

No. 25-_____

IN THE
Supreme Court of the United States

DISTRICT OF COLUMBIA,
Petitioner,

v.

R.W.,
Respondent.

**On Petition for a Writ of Certiorari to the
District of Columbia Court of Appeals**

PETITION FOR A WRIT OF CERTIORARI

BRIAN L. SCHWALB
Attorney General for the
District of Columbia
CAROLINE S. VAN ZILE
Solicitor General
Counsel of Record
ASHWIN P. PHATAK
Principal Deputy Solicitor General
CARL J. SCHIFFERLE
Deputy Solicitor General
JEREMY R. GIRTON
Assistant Attorney General
OFFICE OF THE SOLICITOR GENERAL
OFFICE OF THE ATTORNEY GENERAL
400 6th Street, NW, Suite 8100
Washington, D.C. 20001
(202) 724-6609
caroline.vanzile@dc.gov
Counsel for Petitioner

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QUESTIONS PRESENTED

This Court has long held that the reasonableness of an investigative stop must be assessed using the “totality of the circumstances.” Nevertheless, four circuits and four state supreme courts, including the D.C. Court of Appeals below, permit a reviewing court to exclude certain facts from the “totality”—in conflict with both this Court’s guidance and the majority of jurisdictions. Here, a patrol officer responded to a dispatch reporting a suspicious or stolen vehicle at a specific apartment building around 2:00 a.m. As the officer’s marked cruiser pulled into the parking lot, two people fled into the woods from the back of the only occupied car in the lot. The car’s driver then began reversing out of the parking space with the rear driver’s side door wide open. The officer stopped the driver for roughly two minutes to determine whether the car was stolen. The D.C. Court of Appeals held that the stop violated the Fourth Amendment because the dispatch report and the flight of the vehicle’s passengers had to be excluded from the analysis, and with those two facts out of the picture, the officer lacked reasonable suspicion of potential criminal activity.

The questions presented are:

1. Whether a court assessing the existence of reasonable suspicion under the Fourth Amendment may exclude a fact known to the officer, or instead must assess all the evidence when weighing the totality of the circumstances.
2. Whether, under the totality-of-the-circumstances test, the officer in this case had reasonable suspicion to conduct an investigative stop.

RELATED PROCEEDINGS

Superior Court of the District of Columbia:

In re R.W., No. 2023-DEL-000106 (D.C. Sup. Ct. 2023). Judgment entered May 26, 2023.

District of Columbia Court of Appeals:

In re R.W., No. 23-FS-0589, 334 A.3d 593 (D.C. 2025). Judgment entered May 1, 2025.

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OPINIONS BELOW

The opinion of the D.C. Court of Appeals (App. 1a-21a) is reported at 334 A.3d 593. The oral ruling of the trial court on the suppression issue (App. 46a-51a) is not reported and is not available on an electronic database.

JURISDICTION

The D.C. Court of Appeals entered its judgment on May 1, 2025. On July 21, 2025, the Chief Justice extended the time for filing this petition to and including August 29, 2025. This Court has jurisdiction under 28 U.S.C. § 1257.

CONSTITUTIONAL PROVISION 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

INTRODUCTION

In assessing whether an investigative detention is supported by reasonable suspicion under the Fourth Amendment, this Court has stressed the need to examine “the totality of the circumstances,” or “the whole picture.” *United States v. Cortez*, 449 U.S. 411, 417 (1981). That holistic approach is critical for police officers, who must act quickly and leverage their training and experience to draw inferences about what is likely occurring before conducting a stop. In a rapidly evolving situation, even a fact that seems innocuous on its own may combine with others to warrant further investigation. Time and again, this Court has stepped in when lower courts have misapplied the totality-of-the-circumstances test. *See, e.g., Barnes v. Felix*, 145 S. Ct. 1353 (2025); *District of Columbia v. Wesby*, 583 U.S. 48 (2018); *United States v. Arvizu*, 534 U.S. 266 (2002); *United States v. Sokolow*, 490 U.S. 1 (1989); *Cortez*, 449 U.S. 411.

This case presents the same urgent need for this Court’s intervention. Here, the D.C. Court of Appeals, following a trend in its recent decisions, held that a court may “excise” certain facts from the reasonable-suspicion analysis. App. 3a. That divide-and-conquer approach is wrong, contravenes this Court’s precedents, and jeopardizes public safety. The decision below is particularly problematic because the D.C. Circuit has adopted the diametrically opposite approach, creating conflicting bodies of Fourth Amendment law governing officers policing the Nation’s capital.

That division mirrors a wider disagreement among the lower courts. Four federal circuits and three other state courts of last resort have joined the D.C. Court of Appeals in allowing a court to erase a fact from the analysis if, viewed independently, the fact appears innocent, unreliable, or overly general. The reasoning of those decisions conflicts with rulings in the majority of circuits, which take a comprehensive approach that considers all evidence, regardless of its weight.

The facts of this case starkly illustrate why the minority approach is wrong. An officer received a dispatch call around 2:00 a.m. reporting a suspicious or stolen vehicle at a particular apartment building. As the officer pulled into the building's small parking lot, he saw that only one car was occupied. Upon seeing the marked police cruiser, two people fled unprovoked from the back of the car into the nearby woods. The car then began to back out of its parking space with one of the doors still wide open. Under these circumstances, with only seconds to decide whether to intervene, the officer was entirely justified in detaining the driver. A dispatch-identified suspicious vehicle that moves recklessly late at night immediately after passengers flee unquestionably qualifies as the type of "unusual conduct" warranting at least a brief investigative stop. *Terry v. Ohio*, 392 U.S. 1, 30 (1968). Indeed, within moments of stopping the driver, the officer observed a smashed window and punched-out ignition, confirming that the vehicle had been stolen.

Yet the court below concluded that the stop was unjustified because two of the facts known to the

officer—the suspicious vehicle report and the passengers’ unprovoked flight—should not have been considered as part of the totality of the circumstances. Those two facts, the court held, had to be excluded from the Fourth Amendment analysis because each fact *standing alone* could not support reasonable articulable suspicion: the dispatch report was too unreliable and vague, and the passengers’ flight could not be imputed to the driver. In other words, the officer should have ignored some of the facts in front of him and allowed the driver to escape in the stolen vehicle.

