No. 25-368

IN THE

Supreme Court of the United States

HAL TAYLOR, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE ALABAMA LAW ENFORCEMENT AGENCY,

Petitioner,

v.

JONATHAN SINGLETON, ON BEHALF OF HIMSELF AND OTHERS SIMILARLY SITUATED,

Respondent.

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

BRIEF AMICI CURIAE OF THE ALABAMA LEAGUE OF MUNICIPALITIES, THE CITY OF ORANGE BEACH, ALABAMA, AND THE CITY OF SARALAND, ALABAMA IN SUPPORT OF PETITIONER

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

OTHER AUTHORITIES

TABLE OF AUTHORITIES—Continued

Page(s)

TABLE OF AUTHORITIES—Continued

TABLE OF AUTHORITIES—Continued

INTEREST OF AMICI CURIAE

The Alabama League of Municipalities ("the League"), the City of Orange Beach, Alabama ("Orange Beach"), and the City of Saraland, Alabama ("Saraland"), respectfully submit this brief as amici curiae in support of Petitioner Hal Taylor.[1] All three have an interest in the regulation of panhandling at issue in this case.

The League, organized in 1935 as a voluntary association, has grown in membership to over 450 Alabama municipalities today, including Orange Beach and Saraland. The League conducts studies of the legislative, administrative, and operational needs, problems, and functions of Alabama's municipal governments. The League also works to secure the enactment of legislation at the state and federal levels that will enable municipalities to perform their functions more efficiently and effectively.

Orange Beach is an Alabama municipality located in Baldwin County on the Gulf of Mexico. Largely due to its beaches, it is a year-round tourist destination that attracts thousands of visitors from across the country, often leading to increased traffic and congestion on its three main state highways, 180 (Canal Road), 161 (Alabama's Coastal Connection), and 182 (Perdido Beach Boulevard).

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[1] Pursuant to this Court's Rule 37.2, counsel of record for all parties received at least 10 days' prior notice of Amici Curiae's intent to file this brief.

Pursuant to Rule 37.6, Amici Curiae affirm that no counsel for any party authored any part of this brief, and no counsel or party made a monetary contribution funding the preparation or submission of this brief. No persons other than Amici Curiae made a contribution to fund preparation or submission of this brief.

Saraland is an Alabama municipality located in Mobile County with a population exceeding 16,000. Its city limits cover thirty-five square miles and contain approximately 100 miles of roads. These roads include Interstate 65, federal highways, state highways, county roads, and municipal streets.

SUMMARY OF THE ARGUMENT

States and municipalities face a real problem in panhandling, particularly when it occurs within the public roadways, creating a safety hazard. Courts invariably apply a heightened "strict scrutiny" review to *any* panhandling legislation attempted by a state or municipality. Case law has evolved to the point that there is little actual "review" at all by the courts, but instead a pre-determined strike against such legislation. Courts routinely require impossible levels of "evidence" from a state or municipality to prove the intuitive, common sense idea that traffic safety issues arise when panhandling occurs in the streets. Courts regularly dismiss whatever evidence a state or municipality puts forth, declaring there is only a perceived, not a real, problem.

This all flies in the face of attempts by states and municipalities throughout the nation to address panhandling, particularly in the streets. If there was no problem, there would not be such widespread attempts to solve it. Moreover, national studies have shown that distracted driving and pedestrian deaths are a major ongoing traffic concern – and panhandling fits the definition of "distractions" to drivers as set forth in those studies.

Either courts should stop applying strict scrutiny review to panhandling laws, or, as Petitioner suggests,

panhandling should no longer be considered protected speech at all.

ARGUMENT

I. Alabama municipalities often rely on the State Legislature to enact legislation, as they have here with the panhandling statutes.

