

No. 25-331

IN THE
Supreme Court of the United States

PATRICK WAYMAN SCULLARK, JR.,
Petitioner,

v.

STATE OF IOWA,
Respondent.

**On Petition for a Writ of Certiorari
to the Supreme Court of Iowa**

BRIEF IN OPPOSITION

BRENNA BIRD
Attorney General of Iowa

ERIC H. WESSAN*
Solicitor General
**Counsel of Record*

PATRICK C. VALENCIA
Deputy Solicitor General

TIMOTHY M. HAU
Asst. Attorney General

1305 East Walnut Street
Des Moines, IA 50312
(515) 823-9117
eric.wessan@ag.iowa.gov

Counsel for Respondent

QUESTION PRESENTED

Whether the search of a container attached to an arrestee's waist at the time of arrest constitutes a Fourth Amendment search "of the person" under *United States v. Robinson*, 414 U.S. 218 (1973).

PARTIES TO THE PROCEEDING

Patrick Wayman Scullark, Jr., petitioner on review,
was the defendant-appellant below.

State of Iowa, respondent on review, was the appel-
lee below.

RELATED PROCEEDINGS

Supreme Court of Iowa:

- *State of Iowa v. Scullark*, No. 23-1218 (June 20, 2025) (reported at 23 N.W.3d 49).

Iowa Court of Appeals:

- *State of Iowa v. Scullark*, No. 23-1218 (Aug. 21, 2024) (referenced at 12 N.W.3d 370 (Table)) (unpublished opinion).

Iowa District Court for Black Hawk County:

- *State of Iowa v. Scullark*, No. 01071 FECR246668 (Apr. 20, 2023) (not reported).

TABLE OF CONTENTS

	<u>Page</u>
QUESTION PRESENTED.....	i
PARTIES TO THE PROCEEDING	ii
RELATED PROCEEDINGS	iii
INTRODUCTION.....	1
STATEMENT	5
REASONS FOR DENYING THE PETITION	9
I. THE IOWA SUPREME COURT'S DECISION DOES NOT MEANINGFULLY CONTRIBUTE TO A SPLIT IN AUTHORITY.....	9
A. Three Courts Scullark Cites as Contrary Authority Would Likely Reach the Same Conclusion as the Iowa Supreme Court.	10
B. Scullark Identifies Only Two Courts That May Deviate from the Iowa Supreme Court's Reasoning on the Facts Here.	13
C. Any Split in Authority Is Lopsided, Inapplicable to the Facts Here, and Thus Does Not Call Out for This Court's Review.....	18
II. THE DECISION BELOW IS CORRECT.....	20
A. A Container Attached to an Arrestee's Person Can Be Searched Without a Warrant Incident to a Lawful Arrest.	21

TABLE OF CONTENTS—Continued

	<u>Page</u>
B. Scullark’s Reliance on <i>Chadwick</i> and <i>Gant</i> Is Unavailing Because the Fanny Pack Was Immediately Associated with His Person.	23
C. Narrowing <i>Robinson’s</i> Categorical Rule Will Encourage Gamesmanship and Imperil Officers.....	26
III. THIS CASE IS A POOR VEHICLE FOR THIS COURT’S REVIEW.....	27
A. Scullark’s Argument Necessarily Requires Reversing the District Court’s Factfinding.....	27
B. Questions Not Raised Here May Be Resolved in a Later Case.	29
CONCLUSION	30

TABLE OF AUTHORITIES

	<u>Page(s)</u>
Cases	
<i>Arizona v. Gant</i> , 556 U.S. 332 (2009).....	3, 25
<i>Chimel v. California</i> , 395 U.S. 752 (1969).....	17
<i>Commonwealth v. Bembury</i> , 677 S.W.3d 385 (Ky. 2023)	20
<i>Greene v. State</i> , 585 S.W.3d 800 (Mo. 2019).....	2, 12, 13, 19
<i>Gustafson v. Florida</i> , 414 U.S. 260 (1973).....	3, 22
<i>Michigan v. Long</i> , 463 U.S. 1032 (1983).....	25
<i>People v. Cregan</i> , 10 N.E.3d 1196 (Ill. 2014).....	20
<i>People v. Marshall</i> , 289 P.3d 27 (Colo. 2012)	19
<i>Riley v. California</i> , 573 U.S. 373 (2014).....	3, 22, 23, 25, 26
<i>State v. Carrawell</i> , 481 S.W.3d 833 (Mo. 2016).....	12
<i>State v. Mercier</i> , 883 N.W.2d 478 (N.D. 2016).....	20
<i>State v. Ortiz</i> , 539 P.3d 262 (N.M. 2023)	16, 17, 18
<i>United States v. Chadwick</i> , 433 U.S. 1 (1977).....	3, 23, 24
<i>United States v. Davis</i> , 997 F.3d 191 (4th Cir. 2021).....	10, 18
<i>United States v. Edwards</i> , 415 U.S. 800 (1974).....	24

TABLE OF AUTHORITIES—Continued

	<u>Page(s)</u>
<i>United States v. Ferebee</i> , 957 F.3d 406 (4th Cir. 2020).....	10, 11, 19
<i>United States v. Johnson</i> , 846 F.2d 279 (5th Cir. 1988).....	19
<i>United States v. Knapp</i> , 917 F.3d 1161 (10th Cir. 2019).....	13, 14, 15, 16, 17, 18
<i>United States v. Lomax</i> , 744 F. App'x 754 (3d Cir. 2018).....	11
<i>United States v. Parra</i> , 2 F.3d 1058 (10th Cir. 1993).....	15
<i>United States v. Perdoma</i> , 621 F.3d 745 (8th Cir. 2010).....	19
<i>United States v. Robinson</i> , 414 U.S. 218 (1973).....	2, 8, 14, 15, 21, 22
<i>United States v. Shakir</i> , 616 F.3d 315 (3d Cir. 2010)	11, 12, 19
 Constitutional Provisions	
U.S. Const., amend. IV.....	2, 4, 6, 7, 9, 20, 27, 29
Iowa Const., art. I, § 8.....	6

IN THE
Supreme Court of the United States

No. 25-331

PATRICK WAYMAN SCULLARK, JR.,
Petitioner,

v.

