No. 25-484

In The
Supreme Court of the United States

AARON RAYSHAN WELLS,
Petitioner,

v.

THE STATE OF TEXAS,
Respondent.

On Petition for a Writ of Certiorari to the Texas Court of Criminal Appeals

REPLY BRIEF FOR PETITIONER

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PETITIONER'S REPLY

This petition presents the same question on which this Court granted certiorari on January 16, 2026, in *United States v. Chatrie*, No. 25-112. *Compare id.* ("Whether the execution of the geofence warrant violated the Fourth Amendment"), *with* Pet. i ("Does law enforcement's collection of digital location-history data pursuant to geofence warrants like the one in petitioner's case violate the Fourth Amendment?"). As of the filing of this reply, this Court has not yet calendared *Chatrie* for oral argument. This Court should grant petitioner's case and consolidate it for consideration on the merits alongside *Chatrie* or, at a minimum, hold petitioner's case pending resolution of *Chatrie* on the merits.[1]

Like the geofence warrant at issue in *Chatrie*, the geofence warrant in petitioner's case had the typical three-step structure through which law enforcement demands users' digital location history and identifying information pursuant to a single warrant. *See* Pet. 4-5 & n.2; Pet. App. 102a-116a; *Chatrie* Pet. 9-12. As in

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[1] In *Chatrie*, this Court declined review of the second question presented concerning the good-faith exception to the exclusionary rule. Petitioner's case presents that question as well (Pet. i), providing an excellent opportunity to resolve this important issue. As new technologies proliferate and provide law enforcement greater access to sensitive, location-history data, clarification of the good-faith exception is greatly needed to ensure that the novelty of a search method does not give prosecutors a free pass to admit evidence gathered by officers through warrants that eviscerate Fourth Amendment protections enshrined at the Founding. *See, e.g.*, *Kyllo v. United States*, 533 U.S. 27, 34 (2001); Pet. 37-39.

Chatrie, the warrant at issue in petitioner's case did not require judicial approval after Step 1 even though Steps 2 and 3 commanded Google to disclose increasingly invasive historical location data and non-anonymized account information. *See* Pet. 5-6, Pet. App. 104a-105a; *Chatrie* Pet. 11-12. In petitioner's case, Step 3 of the geofence warrant ordered Google to provide "subscriber's name, email addresses, services subscribed to, last 6 months of IP history, SMS account number, and registration IP" for accounts law enforcement unilaterally chose. Pet. App. 105a.[2] This demand was at least as personally invasive, if not more, than the Step 3 request in *Chatrie*. *See United States v. Chatrie*, 136 F.4th 100, 143-44 (4th Cir. 2025)

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[2] For Judge Newell below, writing on behalf of himself and Judges Richardson and Walker, the intrusive nature of Step 3's request for "last 6 months of IP history" resulted in a search at Step 3, even if not at Steps 1 and 2. Pet. App. 37a-38a, 46a-47a (Newell, J., concurring and dissenting). Respondent (at 16) questions the precise meaning of the language "last 6 months of IP history" but not its inclusion in the warrant or the fact that Step 3 revealed non-anonymized user information not only for petitioner, but also two other individuals swept into the geofence warrant who were not suspects. *See* Pet. 6 n.3 (citing State's Exhibit 237).

Because Judges Newell, Richardson, and Walker concluded that a search occurred at Step 3, they analyzed whether that search was supported by probable cause and found it lacking. Pet. App. 47a-54a. Respondent selectively cites a portion of that analysis and claims it rested on Texas state law (Resp. 17 n.8 (citing Pet. App. 48a-51a))—ignoring the rest of the probable-cause reasoning based on this Court's Fourth Amendment precedent. *See* Pet. App. 51a-54a (citing *Carpenter v. United States*, 585 U.S. 296 (2018), and *Riley v. California*, 573 U.S. 373 (2014)).

(en banc) (Berner, J., concurring) ("[I]n its third request, the Government expressly asked Google to reveal the names, email addresses, and phone numbers associated with certain pseudonymized Google users identified in the second dataset.").

The parties dispute whether petitioner had an expectation of privacy in the sensitive, personal, deanonymized information the geofence warrant demanded, and no doubt this Court's resolution of *Chatrie* on the merits will inform that question. As part of that dispute, respondent here suggests without cited support (Resp. 20-22) that to assert an expectation of privacy, petitioner should have put on witnesses or some different trial-court evidence to prove a "subjective" expectation. But this Court has stated that a litigant must show "by his conduct" that he has "an actual (subjective) expectation of privacy" and "one that society is prepared to recognize as 'reasonable.'" *Smith v. Maryland*, 442 U.S. 735, 740 (1979) (citing *Katz v. United States*, 389 U.S. 347, 361 (1967) (Harlan, J., concurring)).

Petitioner's conduct easily meets that standard: He stored his sensitive data in a password-protected account not accessible by others.[3] And courts that

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[3] Like all Google accounts, petitioner's account could not have been created without password protection. *See Create a Google Account*, GOOGLE ACCOUNT HELP https://support.google.com/accounts/answer/27441?hl=en&ref_topic=3382296&sjid=3996723840630506842-NA (last visited January 19, 2026) [https://perma.cc/X4VS-S2PJ]. No evidence was introduced by the state to show that any other person had access to petitioner's Google account besides petitioner and Google employees.

have considered geofence warrants—like courts considering expectations of privacy in other contexts—have paid scant attention to defendants' subjective expectations of privacy, often not distinguishing between subjective expectations and objective reasonability in determining whether a search has occurred. *See, e.g.*, *United States v. Smith*, 110 F.4th 817, 830-31 (5th Cir. 2024), *cert. denied* (U.S. Nov. 10, 2025) (No. 24-7237) (mentioning actual or subjective expectations of privacy only in passing without separate analysis); *Chatrie*, 136 F.4th at 151 (Berner, J., concurring) (same); 1 WAYNE LAFAVE, SEARCH & SEIZURE § 2.1(c), at 601-02 (6th ed. 2020) (noting that "little attention has been given to the independent significance" of subjective expectations under *Katz*'s expectation-of-privacy test).

This case presents an excellent vehicle to grant both questions presented and, at a minimum, should be held pending resolution of *Chatrie* on the merits.

CONCLUSION

This Court should grant the petition and reverse the judgment of the Texas Court of Criminal Appeals.

Respectfully submitted,

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