

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

HECTOR DANIEL MATEO-REYES,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

KATIE HURRELBRINK
Federal Defenders of San Diego, Inc.
225 Broadway, Suite 900
San Diego, California 92101
Telephone: (619) 234-8467

Attorneys for Petitioner

QUESTION PRESENTED

Whether a court assessing the existence of reasonable suspicion under the Fourth Amendment may exclude facts that show a likelihood of innocent behavior when weighing the totality of the circumstances.

PARTIES, RELATED PROCEEDINGS, AND RULE 29.6 STATEMENT

The parties to the proceeding below were Petitioner Hector Daniel Mateo-Reyes and the United States. There are no nongovernmental corporate parties requiring a disclosure statement under Supreme Court Rule 29.6.

All proceedings directly related to the case, per Rule 14.1(b)(iii), are as follows:

- *United States v. Mateo-Reyes*, No. 23-cr-01722-LL, U.S. District Court for the Southern District of California. Judgment entered September 17, 2024.
- *United States v. Mateo-Reyes*, No. 24-5725, U.S. Court of Appeals for the Ninth Circuit, unpublished opinion issued December 12, 2025.

TABLE OF CONTENTS

	PAGE
QUESTION PRESENTED	<i>prefix</i>
PARTIES, RELATED PROCEEDINGS, AND RULE 29.6 STATEMENT.....	<i>prefix</i>
TABLE OF CONTENTS	i
TABLE OF AUTHORITIES.....	ii
APPENDIX INDEX	iv
INTRODUCTION	1
OPINION BELOW	2
JURISDICTION	3
STATEMENT OF FACTS	3
REASONS FOR GRANTING THE PETITION	9
I. The Ninth Circuit opinion is contrary to the Court’s totality of the circumstances test.....	9
II. Other Circuits have held that the Court’s precedent does require courts to consider all factors, including possible innocent explanation.....	10
III. The division among the circuits demands the Court’s attention and this case is a proper vehicle.	12
CONCLUSION	15

TABLE OF AUTHORITIES

CASES	PAGE(S)
<i>Reid v. Georgia</i> , 448 U.S. 438 (1980)	2, 13
<i>Terry v. Ohio</i> , 392 U.S. 1 (1968)	12
<i>United States v. Andrade</i> , 551 F.3d 103 (1st Cir. 2008).....	11
<i>United States v. Arvizu</i> , 534 U.S. 266 (2002)	1, 9, 13
<i>United States v. Bejar-Guizar</i> , 142 F.4th 1188 (9th Cir. 2025).....	2, 9, 13
<i>United States v. Brignoni-Ponce</i> , 422 U.S. 873 (1975)	1
<i>United States v. Cortez</i> , 449 U.S. 411 (1981)	9
<i>United States v. Dapolito</i> , 713 F.3d 141 (1st Cir. 2013).....	10, 11
<i>United States v. Delaney</i> , 955 F.3d 1077 (D.C. Cir. 2020)	10, 12
<i>United States v. Mateo-Reyes</i> , 2025 WL 3564659 (9th Cir. Dec. 12, 2025).....	2
<i>United States v. Santos</i> , 403 F.3d 1120 (10th Cir. 2005)	10
<i>United States v. Valdes-Vega</i> , 738 F.3d 1074 (9th Cir. 2013)	2, 8
<i>Wingate v. Fulford</i> , 987 F.3d 299 (4th Cir. 2021)	10, 11

STATUTES

8 U.S.C. § 1326..... 5

28 U.S.C. § 1254(1) 3

APPENDIX INDEX

**APP.
No.**

DOCUMENT

- A. *United States v. Mateo-Reyes*, No. 24-5725, Dkt. 42.1 (9th Cir. Dec. 12, 2025).