STATE OF IOWA,
Respondent.

**On Petition for a Writ of Certiorari
to the Supreme Court of Iowa**

BRIEF IN OPPOSITION

INTRODUCTION

A lone police officer outnumbered in a house by three people, including Petitioner Patrick Scullark, searched Scullark's fanny pack. Scullark was wearing that pack around his waist when he was arrested.

After being arrested, Scullark handed his fanny pack—large enough to contain a handgun—to one of those potential confederates who began to retreat from the scene. The lone officer on scene ordered the confederate to drop the pack, which she did. As the officer exited the house with Scullark in handcuffs, he took possession of the fanny pack. About five minutes after the arrest, officers searched the fanny pack.

The Iowa Supreme Court held that search did not violate the Fourth Amendment. “[B]ecause the fanny pack was attached to [Scullark’s] person at the time of the arrest,” the search at issue was governed by this Court’s precedent in *United States v. Robinson*, 414 U.S. 218 (1973). But Scullark asks this Court to grant certiorari to weigh in on a broader question: Whether the Fourth Amendment categorically forbids “warrantless searches of bags carried by arrestees at the time of arrest.” Pet. i. But those are not the facts of his case. The Court should deny his petition.

First, this case does not meaningfully contribute to a split in authority. Indeed, the split Scullark identifies is shallower than he lets on. Scullark cites two cases from the Third and Fourth Circuits that would likely uphold warrantless searches of containers found on an arrestee’s person when the arresting officer is outnumbered by the arrestee and potential confederates. Then Scullark invokes a case from the Missouri Supreme Court that has since been abrogated. The Missouri Supreme Court now permits “reasonably delayed search[es] of items found on a defendant’s person at the time of arrest,” like that at issue here. *Greene v. State*, 585 S.W.3d 800, 808 (Mo. 2019).

Scullark identifies only two courts with reasoning that even arguably splits from the Iowa Supreme Court on these facts—the Tenth Circuit and the New Mexico Supreme Court. Even so, the Tenth Circuit’s analysis focused on visible, handheld containers like purses, not containers attached to the person of the arrestee as at issue here. Worse, the Tenth Circuit rejected as unworkable this Court’s observation in *Robinson* that the bounds of an arrestee’s person must be determined at the time of arrest. The only other court Scullark invokes is the New Mexico Supreme Court,

which adopted the Tenth Circuit’s reasoning. Yet even that court might not split from the Iowa Supreme Court on these facts. The New Mexico Supreme Court noted that it would have upheld a warrantless search of an arrestee’s container if the State could show that the arrestee or any of his associates could have reached the container to access weapons or destructible evidence. The State would meet that burden here.

So Scullark’s purported split in authority is lopsided in favor of the Iowa Supreme Court. If the facts of this case were presented to the First, Third, Fourth, Fifth or Eighth Circuits, or the Colorado, Illinois, Kentucky, or North Dakota Supreme Courts, those courts would uphold the fanny pack search. Only the Tenth Circuit and New Mexico Supreme Court may disagree—and even those courts still may come out on the side of the Iowa Supreme Court.

Second, the Iowa Supreme Court’s opinion reflects this Court’s precedents. *Robinson* and *Gustafson v. Florida*, 414 U.S. 260 (1973) announced a categorical rule that an arresting officer may search all items on an arrestee’s person, even once that arrestee is secured. No later precedents cast doubt on that rule. Indeed, this Court reaffirmed that rule for physical objects found on an arrestee’s person in *Riley v. California*, 573 U.S. 373 (2014).

Like his purported split in authority, Scullark’s reliance on *United States v. Chadwick*, 433 U.S. 1 (1977) stretches beyond the facts of his case. Unlike in *Chadwick*, the search of Scullark’s fanny pack was not remote in either time or place from his arrest. Police officers searched the pack outside the house where he was arrested merely five minutes after arresting him. Similarly, Scullark’s reliance on *Arizona v. Gant*, 556 U.S. 332 (2009) also fails even if *Gant* applies outside

the automobile context because either he or one of his potential confederates could have reached the fanny pack to access weapons or destructible evidence.

In all events, narrowing *Robinson's* categorical rule would encourage gamesmanship from arrestees who would try to reduce the scope of a search incident to a lawful arrest by passing off incriminating items to associates near them. And it would endanger the safety of arresting officers as they could quickly find themselves outmanned and outgunned once an arrestee passes off a container with a weapon to an associate.

Finally, this case is a poor vehicle for this Court's review. Scullark contests that officer safety justified the challenged search. Indeed, the lone dissent to the Iowa Supreme Court's opinion emphasized that fact issue. But the district court found that there was a legitimate threat to the arresting officer's safety in the circumstances of Scullark's arrest. And the Iowa Supreme Court did not disturb that finding. This Court typically does not grant certiorari when the question presented turns on a trial court's findings of fact.

The question Scullark presents bears minimal resemblance to the facts of his case. He asks this Court to consider "[w]hether the Fourth Amendment categorically permits warrantless searches of bags carried by arrestees at the time of arrest." Pet. i. But Scullark was not carrying a bag at the time he was arrested. Rather, he was wearing a fanny pack around his waist. If the Court wishes to decide whether handheld bags are categorically searchable under the Fourth Amendment absent an exigency, then it should wait for a case that presents that question. But here, where any split on these narrower facts is murky and lopsided in favor of the state court judgment, the Court should deny review.

STATEMENT

1. Waterloo, Iowa Police Officer David Bolstad responded to a disorderly call about a male-female altercation. App. 75a. The female had an eyebrow laceration and identified Petitioner Scullark as the cause of that laceration. App. 75a. Officer Bolstad searched for Scullark, eventually locating him sitting in the back of a truck outside a house. App. 75a.

When Scullark saw Officer Bolstad, he became agitated and started talking about how he had done nothing. App. 75a. Scullark noted he was on parole and did not want to go back to prison. App. 75a. Despite Officer Bolstad's instruction to Scullark to stay outside, Scullark entered the house. App. 75a.