That decision is wrong on the law, and the court reached the wrong result on these facts. It also exemplifies how the ongoing conflict among the circuits and state supreme courts has generated confusion for law enforcement officers about how to assess whether there is reasonable suspicion in a particular case. Officers cannot and should not put on blinders in assessing fast-moving and fluid circumstances; neither should courts. This Court should grant review, resolve the split of authority, and clarify that the totality-of-the-circumstances test requires a court to look at *all* the circumstances known to the officer on the scene, not just some of them.

STATEMENT

A. Legal Background.

The Fourth Amendment prohibits a seizure only if it is “unreasonable.” U.S. Const. amend. IV. A police officer may conduct a brief investigative stop “if the officer’s action is supported by reasonable suspicion to believe that criminal activity ‘may be afoot.’” *Arvizu*,

534 U.S. at 273 (quoting *Sokolow*, 490 U.S. at 7); see *Terry*, 392 U.S. at 21. This type of detention is considered a “minimal intrusion” on an individual’s liberty, “simply allowing the officer to briefly investigate further.” *Illinois v. Wardlow*, 528 U.S. 119, 126 (2000). Accordingly, it requires only “some minimal level of objective justification” for the detention, *INS v. Delgado*, 466 U.S. 210, 217 (1984), which “is a less demanding standard than probable cause and requires a showing considerably less than preponderance of the evidence,” *Wardlow*, 528 U.S. at 123. Conduct may be “ambiguous” or “susceptible of an innocent explanation” yet still inform whether reasonable suspicion exists. *Id.* at 125.

Whether an investigative stop is supported by reasonable suspicion must be assessed based on the “totality of the circumstances.” *Arvizu*, 534 U.S. at 273. That means that a court reviewing the validity of a seizure after the fact must consider “the whole picture.” *Cortez*, 449 U.S. at 417. This approach “allows officers to draw on their own experience and specialized training to make inferences from and deductions about the cumulative information available to them that ‘might well elude an untrained person.’” *Arvizu*, 534 U.S. at 273 (quoting *Cortez*, 449 U.S. at 418).

B. Factual Background And Procedural History.

1. On February 7, 2023, at around 2:00 a.m., a District of Columbia Metropolitan Police Department officer received a radio dispatch call reporting “a suspicious vehicle or stolen vehicle” at an apartment building at 514 Ridge Road, SE. App. 42a. As the

officer approached the building's parking lot in his marked police cruiser, he saw approximately eight vehicles in the lot, only one of which was occupied. Two individuals got out of the back of the occupied vehicle, looked at the police car, and took off running toward a wooded area nearby. App. 4a, 43a, 46a. The officer immediately radioed to dispatch that he had "two running" and called for backup. App. 4a.

The car then began to back out of its parking space, even though the rear door on the driver's side was still wide open. App. 4a, 47a-48a. The officer exited his vehicle and ordered the driver—then-15-year-old R.W.—to show his hands. App. 4a, 47a. At the time of the stop, the vehicle's engine was still running, the brake lights were on, and the rear door was still open. App. 34a, 43a, 47a. R.W. told the officer that the vehicle was still in reverse and that he needed to put it in park. App. 43a, 47a. When asked whose vehicle it was, R.W. responded that it was not his vehicle, but that "the car was just right here" and that it was a "smoking car." App. 43a, 47a. He also stated that he had no identification. App. 43a, 47a-48a.

As the officer approached the vehicle, he observed that the window on the open door was "completely shattered," suggesting that the vehicle was stolen. App. 44a-46a. A moment later, he noticed that the vehicle's ignition had been "punched," again indicating theft. App. 4a, 45a-46a, 49a. A run of the plates confirmed that the vehicle had been stolen a few days earlier. App. 5a. The officer placed R.W. under arrest. App. 48a. Approximately two and a

half minutes elapsed between the stop's initiation and R.W.'s arrest. App. 50a.

2. R.W. moved to suppress his statements, contending that they were evidence collected following an unreasonable seizure. The trial court denied the motion, finding that the officer's initial stop was supported by reasonable suspicion and that the later arrest was supported by probable cause. App. 46a-51a. As to the initial stop, the trial court identified a number of factors known to the responding officer that combined to form reasonable suspicion. It recounted that it was almost 2:00 a.m. and that the officer was responding to a call reporting a suspicious vehicle at the specific address where R.W. was found. App. 48a. The trial court also noted that as the officer entered the parking lot, two individuals fled "completely unprovoked" from the back of the vehicle. App. 48a. Finally, the court observed that R.W. began backing the car up to leave the parking space even though one of the doors was still wide open. App. 48a. Applying the totality-of-the-circumstances test, those facts amounted to reasonable articulable suspicion that the vehicle or its driver may have been involved in criminal activity, "at least sufficient for further inquiry." App. 48a.

R.W. sought reconsideration, which was denied. App. 30a-34a. The trial court rejected R.W.'s attempt "to isolate one factor or another and argue that such factor is not enough for reasonable articulable suspicion," since "reasonable articulable suspicion must be examined base[d] on the totality of the circumstances." App. 30a. Following a bench trial, R.W. was adjudicated delinquent on four charges

related to the use of a stolen vehicle and received one year of probation. App. 26a-28a, 34a-49a.

3. The D.C. Court of Appeals vacated R.W.'s delinquency adjudications. Adhering to its recent en banc decision in *Mayo v. United States*, 315 A.3d 606 (D.C. 2024), the Court concluded that it was required to “first assess the legitimacy and weight of each of the factors bearing on reasonable suspicion” *before* “weigh[ing] that information all together.” App. 7a (cleaned up). It therefore divided the evidence into four factors—the radio dispatch, the passengers’ flight, the time of night, and the vehicle’s movement—and analyzed each factor separately.

The D.C. Court of Appeals held that “the trial court erred in considering the radio dispatch,” which it believed “should have played no role in the trial court’s analysis.” App. 8a. It concluded that there was insufficient evidence to support the dispatch’s reliability because there was no testimony about the source of the dispatcher’s information. App. 8a-9a. It also concluded that the dispatch’s description of a suspicious vehicle at a particular address was “so broad as to be useless” because it did not describe the vehicle other than by giving its location. App. 9a. It thus believed that the dispatch call was “*irrelevant* to the Fourth Amendment analysis” and that the trial court “erred by weighing the radio dispatch when assessing whether the seizure was supported by reasonable suspicion.” App. 10a.

