

In the Supreme Court of the United States

JAMES ERIC LARREMORE, *PETITIONER*,

v.

UNITED STATES OF AMERICA, *RESPONDENT*.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Larremore was driving on a highway when a sheriff's deputy, who was parked along the highway, pulled out, sped to catch up to him, and then followed closely behind him. In response to the deputy's driving, Larremore signaled and parked on the shoulder. The deputy stopped behind him, approached, and spoke with him about his travel. After some questioning, during which the deputy made physical contact with Larremore's truck, the deputy instructed Larremore to "hang on a sec," while the deputy walked back towards his cruiser before diverting to further inspect the trailer Larremore was hauling. He did not have a reasonable suspicion to justify the seizure at that point. Larremore and the deputy spoke outside of the trailer for over fifteen minutes, during which the deputy developed probable cause to search the trailer and found that Larremore was transporting people with the intent to further their unlawful presence in the United States.

1. Whether the deputy's instruction to "hang on a sec," particularly in context, communicated to a reasonable person in Larremore's position that he was not free to leave and, therefore, seized for Fourth Amendment purposes.

RELATED PROCEEDINGS

United States District Court for the Western District of Texas:

United States v. Larremore,
No. 4:24-cr-289, Doc. 44 (Oct. 6, 2023)

United States Court of Appeals for the Fifth Circuit:

United States v. Larremore,
No.24-50431 (Aug. 14, 2025)

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Petitioner James Eric Larremore respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINION BELOW

The Fifth Circuit's opinion is reported at 150 F.4th 463 and is reproduced at App. 1a–10a.

JURISDICTION

The Fifth Circuit entered its judgment on August 14, 2025. Larremore filed a motion for rehearing en banc, which was denied

on September 17, 2025. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

The Fourth Amendment provides: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . .”

STATEMENT

A. Relevant facts established below.

In 2023, at 1:45 in the afternoon, deputy Christopher Colona was parked alongside U.S. Highway 385 when he saw a white pickup truck, driven by Larremore, traveling north while pulling an empty horse trailer. C.A. ROA 80. Colona “put his patrol unit in gear, turned it around, raced to catch up with Larremore, and began to follow him for more than a mile.” C.A. ROA 81. Colona reached speeds of up to 94 miles per hour to catch up with Larremore. C.A. ROA 224–25. Colona followed Larremore within one second of travel and, at another point, within 100 feet. C.A. ROA 220–21. That driving dynamic endured for one minute, during which the vehicles covered more than a mile. (Gov’t Ex. 1 at 6:21-7:21). The Texas driver handbook instructs motorists that Colona was following Larremore too closely. C.A. ROA 222–23.

Without deputy Colona signaling Larremore to stop, Larremore pulled over. C.A. ROA 81. Colona followed Larremore onto the shoulder and parked behind him without activating his emergency lights. C.A. ROA 81. Colona approached Larremore from the passenger side of the truck and the two shook hands through the passenger window at Larremore's initiation. C.A. ROA 81. After the handshake, Colona walked back to the rear window and placed his hand on the truck, leaned into the truck, and spied an open container of alcohol on the floor. C.A. ROA 81. Colona questioned Larremore about where he was headed and what he was doing with an empty horse trailer. C.A. ROA 81. Larremore explained that he was on the way to sell his horse trailer in Odessa, Texas. C.A. ROA 81. Colona then told Larremore to "hang on a sec" and walked back toward his patrol unit. C.A. ROA 81.

Deputy Colona walked towards his cruiser, stopped mid-way to his cruiser, approached the trailer, and attempted to look into it. (Gov't Ex. 1 at 8:35–8:43). After Colona stopped to inspect the trailer, Larremore exited his vehicle, and became visible on Colona's body camera, standing just outside his door, as Colona walked back towards the truck. (Gov't Ex. 1 at 8:43–45), (Gov't Ex. 2 at 0:41–45).

The two men then had a conversation outside of the horse trailer. After more than fifteen minutes of the conversation,

Larremore stated, in a resigned tone, “I got three cousins sitting in” the trailer. (Gov’t Ex. 2 at 17:30–17:45). That assertion gave Colona probable cause to believe Larremore was transporting people illegally present in the United States with the intent to further their unlawful presence. Colona restrained Larremore and searched the trailer, finding the people hiding.

B. Proceedings below.

When Larremore was charged with unlawfully transporting undocumented migrants, in violation of 8 U.S.C. § 1324, he moved to suppress the evidence discovered during his detention by deputy Colona. He urged that he was seized as early as the deputy pulling in behind him when he pulled over and, at the latest, when the deputy told him to “hang on a sec.” C.A. ROA 45. The district court denied the motion to suppress, finding that the seizure did not occur until much later, at which point the deputy had developed a reasonable suspicion to justify the seizure. Larremore appealed to the Fifth Circuit.