Officer Bolstad followed Scullark into the house, followed by at least two other people. App. 75a–76a. Once inside, Scullark began telling his side of the story. App. 76a. Throughout the conversation, Scullark was agitated, raising his voice and swinging his arms. App. 76a. Officer Bolstad explained to Scullark that he would be arrested for reported domestic violence. App. 76a. Scullark continued to swear, cry, and reiterate that he would not go to jail. App. 76a. Throughout the conversation, Officer Bolstad was the only police officer on the scene, while two women stood near Scullark. App. 75a–76a.

Officer Bolstad then asked Scullark to stand up because he was under arrest. App. 76a. Scullark responded, "Don't touch me," then he handed a black fanny pack he was wearing around his waist to a nearby woman named Tammy Kisner. App. 76a. Officer Bolstad then handcuffed Scullark and told him that he would search everything he had on or in his pockets at the time of arrest. App. 76a.

After receiving Scullark's fanny pack, Kisner started to walk away from the arrest scene towards an adjoining room. App. 24a, 76a. Officer Bolstad directed her to stay where she was. App. 76a. Kisner placed the fanny pack on a tub next to a laundry basket, then Scullark walked toward that area. App. 76a. Officer Bolstad asked Scullark to stop, and Scullark stopped right next to the fanny pack. App. 76a.

Officer Bolstad picked up the fanny pack and walked out of the house with it and Scullark. App. 77a. Scullark and Officer Bolstad disagreed about Officer Bolstad's intent to search the fanny pack. App. 77a. When Scullark and Officer Bolstad exited the house, they were met by another officer. App. 77a. Officer Bolstad handed the fanny pack to the other officer and asked him to search it. App. 77a. Scullark was then patted down and put in the squad car. App. 77a. Police found methamphetamine and money in the fanny pack. App. 77a.

Scullark moved to suppress, arguing the fanny pack search was unconstitutional under the Fourth Amendment of the U.S. Constitution and Article I, Section 8 of the Iowa Constitution. App. 74a. The district court denied Scullark's motion, reasoning that "[t]here is a long line of cases that recognize that if there is probable cause to arrest a person, then a lawful search may be conducted of both the person and the area within that person's immediate control." App. 78a. The district court observed that "if the fanny pack would have contained a weapon, Ms. Kisner would have had access and officer security would be at risk." App. 80a. Scullark then entered a conditional guilty plea, reserving the right to appeal the denial of his motion to suppress. App. 67a. The district court entered judgment convicting Scullark of possession of a

controlled substance and failure to affix a drug stamp. App. 68a. Scullark appealed.

2. A divided three-judge panel of the Iowa Court of Appeals reversed. Relying largely on Iowa-specific caselaw, the majority stated that a search incident to a lawful arrest was limited to the “area into which an arrestee might reach in order to grab a weapon or evidentiary items.” App.47a. The majority concluded that the fanny pack search was invalid because Scullark “was already in handcuffs” and “could not reach the pack or its contents.” App. 50a.

The majority also relied on Iowa Supreme Court precedent rejecting the evidence-gathering purpose of a search incident to a lawful arrest under the Iowa Constitution. App. 43a n.6. The panel majority did not address whether the search was a search “of the person” governed by *Robinson*, arguing that the State had failed to make that argument. App. 48a n.7. The panel majority also appeared to reject the district court’s factual finding that the arresting officer’s safety was at risk. App. 51a. The majority instead found that “the safety of the officers was not endangered by the contents of an item that the arrestee could not realistically access.” App. 51a.

Judge Buller dissented, criticizing the majority for relegating this Court’s precedent in *Robinson* to a footnote, even though it was “dispositive” of Scullark’s case because the fanny pack was on his person at the time of arrest. App. 53a. After reiterating *Robinson*’s holding that “ ‘[i]t is the fact of the lawful arrest which establishes the authority to search [an arrestee’s person],’ and such a search is reasonable under the Fourth Amendment,” Judge Buller concluded that “*Robinson*’s categorical rule controls and this is an

easy case.” App. 53a–54a (quoting *Robinson*, 414 U.S. at 235).

Judge Buller then criticized the majority for engaging in a “subjective review of the arresting officer’s intent and beliefs about the proper scope of the search.” App. 62a. Such “subjective case-by-case inquiries” are “neither permissible nor relevant” under this Court’s precedent. App. 62a. Accordingly, Judge Buller noted that he would uphold the fanny pack search as consistent with both the federal and state constitutions.

3. A six-justice majority of the Iowa Supreme Court vacated the Iowa Court of Appeals. The majority noted that it is “a well-settled rule that police officers have inherent authority to search the arrestee’s person incident to arrest without a warrant.” App. 11a–12a. Accordingly, the court “conclude[d] that because the fanny pack was attached to [Scullark’s] person at the time of the arrest, [the search at issue was] a search of the person, governed by *Robinson*—rather than a search of the area within [Scullark’s] immediate control, governed by *Chimel*, *Gant*, or *Gaskins*.” App. 13a–14a. So, the Iowa Supreme Court affirmed the district court’s order denying Scullark’s motion to suppress.

In a lone dissent, Justice McDermott stated that once Scullark handed his fanny pack to the woman standing next to him after his arrest, it was no longer part of his “person” and “neither of the rationales supporting the search-incident-to-arrest exception—officer safety and evidence preservation—could justify the search of the fanny pack.” App. 26a. Justice McDermott thus concluded that the search of the fanny pack “didn’t fall within the search-incident-to-arrest exception, or any other exception” to the warrant requirement. App. 27a. Justice McDermott would

reverse the district court's denial of Scullark's motion to suppress.

REASONS FOR DENYING THE PETITION

I. THE IOWA SUPREME COURT'S DECISION DOES NOT MEANINGFULLY CONTRIBUTE TO A SPLIT IN AUTHORITY.

Petitioner Scullark asks this Court to consider whether the Fourth Amendment “categorically permits warrantless searches of bags carried by arrestees” at the time of arrest. Pet. i. But this case is not about a bag carried by an arrestee. Instead, this case concerns a fanny pack Scullark was wearing around his waist when he was arrested. Most decisions Scullark relies on underscore that key fact-specific distinction.

The question here, properly framed around its facts, is whether the search of a container attached to an arrestee's body at the time of arrest constitutes a search “of the person” incident to arrest under *Robinson*. And when analyzed in that proper context, this case does not contribute to a deep split in authorities. At best, Scullark identifies one federal circuit court and one state high court that may split from the Iowa Supreme Court on the facts here.