Similarly, the D.C. Court of Appeals held that “the trial court . . . erred in giving weight to the flight of R.W.’s companions” from the back of the vehicle. App. 11a. Again citing its recent en banc decision in *Mayo*,

the court cast doubt on the probative value of flight evidence generally, because there are “myriad reasons an innocent person might run away from police.” App. 11a (quoting *Mayo*, 315 A.3d at 625-26). Even if the flight was indicative of wrongdoing here, the court concluded that the passengers’ flight could not be imputed to R.W. because there was insufficient evidence “that R.W. and the two fleeing persons were associated in a suspicious manner” as part of a “joint venture.” App. 13a. Rather, it found that the only fact linking R.W. to the fleeing passengers “was their altogether mundane presence in the same car.” App. 14a.

Next, the court gave “only slight weight” to the fact that the stop occurred around 2:00 a.m. App. 14a. It held that the lateness of the hour was “merely a background consideration” because there are “numerous innocent reasons to be out at night.” App. 15a. The court observed that “three teenagers spending time together in a car in the early morning hours” is not “particularly suspicious.” App. 16a.

Finally, the court assigned “only slight weight” to the car’s movement. App. 18a. The court concluded that driving a car backward with a passenger door wide open was not “particularly incriminating.” App. 16a. Based on its own review of the officer’s body-worn camera footage—which does not show the vehicle’s movement—the court concluded that the vehicle traveled only a “slight” distance and that “the open door adds little to the reasonable suspicion calculus.” App. 18a.

Finally, the court briefly purported to weigh all of the facts known to the officer in their totality, but it

expressly reiterated that “neither the radio dispatch nor the flight of R.W.’s two companions play[ed] a role in [that] analysis.” App. 19a. Thus, considering only the time of night and the car’s movement, the court held that these two circumstances did not give rise to reasonable suspicion. App. 19a. It therefore vacated R.W.’s adjudications. App. 19a-21a.

REASONS FOR GRANTING THE PETITION

I. Courts Are Deeply Divided On An Important, Recurring Fourth Amendment Question.

There is a deep and persistent split among federal and state appellate courts about whether particular facts—like the suspicious vehicle report and fleeing passengers here—may be excluded from the totality of the circumstances used to assess reasonable suspicion. A majority of jurisdictions apply a comprehensive methodology that considers all the facts known to the officer at the time of the seizure. But a growing number of jurisdictions have endorsed a different approach. Like the D.C. Court of Appeals, the Fourth, Fifth, Sixth, and Tenth Circuits, along with the supreme courts of Massachusetts, Wyoming, and Indiana, permit a reviewing court to excise a fact from the totality-of-the-circumstances analysis. That divergence is especially acute in the District of Columbia, where federal and local courts have adopted opposite approaches. Resolving that conflict is important to law enforcement officers, and this case presents an excellent vehicle for doing so.

A. Courts are split on whether facts may be excluded from the totality-of-the-circumstances test.

1. The majority of federal circuits faithfully apply this Court's precedents by viewing the evidence bearing on reasonable suspicion in its totality, without excluding any evidence as "irrelevant" or carrying "no weight." See *United States v. Harrington*, 56 F.4th 195, 201-02 (1st Cir. 2022); *United States v. McCargo*, 464 F.3d 192, 197 (2d Cir. 2006); *United States v. Stewart*, 92 F.4th 461, 468-71 (3d Cir. 2024); *United States v. Rickmon*, 952 F.3d 876, 880-85 (7th Cir. 2020); *United States v. Betts*, 88 F.4th 769, 773-75 (8th Cir. 2023); *United States v. Crapser*, 472 F.3d 1141, 1147-49 (9th Cir. 2007); *United States v. Bruce*, 977 F.3d 1112, 1116-21 (11th Cir. 2020); *United States v. Brown*, 334 F.3d 1161, 1165-70 (D.C. Cir. 2003). Decisions from most state courts of last resort are in accord.¹

These courts recognize that it is wrong to take a "fragmented," *United States v. Hightower*, 716 F.3d 1117, 1121 (8th Cir. 2013), or "piecemeal," *State v. Taylor*, 736 S.E.2d 663, 667 (S.C. 2013), approach to reasonable suspicion, where a court "separately

¹ See, e.g., *Jefferson v. State*, 76 S.W.3d 850, 856-57 (Ark. 2002); *People v. Letner*, 235 P.3d 62, 101-02 (Cal. 2010); *People v. Wheeler*, 465 P.3d 47, 52-54 (Colo. 2020); *State v. Johnson*, 815 So. 2d 809, 811-12 (La. 2002); *Nathan v. State*, 805 A.2d 1086, 1094-98 (Md. 2002); *State v. Hairston*, 126 N.E.3d 1132, 1136 (Ohio 2019); *In re D.M.*, 781 A.2d 1161, 1163-65 (Pa. 2001); *State v. Taylor*, 736 S.E.2d 663, 665-67 (S.C. 2013); *State v. Kenyon*, 651 N.W.2d 269, 273-75 (S.D. 2002); *State v. Kerwick*, 393 S.W.3d 270, 274-76 (Tex. Crim. App. 2013); *State v. Nimmer*, 975 N.W.2d 598, 605-12 (Wis. 2022).

scrutinize[s] each factor relied upon by the officer conducting the search,” *United States v. Edmonds*, 240 F.3d 55, 59 (D.C. Cir. 2001). Instead, courts should examine whether there was reasonable suspicion by considering the facts “in the aggregate.” *McCargo*, 464 F.3d at 197. Under the majority view, the mandate to examine “the *totality* of the circumstances” logically requires looking at *all* of the facts known to the officer at the time of the search or seizure, not just a subset. *United States v. Andrade*, 551 F.3d 103, 110 (1st Cir. 2008); see *In re D.M.*, 781 A.2d 1161, 1165 (Pa. 2001) (“[T]he totality of the circumstances test, by its very definition, requires that the whole picture be considered when determining whether the police possessed the requisite cause to stop [the defendant].”).