Municipalities like Orange Beach and Saraland may exercise only those powers that are explicitly granted to them by the state legislature, as well as those powers that are necessarily implied from an express grant of power. *Spear v. Ward,* 74 So. 27 (Ala. 1917). "The Constitution of Alabama does not recognize any inherent right of local government. The Legislature of Alabama is vested with complete, or absolute, power. In the exercise of this power, the Legislature used general statutes to create municipal corporations and declared them political and corporate entities." *Selected Readings for the Municipal Official*, Ala. League of Municipalities (Mar. 25, 2025), https://almonline.org/Assets/Files/LegalSelectedReadings/04.General-Powers-of-Municipalities_REVISED-03-25-2025.pdf.

Alabama municipalities thus often rely on the State Legislature, with its superior resources, to study, consider, and enact legislation to prevent crime and ensure public safety. Orange Beach and Saraland, for example, both adopt Alabama State Law concerning panhandling. *See* Orange Beach, Ala., Code § 54-1 ("Incorporation of state offenses"); Saraland, Ala., Code § 34-1 ("Adoption of offenses under state law"). Thus, like Orange Beach and Saraland, most municipalities may not have their own laws concerning

panhandling, but instead rely upon the laws enacted by the State.

II. Treating panhandling as protected speech and applying a strict scrutiny review to all panhandling legislation effectively prevents states and municipalities from enacting any measures to address the problems associated with panhandling when it is done in and around public roadways.

If the two State statutes at issue here (§ 13A-11-9(a)(1) and § 32-5A-216(b)) are struck down, Alabama municipalities have the choice of crafting their own localized legislation to address the problem of panhandling, or simply ignoring the problem.

The first choice is daunting. Municipalities have little guidance as to what measures Federal Courts will consider "narrowly tailored" to the problem of panhandling. As illustrated below, they invariably lose when such regulation is challenged under the First Amendment because courts apply a "strict scrutiny" review, which sounds the death knell for that legislation no matter how the state or municipality attempts to craft its legislation.

One example of how lower courts have applied strict scrutiny to panhandling is *Scott v. City of Daytona Beach Fla.*, 740 F. Supp. 3d 1205 (M.D. Fla. 2024). Rather than outright banning panhandling, the city enacted a detailed, focused ordinance to prohibit panhandling in certain specific locations, such as "within twenty feet of the entrance or exit of commercially zoned property, bus stops and other public transportation facilities, ATMs, public parking lots and garages, parking meters, and public restrooms" or "within one hundred and fifty feet of

traffic intersections." *City of Daytona Beach*, 740 F. Supp. 3d at 1211. The ordinance also attempted to prohibit certain behavior, making it unlawful to panhandle "by touching the person being solicited without that person's consent" or "by using profane or abusive language during the solicitation or following an unsuccessful solicitation." *Id*. The ordinance also prohibited aggressive panhandling in certain areas like sidewalks, streets, or roadways, and prohibited a person "from approaching a driver or passenger of a motor vehicle for the purpose of panhandling, soliciting, or begging if done in an 'aggressive manner.'" *Id*.

The city's attempt to narrowly draft a panhandling prohibition was rebuffed by the court. Applying the strict scrutiny standard, the court ignored any common sense approach taken by the city. The court declared that the city had offered no "evidence" that the traffic or safety concerns were greater in the areas affected by the ordinance compared to other areas. *Id*. at 1217. For example, the court stated that the ordinance prohibited solicitation at a bus stop (which, according to the court, has constant crowds that would discourage dangerous conduct), but "it says nothing about solicitation in back-alleys, where there are fewer people to prevent or deter violent attacks." *Id*.