Scullark attempts to fit this case into a circuit split on whether the Fourth Amendment permits officers to search handheld bags carried by an arrestee. Scullark reports that some courts—like the Third, Fourth and Tenth Circuits—permit searches of an arrestee's bags only if there is a threat to officer safety or a risk of evidence destruction at the time of the search. By contrast, Scullark asserts that other courts like the First Circuit, the Kentucky Supreme Court and now the

Iowa Supreme Court, categorically allow searches of an arrestee's bags incident to an arrest. But Scullark overstates the alleged split. Even if Scullark has identified a split on some bags, this case about worn fanny packs does not contribute to that split.

A. Three Courts Scullark Cites as Contrary Authority Would Likely Reach the Same Conclusion as the Iowa Supreme Court.

Three courts Scullark points to as contrary authority are likely to come out the same way as the Iowa Supreme Court based on the facts here. The opinions Scullark relies on are either materially distinguishable from this case on the facts or have since been abrogated. In all three opinions, the courts use language suggesting that they would reach the same conclusion as the Iowa Supreme Court given the facts here.

1. Scullark claims that the Fourth Circuit “rejects a categorical rule allowing warrantless searches of bags that a defendant is carrying at the time of arrest.” Pet. 12. For this proposition, he relies on *United States v. Davis*, 997 F.3d 191 (4th Cir. 2021). But reliance on *Davis* is misplaced because the defendant there had discarded his backpack before he was put under arrest. Thus, unlike Scullark's fanny pack, the backpack in *Davis* was not on the arrestee's person at the time of arrest.

The Fourth Circuit panel analyzed the officer's backpack search under *Gant* and concluded that it was unlawful. *Id.* at 203. But the panel proceeded down that path only because *Davis* did not have the backpack on his person when he was placed under arrest.

The Fourth Circuit case that is more relevant to the facts here is *United States v. Ferebee*, 957 F.3d 406 (4th Cir. 2020). There, the Fourth Circuit upheld a

warrantless search of a backpack an arrestee was holding in his left hand when arrested. *Id.* at 410. The panel observed that “despite the fact that Ferebee was handcuffed [when the search was conducted], the police reasonably could have believed that Ferebee could have accessed the backpack” because he was standing physically close to the officers. *Id.* at 419. Thus, the panel concluded that it did not believe that Ferebee was “secured” within the meaning of *Gant*.”

So too here. At the time Scullark handed his fanny pack to a woman standing close to him, he was in an emotionally charged state—he was crying, swearing, and repeating that he was not going to jail. App. 76a. The lone officer arresting Scullark was outnumbered by Scullark and the two women who were standing by him. App. 76a. The woman who was handed the fanny pack started moving towards an adjoining room, away from the scene of arrest. App. 24a. Given that those women could have been confederates of Scullark, the arresting officer may have reasonably believed that Scullark was not secured, and that either he or his associates could have reached the fanny pack to dispose of (or use) its contents.

2. In *United States v. Shakir*, the Third Circuit concluded that a “search is permissible incident to a suspect’s arrest when, under all the circumstances, there remains a reasonable possibility that the arrestee could access a weapon or destructible evidence” inside. 616 F.3d 315, 321 (3d Cir. 2010); *see also United States v. Lomax*, 744 F. App’x 754, 756 (3d Cir. 2018) (same). Scullark relies on *Shakir* to argue that the Third Circuit would have invalidated the search here because he could not access a weapon or destructible evidence after being handcuffed. Pet. 13. But the Third Circuit upheld the warrantless search because

“there remained a sufficient possibility that Shakir could access a weapon in his bag to justify its search.” *Shakir*, 616 F.3d at 321. “Shakir was subject to an arrest warrant for armed bank robbery” and “was arrested in a public area near some 20 innocent bystanders, as well as at least one suspected confederate who was guarded only by unarmed hotel security officer.” *Id.*

Those concerns are present here. Scullark was arrested following a report of domestic violence. App. 76a. When he was arrested, he was flanked by two women around him, while the arresting officer was alone. App. 76a. Scullark was in an emotionally charged state when he handed his fanny pack to one of the women standing around him. App. 76a. That woman took the fanny pack and started walking away from the scene of arrest to an adjoining room. App.24a. Based on these facts, the arresting officer may have reasonably concluded that either Scullark or one of his associates could either access a weapon or destroy evidence in the fanny pack before it was searched.

3. Scullark next points to the Missouri Supreme Court as holding that searches of the person under *Robinson* are limited to “items that are so intertwined with the arrestee’s person that they cannot be separated from the person at the time of arrest.” Pet. 13–14 (citing *State v. Carrawell*, 481 S.W.3d 833, 840 (Mo. 2016)).

But the Missouri Supreme Court has since abrogated *Carrawell*. In *Greene v. State*, the court stated, “[t]ogether, the holdings in *Robinson*, *Gustafson*, and *Edwards* establish the fact of a lawful arrest is sufficient to justify a reasonably delayed search of items found on a defendant’s person at the time of arrest.

Any contrary statements in *Carrawell* should no longer to be followed.” 585 S.W.3d 800, 808 (Mo. 2019).

And that is exactly the kind of search here. The arresting officer observed Scullark’s fanny pack attached around his waist—and thus on his person—when he placed Scullark under arrest. App. 76a. The officers then searched the fanny pack mere minutes after his arrest while they were still at the scene. App. 20a.

Rather than engage with *Greene*, Scullark mentions it in passing in a footnote. See Pet. 14 n.2. Scullark’s attempts to distinguish *Greene* are unpersuasive. Scullark contends that “*Greene* does not alter *Carrawell*’s holding that searches of bags are not searches of the defendant’s person—and thus must be justified by a threat to officer safety or a risk of evidence destruction.” *Id.*

But this case is not about “searches of bags” broadly. Rather, it concerns the search of a fanny pack that was affixed to Scullark’s waist when he was arrested. App. 76a. Even if the search had to be “justified by a threat to officer safety or a risk of evidence destruction,” the presence of potential confederates around Scullark who outnumbered the lone arresting officer meets that bar.