Considering all of the facts known to the officer at the time of the seizure (even those of questionable reliability or that do not seem independently suspicious) gives officers room to use their training and experience to draw reasonable inferences from a limited set of facts. In *Harrington*, for example, an anonymous caller alerted the police that two men were passed out or sleeping in a parked car around 8:30 a.m. on a weekday morning. 56 F.4th at 201. The responding officer knew that the area was known for illegal drug use, and he observed that the driver appeared lethargic and had bloodshot, glassy eyes, but that there was no odor of alcohol or marijuana. *Id.* Although the First Circuit acknowledged the possibility “that sleeping may not, on its own, give rise to reasonable suspicion,” it recognized that its task was to evaluate all of the facts in combination, because a “fact that is innocuous in itself may in

combination with other innocuous facts take on added significance.” *Id.* at 202 (quoting *United States v. Ruidiaz*, 529 F.3d 25, 30 (1st Cir. 2008)).

Of course, the majority approach does not mean that every stop will be found to be justified by reasonable suspicion. To the contrary, sometimes considering the whole picture works to the defendant’s benefit. For example, in *State v. Sharp*, 390 P.3d 542 (Kan. 2017), an officer stopped a driver he suspected was preparing to engage in drag racing. The officer heard the car’s engine racing, smelled rubber, and saw the back tire spinning and smoking while the car was waiting at a red light. *Id.* at 545. But before the officer could begin to effectuate a traffic stop, the light turned green, and the car accelerated normally. The Kansas Supreme Court held that the officer was unjustified in stopping the car because any suspicion of drag racing was dispelled once the car “was observed proceeding lawfully after the light turned green.” *Id.* at 548. The court declined to limit the scope of its analysis to the officer’s initial observations, concluding that to do so would violate the mandate to consider all of the facts known to the officer at the time of the seizure. *Id.*

2. A minority of circuits and state supreme courts have endorsed a contrary methodology, where a court may exclude certain evidence from consideration at the outset rather than examining all the evidence in its totality. In addition to the D.C. Court of Appeals, four circuits and three state supreme courts have applied this rule. Notably, each of these courts has done so even after this Court reaffirmed that “*Terry* . . . precludes [a] divide-and-conquer analysis”

where facts “susceptible to an innocent explanation” may be dismissed as carrying “no weight.” *Arvizu*, 534 U.S. at 274.

a. *United States v. Frazier*, 30 F.4th 1165 (10th Cir. 2022), exemplifies the minority approach. In that case, the question was whether a Utah state trooper had reasonable suspicion to extend an otherwise lawful traffic stop to allow time for the arrival of a canine unit, which led to the discovery of an unlawful firearm, fentanyl, and a kilogram of cocaine. The trooper testified that he suspected that the driver was engaged in drug trafficking based on various facts, including that the trooper observed a duffle bag in the cargo area, the driver answered his questions in a deceitful manner, and because he believed that the driver was attempting to mask odors from his vehicle by using air fresheners and refusing to fully roll down his window. *Id.* at 1172. The trooper testified that his suspicions drew on his five years of experience in drug interdiction. *Id.*

The Tenth Circuit examined the stop’s circumstances one by one. First, it found that the duffle bag “adds nothing to the reasonable suspicion calculus” because it was “merely evidence of travel.” *Id.* at 1174. Second, it similarly gave “no weight” to the defendant’s refusal to fully roll down his window, which it attributed to the chilly weather. *Id.* at 1175. Third, it gave no deference to the officer’s testimony that the defendant’s responses to his questions were deceptive. *Id.* at 1176. It also declined to give any weight to the fact that the driver had identification cards from multiple states, that the driver was in a rented vehicle traveling cross country, or that he was

unable to locate the car's rental agreement. *Id.* at 1177-78. Finally, having “[s]tripped” from the analysis “those facts that must be disregarded as completely innocuous,” the court concluded there was no reasonable suspicion to extend the stop. *Id.* at 1178.

The Tenth Circuit took the same tack in *Vasquez v. Lewis*, 834 F.3d 1132 (10th Cir. 2016), a qualified immunity case that arose after officers in Kansas extended a traffic stop to allow for a dog sniff. Among other factors cited by the officers to justify the extension, the driver was from a known drug source area in Colorado. *Id.* at 1136-37. The court rejected use of this fact, holding categorically that “[a]bsent a demonstrated extraordinary circumstance, the continued use of state residency as a justification for the fact of or continuation of a stop is impermissible.” *Id.* at 1138. Chief Judge Tymkovich dissented, arguing that the majority’s categorical exclusion of particular facts from the analysis was inconsistent with this Court’s precedents on the totality-of-the-circumstances test. *Id.* at 1140 (Tymkovich, C.J., dissenting). In his view, cases like *Arvizu* stand for the proposition that “no factor can be given a constant weight of zero in a reasonable suspicion equation.” *Id.*

Several other Tenth Circuit cases have applied similar reasoning, discarding particular facts if they are not sufficiently incriminating in isolation. See *United States v. Leon*, 80 F.4th 1160, 1166-69 (10th Cir. 2023) (dismissing as irrelevant the driver’s “unusual” travel plans and affording “no weight” to the condition of the vehicle’s interior); *United States v. Lopez*, 849 F.3d 921, 927 (10th Cir. 2017) (noting

that the court is generally “reluctant to give weight . . . to unusual travel purposes”); *United States v. Simpson*, 609 F.3d 1140, 1152-53 (10th Cir. 2010) (finding reasonable suspicion but only after dismissing several facts as deserving of “no weight”); *United States v. Wood*, 106 F.3d 942, 948 (10th Cir. 1997) (finding no reasonable suspicion after “stripping away the factors which must be disregarded because they are innocuous”).

b. The Fourth Circuit has applied the same rule in a number of cases, repeatedly “admonish[ing]” the government for citing “innocent facts as indicia of suspicious activity.” *United States v. Black*, 707 F.3d 531, 539 (4th Cir. 2013). For instance, after dismissing various facts as innocuous, the court in *Black* analyzed only “[t]he pertinent facts remaining in the reasonable suspicion analysis.” *Id.* at 542. Likewise, in *United States v. Miller*, 54 F.4th 219 (4th Cir. 2022), the court concluded it was not “relevant to the reasonable suspicion analysis” that a driver was traveling on a known drug corridor because “traveling on a known drug corridor is not itself probative of criminal behavior.” *Id.* at 232. Contrary to this Court’s holding in *Arvizu*, in the Fourth Circuit’s view, it is generally “impossible for a combination of wholly innocent factors to combine into a suspicious conglomeration.” *United States v. Bowman*, 884 F.3d 200, 219 (4th Cir. 2018) (internal quotation marks omitted).