But does an ordinance have to cover within its scope every imaginable scenario in this manner in order to survive a First Amendment review? For instance, would the same ordinance have to expressly prohibit panhandling at the scene of a motor vehicle accident, banning solicitation from an injured person in a vehicle? Would the ordinance have to prohibit solicitation from a police officer while the officer is directing traffic? Unfortunately, strict scrutiny review in this context has encouraged this type of approach,

which has become typical of courts reviewing panhandling litigation.[2]

Local, elected legislators, rather than courts, should be entrusted with determining what issues a municipality faces, and how to address those issues. Generally, a city has no duty to perfectly fashion an ordinance to meet a perceived problem; a municipality may generally act "with substantially less than mathematical exactitude." *New Orleans v. Dukes*, 427 U.S. 297, 303 (1976). Courts addressing panhandling laws under the strict scrutiny standard, however, seem to demand perfection in the ordinances.

Local legislators are public servants, not perfect servants. Perfection should not be demanded from

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[2] Section 32-5A-216(b) arguably does not even regulate "speech" based on content. It provides: "No person shall stand on a highway for the purpose of soliciting employment, business, or contributions from the occupant of any vehicle, nor for the purpose of distributing any article, unless otherwise authorized by official permit of the governing body of the city or county having jurisdiction over said highway." The full statute prohibits standing in a roadway for other purposes, such as "soliciting a ride" (subsection (a)) or "soliciting the watching or guarding of any vehicle while parked . . . on a street or highway" (subsection (c)), as well as fishing from a bridge, viaduct, or trestle (subsection (d)). The statute seems to regulate the act of standing or fishing on a roadway, not speech. Perhaps the "purposes" for standing in a highway mentioned in the statute – which is where the courts come in to question if speech is being regulated – simply reflect what the legislature observed *from the people who were standing in the streets*. In other words, the legislature was not regulating speech, but regulating standing in a highway to account for the particular persons who were actually standing in the highways. Thus, section 32-5A-216(b) is not a "content-based law" at all; it does not "target speech based on its communicative content," and it should not be subject to strict scrutiny under *Reed v. Town of Gilbert, Ariz*., 576 U.S. 155, 163 (2015).

them. "The doctrine surrounding the First Amendment is notoriously complex." Anthony D. Lauriello, *Panhandling Regulation After Reed v. Town of Gilbert*, 116 Colum. L. Rev. 1105, 1108 (2016) (citing Robert Post, *Reconciling Theory and Doctrine in First Amendment Jurisprudence*, 88 Calif. L. Rev. 2353, 2355 (2000) ("The free speech jurisprudence of the First Amendment is notorious for its flagrantly proliferating and contradictory rules, its profoundly chaotic collection of methods and theories.")).

As recognized by one law review:

> Conversations with municipal attorneys from around the country suggest that a wide range of strategies for regulating panhandling have been advanced in jurisdictions around the country, including complete bans on panhandling in business districts, in proximity to ATMs and sidewalk cafes, prohibitions on "red light" panhandling or panhandling on traffic medians, prosecutions for "aggressive panhandling," and permit requirements. Many jurisdictions are in a quandary about how they can proceed, given the quickened pace of litigation, and changing judicial standards in the aftermath *of Reed v. Town of Gilbert*.

Judith Welch Wegner & Matthew Norchi, *Regulating Panhandling: Reed and Beyond*, 63 S.D. L. Rev. 579, 579–80 (2019) (footnotes omitted). In the arena of panhandling regulation, this Court's decision in *Reed v. Town of Gilbert* – at least as that decision has been applied by lower courts – "may have crafted a broad rule that seems to undercut nearly every attempt local governments can make to regulate in this arena." *Id*. at 638.