B. Scullark Identifies Only Two Courts That May Deviate from the Iowa Supreme Court’s Reasoning on the Facts Here.

Scullark identifies two cases that appear to conflict with the Iowa Supreme Court’s reasoning. Both are factually distinguishable.

1. In *United States v. Knapp*, 917 F.3d 1161 (10th Cir. 2019), the Tenth Circuit held that the search of a purse a defendant was carrying at the time of her

arrest, albeit out of her reach when searched, was not a search “of her person” under *Robinson*. *Id.* at 1168.

Scullark relies on *Knapp* to argue that the fanny pack around his waist similarly could not be considered part of his person. Pet. at 11–12. The panel explained that the “animating reasons” behind an officer’s authority to search an arrestee’s person were “less salient in the context of visible, handheld containers such as purses.” *Knapp*, 917 F.3d at 1166 (quoting *Robinson*, 414 U.S. at 225). The panel distinguished searches of an arrestee’s clothing incident to an arrest because “it would be impractical (not to mention demeaning) to separate the arrestee from her clothing.” *Id.* The panel noted that “[c]ontainers held in an arrestee’s hand and not concealed on her body or within her clothing do not implicate such concerns [of bodily privacy] to the same degree.” *Id.* at 1167. The panel also distinguished “handheld containers such as purses” from clothing because such containers “are easily dispossessed.” *Id.* Accordingly, the panel concluded that the search of an arrestee’s person under *Robinson* may only include a search of “the arrestee’s immediate person, worn clothing, or containers concealed within her clothing.” *Id.*

That reasoning does not apply here. This case involves searching a fanny pack Scullark was wearing around his waist at the time of his arrest, not of a “visible, handheld container.” App. 2a. Given that the fanny pack was attached to a sensitive area of Scullark’s body when he was arrested, it would have been as impractical and demeaning for an officer to dispossess Scullark of it as the *Knapp* panel feared.

Worse, the panel admitted that its reasoning was in tension with this Court’s holding in *Robinson*. The panel explained that “[a]lthough under *Robinson* the

bounds of an arrestee's person are determined '[w]hen an arrest is made,' searches of an arrestee's person should not depend on an exact time of arrest." *Knapp*, 917 F.3d at 1167. The panel thus rejected this Court's rule about the bounds of an arrestee's person in *Robinson* as "unworkable in cases like this." *Id.*

By contrast, the Iowa Supreme Court faithfully applied this Court's precedent in *Robinson* here. It concluded that "[t]o determine the proper scope of a search of an arrestee's person, [it] look[ed] to the time of arrest." App. 16a–17a (quoting *Robinson*, 414 U.S. at 226).

Finally, the panel's attempt to distinguish its earlier circuit precedent, *United States v. Parra*, 2 F.3d 1058 (10th Cir. 1993), highlights the inapplicability of its reasoning to this case. *Parra* involved arresting officers' search under two pillows while two arrestees were being restrained. 2 F.3d at 1066. When the officers searched under the first pillow, the two arrestees were being handcuffed. *Id.* But when police searched under the second pillow, the arrestees were handcuffed behind their backs and seated. *Id.*

The Tenth Circuit upheld the constitutionality of both pillow searches. *Id.* It reasoned that the search under the first pillow was justified because "there remained a strong possibility that [one of the arrestees] could break free and retrieve whatever was hidden under the pillow." *Id.* It reasoned that the search under the second pillow—after the arrestees were handcuffed—was justified because the arrestees could have lunged for a weapon and easily brushed aside the pillow when no officers stood between them and the pillow. *Id.*

Knapp distinguished *Parra* because “there was only one arrestee [in *Knapp*] and three police officers, whereas *Parra* involved two arrestees.” *Knapp*, 917 F.3d at 1169. *Knapp* noted that the arrestee there “tried repeatedly to leave her purse behind for the whole encounter (suggesting she was not trying to effect an escape using a weapon held within it).” *Id.*

Even though the *Parra* factors may not have applied in the arresting officers’ favor in *Knapp*, they would apply favorably here. When Scullark was arrested, the arresting officer was alone and outnumbered. App. 76a. After Scullark was informed that he was under arrest, he took off the fanny pack and handed it to one of the women around him. App. 76a. The woman then started walking with the fanny pack to an adjoining room until told to stop by the arresting officer. App.24a. Based on the facts found by the district court, the arresting officer could reasonably conclude that the woman was an associate of Scullark’s who may have attempted to withdraw a weapon from or dispose of the contents of the fanny pack before the officer could search it.

Therefore, the Tenth Circuit’s reasoning in *Knapp* does not apply to the facts here and, in any event, contradicts this Court’s precedent in *Robinson*.

2. In *State v. Ortiz*, 539 P.3d 262 (N.M. 2023), the New Mexico Supreme Court applied *Knapp*, limiting searches of an arrestee’s person to searches of the immediate person and “an arrestee’s clothing, including containers concealed under or within her clothing.” *Id.* at 267 (quoting *Knapp*, 917 F.3d at 1166–67). In doing so, the Court held that the warrantless search of an arrestee’s purse was unconstitutional. *Id.* at 269.

But the New Mexico Supreme Court would have upheld the search if the State could show it was limited to “ ‘the area from within which [the arrestee] might gain possession of a weapon or destructible evidence’ ” at the time of arrest. *Id.* at 268 (quoting *Chimel v. California*, 395 U.S. 752, 753 (1969)). Nothing in *Ortiz* suggests that the court’s reaching-distance rule did not also apply to an arrestee’s associates. The State could not provide such evidence in *Ortiz*. Indeed, throughout the opinion, the Court’s analysis highlights the lack of evidence in the record about the purse’s whereabouts at the time of arrest. *See, e.g., id.* (“[T]here is limited evidence in the record as to the location of the purse at the time of arrest, whether it was secured, its distance from Defendant, how she was handcuffed such that she would be able to access the purse, and whether and why the officers had concerns for their own safety or the destruction of evidence.”); *id.* (“[T]here is nothing to indicate that at the time Defendant was arrested, [the arresting officer] and the purse were within Defendant’s immediate control, only at most that they were an “arm’s reach away.”).