As in the Tenth Circuit, the Fourth Circuit’s approach has elicited dissent. In *United States v. Peters*, 60 F.4th 855 (4th Cir. 2023), the court held that a stop of an individual suspected of trespassing

at an apartment complex was unjustified. The majority concluded that the officer lacked reasonable suspicion even though the officer knew that the defendant did not live on the property, a reliable confidential informant had told the officer that the defendant was selling drugs out of an apartment in the building, and the defendant was traveling with another person the officer knew was barred from the building. *Id.* at 864-70. Judge Traxler dissented, arguing that the court’s approach violated the totality-of-the-circumstances rule. Rather than “consider[ing] the *cumulative weight* of all of the information known to the officer,” the Fourth Circuit’s methodology allows the court to “examine[] each piece of information individually, find[] it inadequate, and then toss[] it off the scale before weighing the next piece.” *Id.* at 876-77 (Traxler, J., dissenting).

c. Decisions from the Fifth and Sixth Circuits follow the same pattern of dismissing certain facts as deserving of “no weight” without examining how those facts contribute to the totality of the circumstances. *See, e.g., United States v. Monsivais*, 848 F.3d 353, 359 (5th Cir. 2017) (“little or no weight”); *United States v. Hernandez-Mandujano*, 721 F.3d 345, 350 (5th Cir. 2013) (“not . . . a contributing factor”); *United States v. Olivares-Pacheco*, 633 F.3d 399, 403 (5th Cir. 2011) (“not entitled to any weight”); *United States v. Williams*, 615 F.3d 657, 667 (6th Cir. 2010) (“these facts must be set aside as simply not probative of potential criminal activity”); *United States v. Rangel-Portillo*, 586 F.3d 376, 381 (5th Cir. 2009) (“none of these factors carry any weight”); *United States v. Urrieta*, 520 F.3d 569, 575 (6th Cir. 2008) (“wholly innocent”

factors “entitled to little if any weight”); *United States v. Patterson*, 340 F.3d 368, 371 (6th Cir. 2003) (“some factors may be outrightly dismissed, because they are . . . innocuous” (internal quotation marks omitted)).

That approach, too, has often been applied over vigorous dissents. See *Monsivais*, 848 F.3d at 364 (Jones, J., dissenting) (criticizing the majority for “deconstruct[ing] each item referenced in the officers’ testimony, and finding each one ‘alone’ insufficient to establish reasonable suspicion”); *United States v. Johnson*, 620 F.3d 685, 698 (6th Cir. 2010) (Guy, J., dissenting) (arguing that the majority was wrong to “dismiss from consideration” certain facts known to the police prior to effectuation of the seizure); *Urrieta*, 520 F.3d at 580 (McKeague, J., dissenting) (reasoning that the “totality of the circumstances analysis prohibits us from discounting certain factors merely because, separately, they could potentially have ‘an innocent explanation’”); *Patterson*, 340 F.3d at 372 (Kennedy, J., dissenting) (contending that the majority erred by “dismiss[ing]” certain facts from its analysis). As Judge Kennedy explained in *Patterson*, “the proper application of the totality of circumstances test” requires courts to “consider *all* of an officer’s observations, giving due credit to any inferences drawn by an officer based [on] experience or training.” 340 F.3d at 372 (emphasis added).

d. Three state supreme courts have joined the District of Columbia on the minority side of the split.

Wyoming has followed the Tenth Circuit’s lead in concluding that facts may “be outrightly dismissed” from the reasonable-suspicion analysis if they are “so

innocent or susceptible to varying interpretations as to be innocuous.” *Damato v. State*, 64 P.3d 700, 707 (Wyo. 2003) (quoting *Wood*, 106 F.3d at 946). For instance, in *Brown v. State*, 439 P.3d 726 (Wyo. 2019), the court concluded that it was “improper[]” for the trial court to consider a driver’s bloodshot eyes in its reasonable-suspicion calculation because they could have been the result of a long drive. *Id.* at 735. And in *Damato*, the court concluded that because a driver’s behavior “was as consistent with innocence as with criminal activity,” it was of “no significance” to the totality-of-the-circumstances test. 64 P.3d at 707.

Decisions from Massachusetts and Indiana take similar approaches. See *Commonwealth v. Warren*, 58 N.E.3d 333, 341 (Mass. 2016) (“Where a suspect is under no obligation to respond to a police officer’s inquiry, we are of the view that flight to avoid that contact should be given little, if any, weight as a factor probative of reasonable suspicion.”); *State v. Quirk*, 842 N.E.2d 334, 342 (Ind. 2006) (assigning “no weight” to driver’s use of aliases, false statement about his criminal history, and origin from a drug-source state).

e. To be sure, courts on the minority side of the split do not exclude facts from the reasonable-suspicion analysis in *every* case. Instead, they have adopted an approach that gives courts discretion to exclude a fact if that fact, in isolation, appears too innocuous, unreliable, or commonplace to merit inclusion in the totality of the circumstances. But that discretion only makes the approach more arbitrary and difficult for officers to apply in their day-to-day work. Officers have no way to predict

whether evidence of the suspect's past criminal history, unprovoked flight, or location in an area known for criminal activity will or will not be factored into the analysis by a reviewing court.

3. While the D.C. Court of Appeals has charted a course on the minority side of the split, the D.C. Circuit's precedents place it firmly on the majority side. *See Brown*, 334 F.3d at 1165-70 (upholding stop of vehicle near recent gunfire after one of the rear passengers climbed over the seat to the front). In a case remarkably similar to the one below, the D.C. Circuit upheld an investigatory stop of a vehicle's driver based partly on the behavior of a passenger. *Edmonds*, 240 F.3d at 61. An officer on a late-night patrol of a block known for narcotics trafficking observed an individual spot his vehicle and hurry into the passenger seat of a van parked in a school parking lot. *Id.* at 57. As the officer approached the vehicle, he saw the driver make "furtive movements" that suggested he was hiding something under his seat. *Id.* This was enough, the court concluded, to justify an investigative detention of the driver. *Id.* at 59-62. In particular, it noted that "the flight of [the passenger] to the van contributed to a reasonable suspicion that criminal activity might be afoot in the vehicle." *Id.* at 62.