IN THE SUPREME COURT OF THE UNITED STATES

HECTOR DANIEL MATEO-REYES,
Petitioner,

- v. -

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Petitioner Hector Daniel Mateo-Reyes respectfully prays that the Court issue a writ of certiorari to review the order of the United States Court of Appeals for the Ninth Circuit entered on December 12, 2025.

INTRODUCTION

“The Fourth Amendment applies to all seizures of the person, including seizures that involve only a brief detention short of traditional arrest.” *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975). The reasonable suspicion requirement is a “balance between the public interest and the individual’s right to personal security free from arbitrary interference by law officers.” *Id.* Thus, the reasonable suspicion standard is meant to protect from officers having unbridled discretion by requiring courts to evaluate under a “totality of the circumstances” “whether the detaining officer has a ‘particularized and objective basis’ for suspecting legal wrongdoing.” *United States v. Arvizu*, 534 U.S. 266, 273 (2002).

Through this analysis, the reviewing courts are to protect from officers applying factors that capture a “large category of presumably innocent” people. *Reid v. Georgia*, 448 U.S. 438, 441 (1980). To effectuate the balancing of interests under a “totality of the circumstances,” reviewing courts necessarily consider innocent explanations surrounding the circumstances of the stop.

The Ninth Circuit, however, has established a new principle of judicial review that disregards innocent explanations in the reasonable suspicion analysis. *See United States v. Bejar-Guizar*, 142 F.4th 1188, 1192–93 (9th Cir. 2025) (citing and interpreting *United States v. Valdes-Vega*, 738 F.3d 1074 (9th Cir. 2013) (en banc)). The Ninth Circuit holds that “reasonable suspicion review should focus not on the likelihood of *innocent* behavior in context but of *criminal* activity.” *Id.* at 1192 (emphasis in original). This principle contradicts the totality of circumstances analysis and the balancing of interest that it seeks to achieve. It suggests that courts need not consider whether the factors for suspicion capture large segments of the law-abiding population.

This new principle of judicial review by the Ninth Circuit contradicts with the holding of this Court and other courts of appeals creating a circuit split. To ensure that all federal courts are uniformly applying the Court’s precedent on a critical Fourth Amendment issue, the Court should grant certiorari.

OPINION BELOW

The Ninth Circuit affirmed Mr. Mateo-Reyes’s conviction in a unpublished Memorandum. *See United States v. Mateo-Reyes*, No. 24-5725, 2025 WL 3564659

(9th Cir. Dec. 12, 2025) (attached here as Appendix A). Mr. Mateo-Reyes did not file a petition for rehearing or rehearing en banc.

JURISDICTION

The Ninth Circuit denied Mr. Mateo-Reyes's appeal and affirmed his conviction on December 12, 2025. *See* Appendix A. This Court thus has jurisdiction under 28 U.S.C. § 1254(1).

STATEMENT OF FACTS

On July 30, 2024, Hector Mateo-Reyes had a stipulated facts bench trial to preserve Fourth Amendment challenges to his illegal seizure. That seizure had occurred exactly one year before, on July 30, 2023.

That day, Border Patrol Agent Jeremy Peres was on patrol in east San Diego County. Around 6:20pm, Agent Peres received a radio transmission from a scope operator. The scope operator had seen a man walking north, before stopping under a tree. Agent Peres responded to the coordinates. He found himself on Lucky Six Truck Trail.

The area around Lucky Six Truck Trail is rural, but not isolated. Lucky Six is in Dulzura, home to vineyards, churches, businesses, ranches, and houses. Lucky Six itself is a little over four miles long. In the middle of the trail sits Madre Grande Monastery, a residence for monks and friars and host to classes, ceremonies, and spiritual retreats. It sits next to Mottola Ranch, a piece of Dulzura history first settled in 1891. Take the trail south from the monastery for 45 minutes, and you'll hit Highway 94. Walk north for 55 minutes, and you'll end up on Mother Grundy

Truck Trail. Mother Grundy Truck Trail is a popular hiking route to Mother Grundy Peak, with dozens of reviews on Alltrails.com. The junction of Lucky Six and Mother Grundy is about six miles north of the border.