Thus, while the State’s failure to provide evidence about the purse’s location at the time of arrest may have doomed the validity of its search in *Ortiz*, there is no such evidentiary deficiency here. At the time Scullark was arrested, he was wearing the fanny pack at issue here on his waist. App. 76a. He was able to access the fanny pack when he took it off his body and handed it to a woman standing near him after his arrest. App. 76a. After Scullark handed the fanny pack to the woman, she began moving towards an adjoining room, away from the scene of arrest. App. 24a. Then the woman placed the fanny pack on a tub next to a

laundry basket and Scullark began walking toward it. App. 76a. The arresting officer testified that the fanny pack was large enough to contain a small firearm. App. 91a. As the district court observed, “if the fanny pack would have contained a weapon, Ms. Kisner would have had access and officer security would be at risk.” App. 80a. Based on those findings of fact, the arresting officer in this case could reasonably fear for his own safety and for the destruction of evidence even under a *Chimel*-based rule.

C. Any Split in Authority Is Lopsided, Inapplicable to the Facts Here, and Thus Does Not Call Out for This Court’s Review.

The bulk of authority across federal and state courts upholds searches like the one here as constitutional. As Scullark acknowledges, five state supreme courts and the First Circuit have upheld searches of containers that were on an arrestee’s person at the time of arrest. Pet. 15. Although Scullark argues that three federal courts of appeals and two state courts have rejected the Iowa Supreme Court’s reasoning, only two of those courts—one federal and one state—arguably deviate from the Iowa Supreme Court’s analysis on the facts here. *See Knapp*, 917 F.3d at 1165–66; *Ortiz*, 539 P.3d at 268. Even the New Mexico Supreme Court would have upheld the search had it been limited to the area from which he or an associate might gain access to a weapon or destructible evidence at the time of arrest. *Ortiz*, 539 P.3d at 268.

And the other cases Scullark relies on are either distinguishable or have been abrogated. In *Davis*, the defendant had discarded his backpack before he was arrested. 997 F.3d at 194. In *Shakir*, the Third Circuit upheld the search of a handcuffed arrestee because of the presence of potential confederates and innocent

bystanders—facts also present here. 616 F.3d at 321. Finally, the Missouri Supreme Court abrogated *Carrawell* and now upholds “reasonably delayed search[es] of items found on a defendant’s person at the time of arrest,” like the search at issue here. *Greene*, 585 S.W.3d at 808.

And many decisions from other courts (which Scullark does not discuss) support the Iowa Supreme Court’s reasoning upholding warrantless searches of containers found in the arrestee’s possession at the time of arrest. *See, e.g., Ferebee*, 957 F.3d at 419 (upholding search of backpack because, “despite the fact that [the arrestee] was handcuffed, the police reasonably could have believed that [he] could have accessed the backpack”); *United States v. Perdoma*, 621 F.3d 745, 750–751 (8th Cir. 2010) (upholding search of bag that “occurred in close proximity to where [arrestee] was restrained”); *United States v. Johnson*, 846 F.2d 279, 283 (5th Cir. 1988) (pre-*Gant* case upholding search of briefcase because it was in the “immediate control” of arrestee “at the time of the arrest”).

Indeed, some state supreme courts take a more expansive reading of the search incident to arrest exception to the warrant requirement than that adopted by the Iowa Supreme Court here. For example, the Colorado Supreme Court has held that this Court’s precedent in *Gant* only applies to vehicle searches, and that a backpack search was categorically lawful as a “search of a person, and articles on or near that person, after a lawful arrest” under *Robinson*. *People v. Marshall*, 289 P.3d 27, 30–31 (Colo. 2012).

Similarly, the Illinois Supreme Court upholds warrantless searches of containers if they are in the “actual physical possession” of an arrestee, “whether it is a bag of groceries being carried or wheeled in a

‘grannie cart,’ a duffle bag slung over one shoulder, or a nylon bag being pulled behind him on wheels.” *People v. Cregan*, 10 N.E.3d 1196, 1207 (Ill. 2014).

The Kentucky Supreme Court also upholds warrantless searches of containers so long as they are in an arrestee’s “actual and exclusive possession . . . at or immediately preceding the time of arrest such that the item must necessarily accompany the arrestee into custody.” *Commonwealth v. Bembury*, 677 S.W.3d 385, 406 (Ky. 2023).

And the North Dakota Supreme Court upholds warrantless searches of personal items if “the arrestee had ‘actual and exclusive possession at or immediately preceding the time of arrest.’” *State v. Mercier*, 883 N.W.2d 478, 490 (N.D. 2016).

Here, the Iowa Supreme Court “conclude[d] that because the fanny pack was attached to his person at the time of the arrest,” the fanny pack search was a search of Scullark’s person under *Robinson*. App. 13a–14a. Were those facts to be presented to the First, Third, Fourth, Fifth, or Eighth Circuit, or the Colorado, Illinois, Kentucky, or North Dakota Supreme Courts, those courts would uphold those searches against a Fourth Amendment challenge like Scullark brings here. Only two courts arguably would find a Fourth Amendment violation. In other words, the split is lopsided and turns on factual distinctions that are both determinative here and uncontested. There is no deep, intractable split on the facts here. Instead, courts across the country know how to apply *Robinson*.

II. THE DECISION BELOW IS CORRECT.

The Iowa Supreme Court’s ruling correctly applies this Court’s Fourth Amendment precedents. When a container is attached to an arrestee’s person at the

time he is placed under arrest, the Iowa Supreme Court concluded that such containers are subject to search as part of the arrestee's person. That decision aligns with the overwhelming weight of authority across federal and state courts, which apply *Robinson*.

This case is controlled by the categorical rule this Court applied in *Robinson* and *Gustafson*, upholding warrantless searches of an arrestee's person incident to a lawful arrest. A brief delay between the time of arrest and the time of search does not render the search unreasonable. If the Court abrogates its precedents to conclude that this search was unconstitutional, it will encourage gamesmanship from arrestees and imperil officer safety.

A. A Container Attached to an Arrestee's Person Can Be Searched Without a Warrant Incident to a Lawful Arrest.

The Iowa Supreme Court correctly held that the officer here executed a lawful search of Scullark's person. App. 13a–14a. The Iowa Supreme Court, citing this Court's precedent in *Robinson* and *Riley*, reasoned that the search of Scullark's fanny pack was a search of his person governed by *Robinson*, and not a search of the area within his immediate control governed by *Chimel* or *Gant*, because it was attached to his person at the time of arrest.