The D.C. Circuit's conclusion in *Edmonds* that a passenger's actions can support reasonable suspicion to stop a driver directly conflicts with *R.W.*'s holding that such evidence cannot even be *considered* in the reasonable-suspicion analysis. That intra-jurisdiction conflict leaves officers in the District in a bind. Whether an investigatory stop will be deemed

lawful largely depends on whether the resulting charge is filed in a federal or local court. And more broadly, the D.C. Court of Appeals believes that it may “excise [facts] from the analysis,” App. 3a, which is fundamentally incompatible with the totality-of-the-circumstances test as applied by the D.C. Circuit and the majority of courts.

Resolving this split of authority *within* the District of Columbia—which mirrors the split across the country—is especially important. The District is home to Congress, the White House, and many government agencies and courts—including this Court. It is served by dozens of local and federal law enforcement agencies, from the U.S. Marshals to the Secret Service, many of which make arrests for local crimes. *See* D.C. Code § 5-133.17 (listing 32 federal law enforcement agencies eligible to enter into agreements with the Metropolitan Police Department “to carry out processing and papering of suspects they arrest in the District of Columbia”); *see also id.* § 5-301 (listing the powers and duties of federal law enforcement officers when making arrests for nonfederal offenses). Absent this Court’s intervention, many of those arrests will be subject to the erroneous standard applied by the D.C. Court of Appeals below.

B. The issue is important and recurring.

Whether an investigatory stop should be judged against all of the facts known to the officer or merely a subset is a question of immense importance to law enforcement officers around the country. Police officers make judgment calls about whether to initiate or extend investigative detentions every day. Officers

need to know what facts they may permissibly consider when making those on-the-spot decisions. Requiring officers to ignore certain categories of evidence creates perverse incentives, generates confusion, and hampers effective law enforcement.

First, the rule applied by the minority of courts reduces the value of an officer's training and experience to draw "commonsense judgments and inferences about human behavior." *Wardlow*, 528 U.S. at 125. Even if a fact in isolation may seem innocuous, that does not mean that it "ha[s] no value or relevance to the inquiry." *Peters*, 60 F.4th at 877 (Traxler, J., dissenting). Here, for instance, the dispatch report of a suspicious or stolen vehicle at the location plainly added some evidence to the picture confronting the officer. The report was corroborated once the officer saw a vehicle in suspicious circumstances: passengers fleeing at the mere sight of the officer's patrol car, followed immediately by the driver attempting to escape with one of the doors still open. Together, the dispatch report and the officer's own observations were mutually reinforcing, helping the officer draw a reasonable inference "that criminal activity may be afoot." *Terry*, 392 U.S. at 30.

Second, the minority approach makes officers overly cautious and less likely to intercede to protect public safety. The officer in this case, for example, had to decide immediately whether to stop the vehicle R.W. was driving from leaving the parking lot. Although the officer's information was incomplete, the pieces fit together to form a coherent picture of a potentially stolen vehicle. Faced with that scenario, the officer did exactly what he should have done: he

briefly stopped the moving vehicle from leaving. The only alternative would have been “to simply shrug his shoulders and allow a crime to occur or a criminal to escape.” *Adams v. Williams*, 407 U.S. 143, 145 (1972). The type of delicate parsing of the circumstances performed by the D.C. Court of Appeals may be possible in a judge’s chambers, but it would “unduly hamper the police’s ability to make swift, on-the-spot decisions” in the field. *Sokolow*, 490 U.S. at 11.

Third, excluding certain categories of information because they are “innocuous” in isolation or insufficiently reliable on their own harms the public’s ability to obtain police protection. In this case, for instance, the D.C. Court of Appeals totally excluded the dispatch report relaying a concern about a suspicious or stolen vehicle. The court essentially treated the dispatch report as an anonymous tip that was so unreliable as to be worthless. *See* App. 9a (asserting that a court should not “*assume*[] that a police dispatcher has solid information”). But ignoring anonymous tips and community reports—especially once corroborated by other information—would only discourage concerned residents from reporting illegal activity, thus harming public safety. *People v. Dolly*, 150 P.3d 693, 699 (Cal. 2007).

Fourth, the ongoing disagreement among courts about the scope of the “totality” to be assessed generates confusion. Even within the jurisdictions taking the minority approach, it is not clear when particular information will be deemed “innocuous” such that it should be “stripp[ed] away” and “disregarded.” *Wood*, 106 F.3d at 948. That makes it impossible to train officers on how to determine

whether reasonable suspicion exists. At a minimum, officers need clarity about how to perform their jobs while respecting constitutional boundaries.

C. This case squarely presents that question.

This case is a clear example of how the minority approach misconstrues the totality-of-the-circumstances test. The D.C. Court of Appeals did not merely determine that certain evidence deserved little weight when viewed in context with all of the other evidence. It squarely held that the dispatch call and the unprovoked flight of the passengers had to be “excise[d] . . . from the analysis” *at the outset* based on its view of those facts in isolation. App. 3a. That flawed legal approach was outcome-dispositive here, since the conclusion that reasonable suspicion was absent cannot be justified if the dispatch call and the passengers’ flight are considered.

As highlighted in the *R.W.* opinion, the decision is just the latest in a long line of cases in the D.C. Court of Appeals categorically excluding some facts from the totality-of-the-circumstances analysis. *See* App. 7a-9a. More than twenty years ago, the court concluded that a dispatch call “can contribute to the articulable suspicion calculus only if the judge has been apprised of sufficient facts to enable him to evaluate the nature and reliability of that information.” *In re T.L.L.*, 729 A.2d 334, 341 (D.C. 1999) (cited at App. 8a).