When Agent Peres arrived on Lucky Six Truck Trail, he saw a man sitting on a rock. To Agent Peres, the man “appeared to be trying to get out of the sun under a tree.” The man was in the northernmost part of Lucky Six, less than a 10-minute walk from Mother Grundy Truck Trail and adjacent to Pringle Canyon.

Agent Peres—in full rough duty Border Patrol uniform and with his gun visible—immediately began shouting orders at the man. He directed the man to stand up and identify himself.

Though Agent Peres shouted his question in Spanish, the man responded in unaccented English. Agent Peres asked what he was doing there. He said that he was out on a hike. Agent Peres asked where he lived. He said Barrett Lake Road, and he started telling Agent Peres the paths he had taken from there to here. Barrett Lake Road runs roughly parallel to Lucky Six Truck Trail, connected by Highway 94.

Agent Peres asked Mr. Mateo-Reyes whether he was born in the United States. He said, “Yes, near San Marcos.” Agent Peres asked for his ID. Mr. Mateo-Reyes said that he did not have it on him, but he could call his girlfriend to ask her to text him a picture.

Mr. Mateo-Reyes placed the call on speaker phone. His girlfriend picked up. “Hey honey,” she said, “how’s the hike going?” Ultimately, however, she was not

able to send the photo because Mr. Mateo-Reyes did not have enough wireless internet service to receive pictures.

At that point, Agent Peres decided to take Mr. Mateo-Reyes in. “I told him that I was not arresting him,” Agent Peres would later recall, “but we would need to go back to the Border Patrol station to confirm his identity.” The two men prepared to walk back to Agent Peres’s truck.

But “[a]s they were about to start walking to [the Border Patrol] vehicle,” Agent Peres realized that he could use his phone to photograph Mr. Mateo-Reyes. He could then run Mr. Mateo-Reyes’s face through Border Patrol’s databases.

When Agent Peres went to take the photo, however, Mr. Mateo-Reyes said that he would be in the border patrol system. He admitted that he was an undocumented citizen of Mexico. He then returned with Agent Peres to the border patrol station, where he confessed to the elements of illegal reentry.

Mr. Mateo-Reyes was charged under 8 U.S.C. § 1326. He filed a Fourth Amendment motion challenging, among other things, his initial stop without reasonable suspicion.

The government opposed. Agent Peres submitted a declaration explaining his reasons for stopping Mr. Mateo-Reyse. Agent Peres said that he was initially suspicious of Mr. Mateo-Reyes because of the location. According to Agent Peres, his entire assigned patrol area was “a corridor frequently used by people entering the United States illegally on foot because of its proximity to the United States/Mexico International Border, sparse population, and terrain and vegetation, which make it

difficult for Border Patrol Agents to access.” He admitted that “[t]here are hiking trails in the area.” But he said that “it is not common to see people hiking on the portion of the trail near Pringle Canyon, which is several miles north of the nearest road.” Plus, in Agent Peres’s view, Mr. Mateo-Reyes “was not wearing clothes worn by hikers, such as hiking boots or shorts.”

Agent Peres also explained why he continued the stop after questioning Mr. Mateo-Reyes. He agreed that Mr. Mateo-Reyes said he was hiking, coming from Barrett Lake Road. But in his opinion, “the terrain and location of trails in the area make it unlikely that a person walking from Barrett Lake Road would end up in Pringle Canyon.” Thus, when Mr. Mateo-Reyes could not receive a photo of his ID, Agent Peres decided to take him back to the station.

Agent Peres provided no other reasons for suspecting Mr. Mateo-Reyes of a crime—for example, he never claimed that Mr. Mateo-Reyes was nervous or evasive. And he never expressed concern that Mr. Mateo-Reyes posed a flight risk or danger.

The district court held a hearing on the motion. The government brought Agent Peres to court for the hearing, and he was prepared to testify. But the judge declined to take any evidence.