Strict scrutiny in this arena simply is not workable for local municipalities. In a concurring opinion, Justice Breyer recognized the danger of blindly applying strict scrutiny to every regulation that could be viewed as "content-related speech" depending on how one squints at it. Justice Breyer noted that not all such regulation threatens to "drive certain ideas or viewpoints from the marketplace," which the First Amendment prohibits. *City of Austin, Texas v. Reagan Nat'l Advert. of Austin, LLC*, 596 U.S. 61, 78-79 (2022) (Breyer, J. concurring). He further stated:

> The U. S. Code (as well as its state and local equivalents) is filled with regulatory laws that turn, often necessarily, on the content of speech. Consider laws regulating census reporting requirements, *e.g.,* 13 U.S.C. § 224; securities-related disclosures, *e.g.,* 15 U.S.C. § 78*l*; copyright infringement, *e.g.,* 17 U.S.C. § 102; labeling of prescription drugs, *e.g.,* 21 U.S.C. § 353(b)(4)(A), or consumer electronics, *e.g.,* 42 U.S.C. § 6294; highway signs, *e.g.,* 23 U.S.C. § 131(c); tax disclosures, *e.g.,* 26 U.S.C. § 6039F; confidential medical records, *e.g.,* 38 U.S.C. § 7332; robocalls, *e.g.,* 47 U.S.C. § 227; workplace safety warnings, *e.g.,* 29 C.F.R. § 1910.145 (2021); **panhandling, *e.g.*, Ala. Code § 13A–11–9(a) (2022);** solicitation on behalf of charities, *e.g.,* N. Y. Exec. Law Ann. § 174–b (West 2019); signs at petting zoos, *e.g.,* N. Y. Gen. Bus. Law Ann. § 399–ff(3) (West 2015); and many more.
>
> If *Reed* is taken as setting forth a formal rule that courts must strictly scrutinize regulations simply because they refer to particular content, we have good reason to fear the

> consequences of that decision. One possibility is that courts will strike down "'entirely reasonable'" regulations that reflect the will of the people. *Reed*, 576 U.S. at 171, 135 S.Ct. 2218; *e.g., Barr*, 591 U. S., at ——, 140 S.Ct., at 2361-2362 (striking down the Telephone Consumer Protection Act's exception allowing robocalls that collect government debt); *IMDB.com v. Becerra*, 962 F.3d 1111, 1125–1127 (CA9 2020) (striking down a California law prohibiting certain websites from publishing the birthdates of entertainment professionals). If so, the Court's content-based line-drawing will "substitut[e] judicial for democratic decisionmaking" and threaten the ability of the people to translate their ideas into policy. *Sorrell*, 564 U.S. at 603, 131 S.Ct. 2653 (BREYER, J., dissenting).

Reagan Nat'l Advert. of Austin, LLC, 596 U.S. at 79–80 (Breyer, J., concurring) (emphasis added).

Notably, in the above passage Justice Breyer cited one of the Alabama statutes at issue here (§13A-11-9(a)) as one of those "entirely reasonable regulations that reflect the will of the people" that could be struck down because a court substitutes "judicial for democratic decisionmaking" and prevents "the ability of the people to translate their ideas into policy." There is little doubt that public safety – particularly in the context of traffic regulations – is an important governmental interest. *See Gbalazeh v. City of Dallas, Texas*, No. 3:18-CV-00776-N, 2019 WL 1569345, at *2 (N.D. Texas 2019) ("Traffic safety qualifies as a compelling government interest") (*citing Heffron v. Int'l Society for Krishna Consciousness, Inc.*, 452 U.S. 640 (1981)); *Solantic, LLC v. City of Neptune Beach*, 410 F.3d 1250,

1268 (11th Cir. 2005) ("We do not foreclose the possibility that traffic safety may in some circumstances constitute a compelling government interest").

The "ability of the people to translate their ideas into policy" is a significant concern here. Courts offer little guidance as to what regulation would satisfy a strict scrutiny review, and often criticize states or municipalities for failing to provide enough "evidence" that panhandling is a real concern. For example, in *Indiana C.L. Union Found., Inc. v. Superintendent, Indiana State Police*, 470 F. Supp. 3d 888 (S.D. Ind. 2020), a statute attempted to tailor restrictions against panhandling based on time (after sunset and before sunrise), place (at a bus stop or next to a vehicle; in the sidewalk of a restaurant; within twenty feet of an automated teller machine; and others), and method (cannot block the path of an individual being solicited from entering building or vehicle). The court, specifically noting the "'heavy burden' Defendants carry in defending the statute under a strict scrutiny analysis," criticized the State of Indiana for not providing sufficient evidence to support the notion that the statute furthers a compelling governmental interest, accusing the State of failing to show "an actual problem in need of solving." *Superintendent, Indiana State Police*, 470 F. Supp. 3d at 904-05.