That trend has continued to snowball. In recent years, the D.C. Court of Appeals has used its divide-and-conquer methodology to hold that numerous stops were unjustified by reasonable suspicion. *See, e.g., Mitchell v. United States*, 314 A.3d 1144, 1151-56 (D.C. 2024) (finding no reasonable suspicion where

the stopped individual was the only person in the vicinity of a ShotSpotter alert at a late hour, was wearing a mask and biking away from the direction of the ShotSpotter, and increased his speed upon observing approaching officers); *Champion v. United States*, 307 A.3d 425, 430-36 (D.C. 2024) (holding that an individual’s nervousness and awkward attempt to shed his jacket were insufficient to support a pat-down of the jacket, which contained a gun); *Miles v. United States*, 181 A.3d 633, 638-45 (D.C. 2018) (finding no reasonable suspicion where the stopped individual fled from police when they approached and matched a 911 caller’s description of a man firing a gun in the air). As one former Superior Court judge recently opined, that approach is “at variance with decisions of the Supreme Court,” generating “private disgruntlement among lower-court judges and D.C. law enforcement officials that has been brewing for over a decade.” Stuart Nash, *This D.C. court’s rulings are making it harder to fight crime*, Wash. Post (Aug. 15, 2025), <https://tinyurl.com/2h5mawyj>.

Notably, the decision below heavily relied on the recent en banc decision in *Mayo*, which calcified this problematic trend. App. 7a, 11a-19a. In *Mayo*, officers encountered a group of individuals in a neighborhood known for illegal weapons. 315 A.3d at 612-13. The officers stopped one individual after he adjusted something near his waistband and fled upon the officers’ approach. *Id.* at 613. In assessing whether the stop was justified, the court held that only some facts known to the officers at the time were “legitima[te]” parts of the totality of the circumstances. *Id.* at 621. The court went on to hold that the officers could not have “reasonably

perceive[d]” the suspect’s flight as suspicious because it was “more consistent with the ‘apprehensiveness that would naturally be felt’ by a person in his situation.” *Id.* at 632. It also held “that courts should no longer give weight to a bare ‘high-crime area’ label in assessing the validity of a *Terry* stop.” *Id.* at 634. That ruling spurred a dissent from Judge McLeese, who argued that because reasonable suspicion must be based on the totality of the circumstances, it “necessarily follows that individual factors cannot properly be given little weight because in isolation they are not clearly incriminating.” *Id.* at 645 (McLeese, J., dissenting). The other six judges, however, disagreed, effectively freezing the divide-and-conquer approach into District law.

II. The Decision Below Is Incorrect.

The decision below takes a divide-and-conquer approach that is inconsistent with this Court’s Fourth Amendment precedents. Instead of analyzing the circumstances known to the officer in their totality, it assessed the facts piecemeal, refusing to consider facts that it deemed insufficiently incriminating in isolation. Even if the Court does not grant plenary review of this case—which it should, given the well-developed split across multiple appellate courts—at a minimum, the decision below should be summarily reversed.

A. Reasonable suspicion must consider the totality of the circumstances.

The “totality of the circumstances” rule is firmly embedded in this Court’s reasonable-suspicion jurisprudence. *E.g.*, *Arvizu*, 534 U.S. at 273; *Navarette v. California*, 572 U.S. 393, 397 (2014);

Alabama v. White, 496 U.S. 325, 328 (1990); *Sokolow*, 490 U.S. at 8-9; *Cortez*, 449 U.S. at 417. As the Court has made clear, “the totality of the circumstances” means “all the circumstances” known to the officer at the time of the detention. *Cortez*, 449 U.S. at 418. Requiring courts to review that entire picture is critical because “the whole is often greater than the sum of its parts—especially when the parts are viewed in isolation.” *Wesby*, 583 U.S. at 60-61. A court simply “cannot review the totality of the circumstances if it has put on . . . blinders” as to certain types of information. *Barnes*, 145 S. Ct. at 1359.

At times, lower courts have experimented with limiting the flexibility of the totality-of-the-circumstances test, but this Court has “consistently eschewed bright-line rules” in the Fourth Amendment context. *Ohio v. Robinette*, 519 U.S. 33, 39 (1996); see *United States v. Banks*, 540 U.S. 31, 42 (2003) (rejecting lower court’s “overlay of a categorical scheme on the general reasonableness analysis”). For instance, in *Sokolow*, the Ninth Circuit tried to divide evidence into categories based on whether it was indicative of “ongoing criminal behavior” or merely “probabilistic” in nature. 490 U.S. at 8. The Court rejected that attempt to “draw a sharp line between types of evidence” because the “probative value” of every piece of evidence “varies only in degree.” *Id.* Even facts that are “quite consistent” with innocent behavior must be considered because “taken together,” they may amount to reasonable suspicion. *Id.* at 9.

Likewise, in *Arvizu*, the Court disavowed the Ninth Circuit’s “divide-and-conquer” methodology where it evaluated factors “in isolation from each other” and rejected certain factors “as simply out of bounds in deciding whether there was ‘reasonable suspicion’ for the stop.” 534 U.S. at 268, 272, 274. Even though the Ninth Circuit defended its framework as “necessary to ‘clearly delimit’ an officer’s consideration of certain factors to reduce ‘troubling . . . uncertainty,’” the Court held that the approach “depart[ed] sharply” from the totality-of-the-circumstances test. *Id.* at 274-75.

The Court hews to the same path in the probable cause context. In *Wesby*, the Court chastised the D.C. Circuit for examining the facts bearing on probable cause “one by one” instead of as a whole. 583 U.S. at 61. It also characterized it as a “mistake[]” to “dismiss outright” circumstances that could be susceptible to an innocent explanation. *Id.* That is because a fact “viewed in isolation is often more ‘readily susceptible to an innocent explanation’ than one viewed as part of a totality.” *Id.* at 62. Instead, the reviewing court should “consider[] all of the surrounding circumstances” in context, even those consistent with innocent behavior. *Id.* at 61.

And in assessing the reasonableness of an officer’s use of force, the Court has similarly rejected approaches that “improperly narrow[] the requisite Fourth Amendment analysis” by excluding events that led up to the use of force. *Barnes*, 145 S. Ct. at 1356. The totality-of-the-circumstances inquiry, the Court has explained, “has no time limit.” *Id.* at 1358. Events that occurred before the officer’s use of force

“may bear on how a reasonable officer would have understood and responded to later ones.” *Id.* Therefore, a reviewing court must take a broad perspective, examining “any relevant events coming before” the exercise of force to evaluate its reasonableness. *Id.* at 1360.