That conclusion is compelled by this Court's precedents. In *United States v. Robinson*, this Court upheld a warrantless search of a cigarette pack found in the arrestee's coat pocket. 414 U.S. 218, 223 (1973). The Court reasoned that “[i]t [was] the fact of the lawful arrest which establishes the authority to search.” *Id.* at 235. The Court made clear that the authority to search an arrestee's person incident to a lawful arrest

did not hinge on what a court later decides was the probability weapons or evidence would be uncovered. *Id.* at 235–236. Rather, the Court held that the lawful seizure and attendant search of an arrestee’s person, and any containers thereon, “require[d] no additional justification.” *Id.* at 235.

On the same day, this Court decided *Gustafson*. In *Gustafson*, this Court upheld the warrantless search of a container found on an arrestee after the arrestee was secured in the back of a squad car. *Gustafson*, 414 U.S. at 262 n.2. There too, the Court found the warrantless search of the cigarette box was lawful because “[i]t is the fact of the lawful arrest which establishes the authority to search.” *Id.* at 263–264. That is even though the search occurred after the arrestee was secured and the container was outside the area of his immediate control. *Id.*

Robinson and *Gustafson* are dispositive here. When Scullark was placed under arrest, he was wearing the fanny pack around his waist. App. 76a. Thus, the fanny pack was affixed to his person at the time of his arrest. Although Scullark was in handcuffs when the arresting officer took possession of the fanny pack, Scullark was still surrounded by potential confederates in a cramped space, where the officer was outnumbered three-to-one. App. 76a. Even if the Court believes that Scullark was secured when his fanny pack was searched, *Gustafson* upheld the warrantless search of a container found on an arrestee’s person even after the arrestee himself could no longer access it.

Nothing in this Court’s jurisprudence casts doubt on or limits its holdings in *Robinson* and *Gustafson*. Indeed, this Court reaffirmed *Robinson*’s categorical rule in *Riley*. In *Riley*, the Court said it did not

“overlook *Robinson’s* admonition that searches of a person incident to arrest, ‘while based upon the need to disarm and to discover evidence,’ are reasonable regardless of ‘the probability in a particular arrest situation that weapons or evidence would in fact be found.’” *Riley*, 573 U.S. at 386 (quoting *Robinson*, 414 U.S. at 235). “*Robinson’s* categorical rule strikes the appropriate balance in the context of physical objects.” *Id.* The Court distinguished searches of digital data, explaining that the conclusion that “inspecting the contents of an arrestee’s pockets works no substantial additional intrusion on privacy beyond the arrest itself may make sense as applied to physical items, but any extension of that reasoning to digital data has to rest on its own bottom.” *Id.* at 393.

The Iowa Supreme Court applied reasoning from this Court’s precedent to uphold the search of a physical item like Scullark’s fanny pack. That decision was correct and does not warrant this Court’s review.

B. Scullark’s Reliance on *Chadwick* and *Gant* Is Unavailing Because the Fanny Pack Was Immediately Associated with His Person.

Scullark relies on this Court’s decision in *Chadwick* to argue that his fanny pack was “luggage or other personal property not immediately associated with the person of the arrestee” and thus exempt from *Robinson’s* categorical rule. Pet. 26. Not so.

Chadwick clarified that *Robinson’s* rule was limited to “personal property . . . immediately associated with the person of the arrestee.” *Chadwick*, 433 U.S. at 15. So warrantless searches of “personal property not immediately associated with the person of the arrestee” that is seized at the time of an arrest “cannot be justified as incident to that arrest either if the ‘search is

remote in time or place from the arrest,’ or no exigency exists.” *Id.*

More, this Court has held that items seized during the search of an arrestee’s person may be legally searched and need not be searched at the same time as the arrest. *United States v. Edwards*, 415 U.S. 800, 802 (1974). *Edwards* rejected a defendant’s challenge to a ten-hour delay in the seizure of clothing worn by a defendant at the time of arrest and its subsequent laboratory analysis. *Id.* at 802–803. As the Court explained:

[O]nce the accused is lawfully arrested and is in custody, the effects in his possession at the place of detention that were *subject to search at the time and place of his arrest* may lawfully be searched and seized without a warrant even though a substantial period of time has elapsed between the arrest and subsequent administrative processing, on the one hand, and the taking of the property for use as evidence, on the other.

Id. at 807. (emphasis added)

And here, neither party disputes that Scullark’s fanny pack was immediately associated with his person at the time he was arrested. The district court found that the fanny pack was attached to his waist when he was arrested. App. 76a. And the fanny pack search was neither remote in time nor place from the arrest: Five minutes after the arrest, officers searched the fanny pack outside the house where Scullark was arrested. App. 31a, 79a.

Nor does either party dispute that Scullark’s fanny pack was subject to search at the time and place he

was arrested—while it was still around his waist. App. 76a. Neither Scullark’s voluntary act of handing the fanny pack to a potential associate post-arrest nor the fact that a few minutes elapsed between arrest and search defeats the validity of the search.

Scullark’s reliance on *Gant* is similarly unavailing. First, this Court understands that *Gant*’s analysis was limited to cars. *See Riley*, 573 U.S. at 384 (“The search incident to arrest trilogy concludes with *Gant*, which analyzed searches of an arrestee’s vehicle.”). Second, even if *Gant* applies outside that context, it would not change the result here. Scullark argues that containers are subject to search incident to an arrest “only when the arrestee is unsecured and within reaching distance of the passenger compartment at the time of the search.” Pet. 28 (quoting *Gant*, 556 U.S. at 343–344); *see also* Amicus Brief for Nat’l Ass’n for Pub. Def., at 17 (quoting *Gant* for the same proposition).

But that rule extended to the reach of any of the arrestee’s associates too. As *Gant* explained, an officer may “search a vehicle’s passenger compartment when he has reasonable suspicion that an individual, *whether or not the arrestee*, is ‘dangerous’ and might access the vehicle to ‘gain immediate control of weapons.’” *Gant*, 556 U.S. at 346–347 (quoting *Michigan v. Long*, 463 U.S. 1032, 1049 (1983)) (emphasis added).