This type of criticism ignores the attempts of municipalities, across the nation, to deal with panhandling. The National Law Center on Homelessness and Poverty tracked local government practices regarding regulation of panhandling and found that, in 2016, 61% of the municipalities surveyed had some form of ban on begging in particular public places, while 67% had some form of ban in all public places. *See* Wegner & Norchi, *supra* (citing Nat'l L. Ctr. On Homelessness

& Poverty, https://www.nlchp.org (last visited Aug. 10, 2018) (tracking local government practices regarding regulation of homelessness and poverty)). If municipalities *nationwide* are attempting to deal with the problem of panhandling, courts should not presume there is no problem.

The League, Orange Beach, and Saraland understand that "whatever deference is due legislative findings would not foreclose [courts'] independent judgment of the facts bearing on an issue of constitutional law." *Sable Commc'ns of California, Inc. v. F.C.C.,* 492 U.S. 115, 129 (1989). But courts applying strict scrutiny have gone too far. Courts are requiring detailed data and studies of problems caused by panhandling, while ignoring common sense and completely discounting the local experiences of state and municipal lawmakers.

As another example, a court criticized a city for failing to provide evidence that "a person lawfully standing on the sidewalk who accepts a donation from a motorist who is stopped at a light in the lane next to the sidewalk [is any more dangerous] than a person standing on the sidewalk who is holding a sign[.]" *Messina v. City of Fort Lauderdale, Fla.*, 713 F. Supp. 3d 1292, 1327 (S.D. Fla. 2024). Common sense dictates that there is a clear difference between the two, but demanding that a municipality provide such evidence seeks the impossible. How would a municipality provide it? Must the municipality conduct years-long studies across different jurisdictions that compare differences in the dangers of holding a sign with the dangers of interacting with motorists? How would that even be accomplished?

Common sense dictates that there are obvious differences between the two. A person standing with a

sign has little to no interaction with a motorist. Someone begging in a roadway, however, has direct, physical interaction with people who are supposed to be concentrating on driving a vehicle. The beggar and driver have much more interaction: a conversation, the driver rolling down window, the driver looking down for money, the beggar walking into the street and up to the vehicle, the driver passing money through the window, and so on. Demanding evidence in the form of data or studies in this situation under the guise of "strict scrutiny" guarantees that no legislation will ever be upheld – but that is the burden constantly placed on municipalities by the courts.

Such scrutiny – akin to demanding that municipalities retain a meteorologist to prove that it is raining – is a judicial gloss on First Amendment analysis that requires cities and towns to undertake and fund extensive studies and reports, all to prove that it is indeed raining.

As another example, the United States Court of Appeals for the Tenth Circuit struck down an ordinance that prohibited (1) congregating within six feet of a highway entrance or exit ramp, (2) occupying any median deemed unsuitable for pedestrian use, and (3) engaging in any kind of exchange with occupants of a vehicle in a travel lane. *Brewer v. City of Albuquerque*, 18 F.4th 1205, 1209 (10th Cir. 2021). The Court found that the city failed to provide evidence that the ordinance "alleviates in a direct and material way a real, non-speculative harm," *City of Albuquerque*, 18 F.4th at 1221, despite the city providing (1) the opinion of a professional civil engineer who was the Deputy Director of the City's Department of Municipal Development as to general traffic and roadway design principles; (2) a series of

accident reports involving pedestrians standing in medians, and other evidence of unsafe situations, including collisions, resulting from physical interactions between pedestrians and motorists in travel lanes; and (3) general statistical information along with anecdotal evidence from city councilors, police officers, and constituents, *id*. at 1227. The Court described this evidence as "paltry." *Id*. at 1226. Municipalities facing the problems of panhandling in roadways are *never* going to be able to produce sufficient evidence to satisfy this type of skepticism from courts which opine that municipalities are not addressing a "real and non-speculative" problem. *See id*.