As these holdings make clear, even factors that could not create reasonable suspicion in isolation may be relevant when combined with other evidence. For example, an individual’s personal appearance, standing alone, is a “decidedly impermissible factor[]” to justify a stop. *Whren v. United States*, 517 U.S. 806, 810 (1996); see *United States v. Brignoni-Ponce*, 422 U.S. 873, 885 (1975). But this Court has never endorsed a rule *excluding* appearance from the reasonable-suspicion analysis altogether. Appearance can be “a relevant factor,” *Brignoni-Ponce*, 422 U.S. at 887, if, for example, it matches the description of a known suspect. See, e.g., *Illinois v. Gates*, 462 U.S. 213, 242-43 (1983) (explaining how an informant’s “detailed physical description” helped establish probable cause). Likewise, even though “[a]n individual’s presence in an area of expected criminal activity, standing alone, is not enough” to create reasonable suspicion, it can be “among the relevant contextual considerations in a *Terry* analysis.” *Wardlow*, 528 U.S. at 124.

The upshot of these decisions is plain: courts cannot define “the totality of the circumstances” to omit particular facts. Nor can they create rules to exclude certain types of evidence in all cases. Instead, courts must view all the known facts together to see if they amount to reasonable suspicion.

B. The judgment below is clearly wrong.

The decision below is obviously wrong under this Court's precedents. Instead of considering the totality of the circumstances and giving due weight to the factual inferences drawn by the law enforcement officer and the trial court, *see Arvizu*, 534 U.S. at 277, the D.C. Court of Appeals took a fragmented approach. It assessed each of the factors bearing on reasonable suspicion separately and excluded two of those factors—the dispatch call reporting a suspicious or stolen vehicle and the unprovoked flight of that vehicle's passengers—entirely. App. 7a-18a. That methodology gets the totality-of-the-circumstances test entirely backward. A court cannot assign “no weight” to a particular fact at the outset; it must examine how all the facts interact as part of “the factual ‘mosaic’” confronting the officer. *Arvizu*, 534 U.S. at 274-75.

Moreover, the court's rationale for discounting the two pieces of evidence here defies logic and conflicts with rulings from other courts giving weight to identical evidence. First, the court held that a dispatch call “is *irrelevant* to the Fourth Amendment analysis absent information allowing the trial court to evaluate its basis and reliability.” App. 10a. That sweeping rule cannot be correct. Although the basis and reliability of information relayed via a radio dispatch certainly bears on its weight, it is not grounds for categorical exclusion from the reasonable-suspicion analysis. Such a rule would “leave[] virtually no place for anonymous citizen informants,” *Gates*, 462 U.S. at 238, when this Court has long recognized that “there are situations in which an

anonymous tip, suitably corroborated, exhibits ‘sufficient indicia of reliability to provide reasonable suspicion to make the investigatory stop.’” *Florida v. J.L.*, 529 U.S. 266, 270 (2000) (quoting *White*, 496 U.S. at 327). And it would defy *Arvizu*, which reiterated that even information “susceptible of innocent explanation” is entitled to consideration in the reasonable-suspicion analysis. 534 U.S. at 277.

By excluding the dispatch call from its analysis altogether, the D.C. Court of Appeals failed to appreciate how other evidence corroborated the call’s substance. Although information about the call’s source was not in the record, once the officer turned into the parking lot at the apartment building, he observed additional facts that reinforced the veracity of the call’s report of a suspicious or stolen vehicle. He saw two passengers flee unprovoked from a parked vehicle and saw the vehicle begin to back out of its parking space with one of its doors wide open—highly suspicious behavior that allowed him to reasonably infer that further inquiry was warranted.

The D.C. Court of Appeals alternatively excluded the dispatch call because it found the call’s description of the suspicious vehicle too broad to provide the particularity required for reasonable suspicion. App. 9a-10a. This type of categorical rule is inappropriate in the reasonable-suspicion context, as this case illustrates. Once the officer arrived at the reported address, he saw only *one* suspicious vehicle; no other vehicle was even occupied, let alone had fleeing passengers or began to move with an open door. Thus, even if the dispatch call *alone* would not be sufficient to create reasonable suspicion as to any

one vehicle, further corroborating evidence provided that necessary particularity. *See Navarette*, 572 U.S. at 398 (“[C]orroboration of certain details made the anonymous tip sufficiently reliable to create reasonable suspicion of criminal activity.”).

Second, the D.C. Court of Appeals excluded consideration of the vehicle’s fleeing passengers because it did not believe the passengers were associated with the driver as part of a “suspicious joint venture.” App. 2a, 11a-14a. Many courts taking the majority approach have given weight to evidence of flight by a suspect’s companions, including the D.C. Circuit. *See, e.g., Edmonds*, 240 F.3d at 62; *United States v. Cotton*, 782 F.3d 392, 395-96 (8th Cir. 2015) (finding reasonable suspicion based largely on the flight of the defendant’s apparent companion). To be sure, courts should not readily infer guilt by association. But here, the fleeing individuals were in the same vehicle that R.W. was driving, which had been reported “suspicious” or “stolen.” App. 42a. As they fled on foot at the sight of police, R.W. attempted to leave the parking lot in that vehicle, even though one of the doors was wide open. Combined with the dispatch report, the time of night, and the movement of the vehicle, the passengers’ unprovoked flight helped to provide reasonable suspicion of a potential crime in progress involving the vehicle itself, justifying a stop of the driver. *See Maryland v. Pringle*, 540 U.S. 366, 371-74 (2003) (finding that the presence of cash and cocaine accessible to all of a vehicle’s occupants created probable cause to arrest a passenger for possession of a controlled substance).

In short, the D.C. Court of Appeals evaluated and rejected “factors in isolation from each other,” which fails to “take into account the ‘totality of the circumstances.’” *Arvizu*, 534 U.S. at 274. Properly applying the test that this Court has articulated, the stop was supported by reasonable suspicion.

CONCLUSION

The petition for a writ of certiorari should be granted. If the Court does not grant plenary review, it should summarily reverse the judgment below.

Respectfully submitted,

BRIAN L. SCHWALB
Attorney General for the
District of Columbia

CAROLINE S. VAN ZILE
Solicitor General
Counsel of Record

ASHWIN P. PHATAK
Principal Deputy Solicitor General

CARL J. SCHIFFERLE
Deputy Solicitor General

JEREMY R. GIRTON
Assistant Attorney General
OFFICE OF THE SOLICITOR GENERAL

OFFICE OF THE ATTORNEY GENERAL
400 6th Street, NW, Suite 8100
Washington, D.C. 20001
(202) 724-6609

August 2025 caroline.vanzile@dc.gov