The arresting officer here could reasonably suspect that Scullark’s associate might have gained immediate control of a weapon when Scullark handed her the fanny pack. Indeed, the district court found that “officer safety would be at risk” had the pack contained a weapon. App. 80a. Nothing in *Gant* required the arresting officer to ignore the risk to his own safety

merely because Scullark could no longer access the fanny pack, while Scullark’s confederates still could.

C. Narrowing *Robinson’s* Categorical Rule Will Encourage Gamesmanship and Imperil Officers.

Scullark asks this Court to abrogate *Robinson* by adopting a test requiring “a case-specific threat to officer safety or evidence preservation” to justify a search. Pet. 3. As the Iowa Supreme Court noted, doing so would turn reasonable searches of persons incident to a lawful arrest into a “game[] of ‘hot potato.’” App. 21a. It would embolden arrestees to “reduce the scope of a permissible [search incident to arrest] by handing the item to a companion before the officer can search him.” App. 21a.

And Scullark’s rule risks harming officers effectuating arrests. This Court has noted that searches incident to arrest are one of the most commonly conducted searches. *See Riley*, 573 U.S. at 382 (“Indeed, the label ‘exception’ is something of a misnomer in this context, as warrantless searches incident to arrest occur with far greater frequency than searches conducted pursuant to a warrant.”). As Judge Buller noted in his dissent, under Scullark’s rule, “the next police officer facing the facts of this case would have to weigh escalating the use of force against potentially forfeiting a search of the container for weapons or contraband incident to arrest.” App. 63a. The Court should hesitate before adopting a rule that would discourage an arresting officer’s “commonsense policework.” App. 65a.

* * *

This Court’s precedents hold that securing a potentially dangerous suspect before searching a container the suspect handed to his associate post-arrest is not

constitutionally unreasonable under the Fourth Amendment. They certainly do not require an arresting officer to stand idly by and risk finding himself outmanned and outgunned when an arrestee passes a container to a nearby associate. The Iowa Supreme Court correctly applied those precedents.

III. THIS CASE IS A POOR VEHICLE FOR THIS COURT'S REVIEW.

This Court reserves review for dispositive disputes about recurring legal questions over which courts are intractably conflicted. This case does not meet that bar. To reach the merits of Scullark's argument as he frames it, this Court would have to reverse the district court's factual findings about the threat to the arresting officer's safety. If the Court seeks to answer Scullark's broad question presented, it would be better off waiting for a case with a broad set of facts.

A. Scullark's Argument Necessarily Requires Reversing the District Court's Factfinding.

Scullark asks this Court to announce a rule that an arrestee's bags "can be warrantlessly searched only if there is a threat to officer safety or evidence integrity, or if some other exception applies." Pet. 27–28. He then reasons that "if a case-specific threat to officer safety or evidence preservation is required [in his case], his conviction falls—as there is no alternative ground for upholding the search." Pet. 3. But his argument contradicts the district court's express finding that there was a risk to the arresting officer's safety.

The district court's order denying Scullark's motion to suppress found a realistic threat to the arresting officer's safety existed when Scullark handed his bag to Kisner, the woman standing nearby. App. 80a. The court found that "if the fanny pack would have

contained a weapon, Ms. Kisner would have had access and officer security would be at risk.” App. 80a.

And the Iowa Supreme Court’s opinion did not question that finding of fact. *Accord* App. 18a (“Full *Robinson* searches of the person ensure officer safety during ‘the extended exposure which follows the taking of a suspect into custody and transporting him to the police station.’”) (citations omitted); *id.* at 21a (“‘The search incident to arrest rule respects that an officer who takes a suspect into custody faces an unpredictable and inherently dangerous situation and that officers can and should put their safety first.’”) (citations omitted).

Indeed, part of the dissent’s dispute with the majority turned on that fact issue. Justice McDermott reasoned that, once Scullark had handed his fanny pack to the woman near him, “neither of the rationales supporting the search-incident-to-arrest exception—officer safety and evidence preservation—could justify the search of the fanny pack.” App. 26a. In other words, that single dissenting justice disagreed with the district court’s express finding of fact.

Scullark follows the dissent’s lead, resisting the district court’s finding that there was a risk to the arresting officer’s safety in this case. *See, e.g.*, Pet. 3 (“There was thus no threat to officer safety or risk of evidence destruction that might have justified a warrantless search.”); *id.* at 25 (“By contrast, where an arrestee can be ‘easily dispossessed’ of an item, the inherent officer-safety and evidence-preservation concerns that animate the *Robinson* rule evaporate.”) (citations omitted).

In effect, even considering Scullark’s overbroad framing of the question presented and his narrowing

of *Robinson*'s categorical rule, Scullark seeks this Court's review on a factual issue that was decided against him in the trial court and which the Iowa Supreme Court did not call into question. But this Court typically avoids granting certiorari where the outcome may turn on such case-specific factual determinations rather than a dispositive legal principle. In short, this case is a poor vehicle.

B. Questions Not Raised Here May Be Resolved in a Later Case.

The question Scullark presents for this Court to decide bears minimal resemblance to the facts of his case. Scullark asks this Court to consider “[w]hether the Fourth Amendment categorically permits warrantless searches of bags carried by arrestees at the time of arrest.” Pet. i. But Scullark was not carrying a bag at the time he was arrested. Rather, he was wearing a fanny pack on his waist. Indeed, the Iowa Supreme Court found that Scullark's fanny pack was “on his person” under *Robinson* because it “was attached to his person at the time of the arrest.” App. 13a–14a.

Given that narrower factual lens, this case would be a poor vehicle for Scullark's preferred broader inquiry. If the Court wishes to consider the question Scullark presents for review, it should wait for a case that involves those facts.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

BRENNA BIRD
Attorney General of Iowa

ERIC H. WESSAN*
Solicitor General
**Counsel of Record*

PATRICK C. VALENCIA
Deputy Solicitor General

TIMOTHY M. HAU
Asst. Attorney General

1305 East Walnut Street
Des Moines, IA 50312
(515) 823-9117
eric.wessan@ag.iowa.gov

Counsel for Respondent

NOVEMBER 3, 2025