A divided panel of the Fifth Circuit found that the seizure did not occur until after deputy Colona instructed Larremore to “hang on a sec,” at which point Colona had developed a reasonable suspicion. App. 3a–6a. Chief Judge Elrod dissented, in part, arguing that Colona’s instruction to “hang on a sec,” combined with

Larremore's compliance by not leaving the scene, Colona's almost immediate inquiry into the contents of the trailer, and the context preceding the instruction showed that a reasonable person in Larremore's position would not feel free to leave. App. 8a–10a.

REASONS FOR GRANTING THE PETITION

I. The courts of appeals are divided over whether a polite directive not to leave constitutes the kind of language necessary to effect a seizure.

The parties agree that Deputy Colona did not have a reasonable suspicion sufficient to justify a seizure when he directed Larremore to "hang on a sec." The question, then, is whether that command constituted a seizure. The courts of appeals are divided over whether a polite command, like "hang on a sec," is the sort "of language . . . indicating that compliance with [an] officer's request might be compelled." *United States v. Mendenhall*, 446 U.S. 544, 554 (1980).

The Fourth and Sixth Circuits have held that an officer's instruction, no matter how polite, is sufficient to constitute a seizure. *United States v. Bowman*, 884 F.3d 200, 212 (4th Cir. 2018); *United States v. Richardson*, 385 F.3d 625, 630 (6th Cir. 2004). Here, the Fifth Circuit has split with those holdings because the deputy's directive to "hang on a sec" was not "express, immediately

announced, or repeated.” App. 5a. The Court should grant the writ to resolve the split.

“When a police officer makes a traffic stop, the driver of the car is seized within the meaning of the Fourth Amendment.” *Brendlin v. California*, 551 U.S. 249, 251 (2007). “A person is seized by the police and thus entitled to challenge the government’s action under the Fourth Amendment when the officer, by means of physical force or show of authority, terminates or retrains his freedom of movement, through means intentionally applied.” *Id.* at 254. “A police officer may make a seizure by a show of authority and without the usual use of physical force” provided the subject submits to the show of authority. *Id.*

“When the actions of the police do not show an unambiguous intent to restrain . . . , a seizure occurs if in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave.” *Id.* at 255. “Examples of circumstances that might indicate a seizure, even where the person did not attempt to leave, would be the threatening presence of several officers, the display of a weapon by an officer, some physical touching of the person of the citizen, or *the use of language or tone of voice indicating that compliance with the officer’s request might be compelled.*” *Mendenhall*, 446 U.S. at

554 (emphasis added). With this published Fifth Circuit decision, the courts of appeals have divided over whether language like “hang on a sec,” can indicate that compliance might be compelled.

Here, the Fifth Circuit held that deputy Colona’s directive to Larremore to “hang on a sec,” was not “express, immediately announced, or repeated” and, therefore, did not constitute the sort of “language” that would indicate “that compliance with an officer’s request was compelled.” App 4a–5a (citing *Mendenhall*, 446 U.S. at 554).

The Fifth Circuit’s holding conflicts with how other courts of appeals have analyzed the reach of this Court’s holding in *Mendenhall*. 446 U.S. at 554. For example, in *Richardson*, the Sixth Circuit evaluated an almost identical scenario in which an officer politely asked a motorist not to leave. 385 F.3d at 630. In *Richardson*, the officer “did not display an intimidating demeanor or use coercive language, but rather said, ‘Okay, just hang out right here for me, okay?’” *Id.* The Sixth Circuit correctly applied *Mendenhall*, to hold that “[r]egardless of [the officer’s] demeanor . . . , his words alone were enough to make a reasonable person in [the motorist’s] shoes feel that he would not be free to walk away and ignore [the officer’s] requests.” *Id.*

The Fourth Circuit has also rejected the idea that an officer must “display an intimidating demeanor or use coercive language.” *Bowman*, 884 F.3d at 212 (quoting *Richardson*, 446 U.S. at 630). Instead, the Fourth Circuit has held that “a reasonable person would have understood that he was no longer free to terminate the exchange . . . when [an officer] instructed [a person] to ‘just hang tight right there, ok?’” *Id.* at 212–13.

Finally, as Chief Judge Elrod urged in this case, “the context and facts surrounding Deputy Colona’s command made it all the more apparent that Larremore was not free to leave. Although Deputy Colona never activated his lights or sirens, he chased Larremore until he pulled over to the side of the road in a manner resembling a traffic stop. Then, before directing Larremore to ‘hang on,’ Deputy Colona can be seen on video leaning with his hands on Larremore’s truck, while peering his head inside and scanning its interior. Importantly, Deputy Colona’s body position at that time would have most certainly made it particularly dangerous for Larremore to leave. And it is also during this portion of the interaction that Deputy Colona questioned Larremore about his route and the contents of the trailer.” App. 9a (Elrod, C.J., dissenting in part).

In that larger context, it is clear that, in this case, the Fifth Circuit misapplied the test required by *Mendenhall*: no reasonable person in Larremore’s position would feel free to drive away after deputy Colona instructed them to “hang on a sec.”

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

SHANE O’NEAL
Counsel for Petitioner

December 16, 2025