Particularly with respect to § 32-5A-216(b), which regulates someone "stand[ing]" on a highway for the purpose of "soliciting employment, business, or contributions from the occupant of any vehicle" or for the purpose of "distributing any article," there are little to no nationwide or local studies on the dangers caused by such specific conduct. Again, common sense dictates that one recognize the dangers of standing on a highway. But courts applying strict scrutiny demand such studies, requiring municipalities like Orange Beach or Saraland to raise and expend revenues to conduct such studies if they are ever to have a chance of satisfying the strict scrutiny challenge.

III. In addition to attempts across the nation to regulate panhandling, evidence of the dangers caused by panhandling can be found in "distracted driving" studies by the National Highway Traffic Safety Administration (NHTSA).

While there are little to no direct studies on the dangers of panhandling on a roadway, there *are* nationwide studies about the dangers of "distracted driving." The National Highway Traffic Safety Administration [NHTSA] "works to reduce the occurrence of distracted driving and raise awareness of its dangers." *Traffic Safety Facts Research Note: Distracted Driving in 2022*, National Highway Traffic Safety Administration (April 2024), https://crashstats.nhtsa.dot.gov/Api/Public/Publication/813559. "This risky driving behavior poses a danger not only to vehicle occupants but pedestrians . . . as well. Driver distraction is a specific type of driver inattention that occurs when drivers divert attention from the driving task to focus on some other activity." *Id*.

NHTSA states that "distraction occurs when a driver's attention is diverted away from driving by a secondary task that requires focusing on an object, event, or person not related to the driving task." *Understanding the Effects of Distracted Driving and Developing Strategies to Reduce Resulting Deaths and Injuries*, National Highway Traffic Safety Administration (Dec. 2013), at 6, https://www.nhtsa.gov/sites/nhtsa.gov/files/understandingeffectsdistractdriving.pdf. NHTSA categorizes distractions into three types:

1. "Visual distraction: Tasks that require the driver to look away from the roadway to visually obtain information";

2. "Manual distraction: Tasks that require the driver to take a hand or hands off the steering wheel and manipulate an object or device"; and

3. "Cognitive Distraction: Tasks that are defined as the mental workload associated with a task that involves thinking about something other than the driving task."

Id. at p. 3.

Panhandling in a street meets all three categories. First, a driver must look away from the roadway at the panhandler, and then look down to retrieve money and hand it to the panhandler. Second, the driver must take his or her hands off of the steering wheel and open the window and handle money. Third, the driver is having to think about what amount of money to give the panhandler. Thus, panhandling in the street is, according to NHTSA's definitions, a "distraction" to drivers.

In 2006, NHSTA sponsored what is commonly known as "the 100-Car Study," conducted by Virginia Tech Transportation Institute, in which 100 cars were instrumented with a variety of sensor systems. The study determined that "[m]any distractions appear to increase the relative risk of crashes and near-crashes, and *distractions that require drivers to take their eyes off the road* are potentially more of a safety problem than distractions that do not require drivers to take their eyes off the road." *Id*. at p. 8 (emphasis added). Again, panhandling is a distraction that requires drivers to take their eyes off the road. The driver first looks at or toward the panhandler, then looks down to retrieve money, then looks to the side through the window in order to hand money to the panhandler. The

100-Car Study concluded that a driver is 3.7 times more likely to be in a crash simply by *looking* at an external object outside of the vehicle, *id*. at 9, much less actually interacting with someone (a panhandler) or something external to the vehicle.

