Brief, No. 22-4055 (Doc. No. 36 at 40–41) (4th Cir. Dec. 4, 2023) (arguing that "the inevitable-discovery exception would not adequately justify the warrantless search of the black Buick").

standardized criteria, such as a uniform police department policy' and is 'performed in good faith.'" *United States v. Buster*, 26 F.4th 627, 633–634 (4th Cir. 2022) (quoting *Seay*, 944 F.3d at 223)).

However, the district court's and the Fourth Circuit's application of this doctrine rested on an extensive chain of improper counterfactual reasoning. The Government could not—and did not—show that Officer Flores would have subsequently searched the vehicle based on his knowledge, because the vehicle had already been ransacked by the time that Officer Flores returned to the scene. The Government could not—and did not—show that law enforcement officers would have inevitably searched a vehicle that they specifically permitted to leave the scene, much less that they had a "uniform police department policy" of doing so.[18] In fact, law enforcement did not obtain a warrant to search the

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[18] Even if the Government could show that law enforcement would have impounded the vehicle if they had not searched it on the scene, there are no factual findings in the record on that topic, so Petitioner respectfully submits that the appropriate approach would have been a remand for further development of the issue, at a minimum. *See United States v. Bailey*, 74 F.4th 151, 153, 160 (4th Cir. 2023) ("Where, as here, 'an appellate court discerns that a district court has failed to make a finding . . . the usual rule is that there should be a remand for further proceedings to permit the trial

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vehicle, attempt to determine whether any exceptions applied, or impound the vehicle. Accordingly, Petitioner respectfully submits that the immediate warrantless search of the vehicle violated his Constitutional rights and tainted subsequent proceedings. Although the United States Courts of Appeals may affirm on any grounds apparent from the record, *see United States v. Smith*, 395 F.3d 516, 519 (4th Cir. 2005), it is not the federal courts' role to retroactively imagine a means of conducting the search that would have been permissible had the Government followed the proper procedures.

CONCLUSION

For the foregoing reasons, Petitioner respectfully submits that the published opinion of the U.S. Court of Appeals for the Fourth Circuit decided an important and unsettled question of federal law in violation of relevant decisions of this Court. Petitioner respectfully submits that the unusual factual circumstances of this case require a precise application of the previously-undefined term "reasonable to believe," and that the Fourth Circuit's attempt to avoid this ambiguity conflicts with

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court to make the missing findings.'") (quoting *Pullman-Standard v. Swint*, 456 U.S. 273, 291 (1982)).

the textual requirements and Fourth Amendment principles that this Court articulated in *Gant* and its progeny. Petitioner respectfully requests that this Court grant a writ of *certiorari* in order to clarify the meaning of "reasonable to believe" in the context of the vehicle-search-incident-to-arrest exception to the Fourth Amendment's warrant requirement, in accordance with the Fourth Amendment and with this Court's published Fourth Amendment jurisprudence.

Respectfully submitted this the 4th day of March, 2025.

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