Laws against panhandling in the roadways also protect the panhandlers themselves, not just drivers or the public at large. Distracted driving is unsafe for drivers, *and* for pedestrians.[3] According to NHTSA, a pedestrian dies in an automobile accident every 72 minutes. *See Pedestrian Safety*, United States Department of Transportation, https://www.trafficsafetymarketing.gov/safety-topics/pedestrian-safety (last visited Dec. 9, 2025).

To address this problem, NHTSA provides safety guidelines for pedestrians, including: (1) "Follow the rules of the road"; (2) "Use crosswalks when available"; and (3) "Walk on sidewalks when available." For drivers, NHTSA provides the following guidelines: (1) "Look out for pedestrians and minimize blind spots"; (2) "Be careful in hard-to-see conditions"; and (3) "Yield to pedestrians in crosswalks." By walking into the streets to collect money from vehicles, and moving beyond the confines of crosswalks, panhandlers directly violate these NHSTA guidelines.[4]

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[3] Section 32-5A-216(b) is just one subsection within Title 32 (Motor Vehicles and Traffic), Chapter 5A (Rules of the Road), Article 10, entitled: "**Pedestrian's Rights and Duties**." Thus, it is part of an overall effort by the Alabama Legislature to protect pedestrians.

[4] The Alabama Law Enforcement Agency (ALEA) offers similar guidelines likewise based on pedestrians not standing in the streets. *See "Dramatic increase" in pedestrian deaths prompts new ALEA campaign*, WSFA 12 News, Montgomery, AL (Jan. 19, 2022), https://www.wsfa.com/app/2022/01/19/dramatic-increase-

Panhandlers thus create dangers expressly recognized by NHSTA. NHTSA states: "At some point in the day, everyone is a pedestrian. In 2023, 7,314 pedestrians were killed and more than 68,000 pedestrians were injured nationwide.[5] Over the past decade, pedestrian fatalities have continued to increase."[6] *See Pedestrian Safety*, National Highway Traffic and Safety Administration, https://www.nhtsa.gov/road-safety/pedestrian-safety (last visited Dec. 7, 2025). NHTSA cautions pedestrians: "Walk on sidewalks whenever they are available. If there is no sidewalk, walk facing traffic and *as far from traffic as possible*." *Id*. (emphasis added). Clearly, NHSTA does not recommend walking *in the roadway itself* in the middle of traffic. NHSTA further recommends: "If a crosswalk or intersection is not available, locate a well-lit area where you have the

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pedestrian-deaths-prompts-new-alea-campaign/. For example, ALEA cautions drivers: "Look for pedestrians everywhere. They may not be walking where they should be . . . ." *Id*.

[5] Of course, courts applying strict scrutiny may then ask: how many of those 7,314 killed were panhandling? It is unclear why a state or municipality would have to know that information (*even if* it were possible to determine what each of the 7,314 pedestrians killed were doing at the time they were killed) in order to conclude that panhandling in a public street is dangerous – except, of course, to satisfy the heightened strict scrutiny analysis courts have been applying to panhandling legislation. It seems sufficient to note that 7,314 pedestrians were killed, and panhandling in the streets brings a pedestrian directly into traffic, thus, we should try to keep panhandlers out of public streets.

[6] "On average, that is 20 pedestrians a day and 141 pedestrians a week." *See Traffic Safety Facts, 2023 Data*, National Highway Traffic and Safety Administration (June 2025), https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813727. "Pedestrian deaths accounted for 18 percent of all traffic fatalities and 3 percent of all people injured in traffic crashes in 2023." *Id*.

best view of traffic. Wait for a gap in traffic that allows enough time to cross safely; continue watching for traffic as you cross." *Id*. Clearly NHTSA does not recommend lingering in the roadway.

And for drivers, NHTSA states: "Look out for pedestrians everywhere and minimize blind spots." *Id*. Obviously, having to "look out" for panhandlers in the roadway is a driver's responsibility, *but* panhandlers in the roadways (where they should not be) is a "distraction" to drivers. NHSTA lists "8 Common Crash Types Between Pedestrians and Cars," including: "2. **Pedestrian Darts/Steps** out: A pedestrian runs or walks out into the roadway in an unmarked area in the middle of the block (not at a crosswalk or intersection)." *Id*. Again, panhandling in the streets creates this very problem – no matter the level of care and attention given by drivers.

NHSTA has even found that simply "looking out of the vehicle at a pedestrian who may or may not pose a safety hazard" is a form of distracted driving, *see The Impact of Driver Inattention on Near-Crash/Crash Risk: An Analysis Using the 100-Car Naturalistic Driving Study Data*, National Highway Traffic Safety Administration (April 2006), at 134, https://rosap.ntl.bts.gov/view/dot/62931, which is much less distracting than actually interacting with a panhandler in the roadway. NHSTA studies confirm that "total eyes-off-road durations of greater than 2 seconds significantly increased individual near-crash/crash risk." *Id*. Even seconds matter when a driver is distracted.

Given the inability of states or municipalities to enact panhandling laws that satisfy the strict scrutiny standard, as courts have applied that standard, the dangers of panhandling continue, and get worse. As an example, "New York City's highways have suddenly

become hot spots for panhandlers willing to risk their lives dodging incoming traffic to make a fast buck." Rich Calder and Matthew Sedacca, *Panhandling in the middle of traffic on NYC highways is now a thing*, New York Post (July 23, 2022), https://nypost.com/2022/07/23/panhandlers-terrorize-motorists-on-nyc-highways/. *See also* Tim Henderson, *New bans on panhandling in medians spark debate over free speech rights*, New Jersey Monitor (Aug. 8, 2024), https://newjersey monitor.com/2024/08/07/new-bans-on-panhandling-in-medians-spark-debate-over-free-speech-rights/ (recognizing "a nationwide crisis, with more people visibly soliciting money in the streets, and higher pedestrian deaths compared with before the pandemic"); *Asheville's pedestrian vs. vehicle crash rate linked to panhandling hot spots, stats show*, WLOS ABC 13 News Asheville, NC (July 14, 2023), https://wlos.com/news/local/ashevilles-pedestrian-vs-vehicle-crash-rate-linked-to-panhandling-hot-spots-stats-show-asheville-on-bikes-police-data-tourism (in Ashville, with the highest rate of pedestrians injured or killed in the state, examination of police department data "showed the trend of incidents of pedestrians being hit by vehicles is largely happening in zones where panhandlers are out asking for money").

Reporters in New York City noted panhandlers begging for money "in the heart of bustling roadways," including a middle-aged man hunched over a walker, begging drivers for money while navigating through heavy traffic. *See* Calder and Sedacca, *supra*. The article notes frustration by commuters and city workers that law enforcement seemingly ignores the problem. *Id*.[7]

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[7] Where Illinois panhandlers sued after being arrested for violating a local ordinance against soliciting money from drivers stopped at a red light, the court denied qualified immunity to the

Of course, one wonders what *can* be done if local efforts to regulate panhandling are always under the thumb of "strict scrutiny" review. Perhaps Justice Breyer was right that strict scrutiny should not be blindly applied to every regulation that could possibly be construed as "content related." Or, as the Petitioner suggests, the Court could right the ship and rule that panhandling alone is not protected speech at all.

CONCLUSION

For the reasons stated above, this Court should grant the petition for writ of certiorari and reverse.

Respectfully submitted,

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December 12, 2025

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arresting officers, stating that a reasonably competent officer should know that the ordinance violates the First Amendment. *Dumiak v. Vill. of Downers Grove*, 475 F. Supp. 3d 851, 855 (N.D. Ill. 2020). Understandably, officers now may be hesitant to enforce any panhandling law not yet tested in court.