Instead, the court denied the motion on the papers. The court opined that Agent Peres had reasonable suspicion because “Mr. Reyes was walking alone, not dressed for hiking in the evening in a sparsely populated area approximately six

miles north of the border along a route commonly used by people entering the United States illegally.”

Mr. Mateo-Reyes appealed to the Ninth Circuit. In explaining why Agent Peres lacked reasonable suspicion, Mr. Mateo-Reyes relied on several facts that tended to dissipate suspicion. First, Agent Peres should have noted from the start that Mr. Mateo-Reyes was not behaving as expected for someone entering illegally. Agent Peres said that people entering illegally in the Lucky Six area try to take advantage of “terrain and vegetation” that “make [their locations] difficult for Border Patrol Agents to access.” But that’s not what Mr. Mateo-Reyes was doing at all. He was sitting on a “truck trail”—i.e., a trail accessible by truck. It therefore was not difficult for border patrol to access. And rather than hiding in the vegetation, Mr. Mateo-Reyes was sitting out in the open on a rock.

Second, though Agent Peres claimed that it was “not common to see people hiking on the portion of the [Lucky Six Truck Trail] near Pringle Canyon, which is several miles north of the nearest road,” he did not deny that the arrest spot was an eight-minute walk from Mother Grundy Truck Trail, which is a common hiking spot. A hiker coming from Madre Grande Monastery or Mottola Ranch to Mother Grundy Truck Trail would naturally take Lucky Six. And a hiker coming from Mother Grande Truck Trail could end up on Lucky Six intentionally, perhaps to get to the monastery or the highway beyond it, or unintentionally, perhaps by choosing the wrong path at the fork in the road.

Third, Agent Peres claimed that “Mr. Mateo-Reyes was not wearing clothes typically worn by hikers, such as hiking boots or shorts.” But Agent Peres did not claim that persons entering illegally dress differently from ordinary hikers—let alone rationally explain why they would. Both groups perform exactly the same activity (walking) in exactly the same area (the mountains around Pringle Canyon). If anything, someone entering illegally could expect to travel greater distances on rougher terrain. Agent Peres provided no reason to think that they would be less likely to wear clothing designed for the task. Accordingly, he provided no objectively reasonable explanation for why someone in pants, a t-shirt, and sneakers was more likely to be illegally entering than to be hiking for pleasure.

Finally, it is not just hikers who visit the Dulzura area for innocent reasons. It is also the people who live and work there, for example, at the monastery and ranch a couple of miles away. So even if Agent Peres had reason to think that Mr. Mateo-Reyes was not hiking, that would not equate to suspicion of a crime.

The Ninth Circuit affirmed in a memorandum disposition. The memorandum did not mention any of the facts above tending to weigh against a reasonable suspicion finding. Instead, the Ninth Circuit disposed of the reasonable suspicion argument in one sentence: “Considering the characteristics of the area, the pattern of illegal border crossing activity, Mateo-Reyes’ proximity to the border, and his suspicious hiking narrative, Agent Peres had reasonable suspicion of illegal activity to justify the *Terry* stop of Mr. Mateo-Reyes.” The Court then cited *Valdes-Vega*, 738

F.3d at 1078, the case that the Court had recently reinterpreted in *Bejar-Guizar*, 142 F.4th at 1192–93.

This petition follows.

REASONS FOR GRANTING THE PETITION

I. The Ninth Circuit opinion is contrary to the Court’s totality of the circumstances test.

The Court has instructed that judges “must look at the totality of the circumstances of each case to see whether the detaining officer has a particularized and objective basis for suspecting legal wrongdoing.” *Arvizu*, 534 U.S. at 273. The Court has rejected a “divide-and-conquer” analysis under which the relevance of individual factors are considered in isolation from one another in making a reasonable suspicion determination. *Id.* at 274. Although an innocent explanation may not eliminate the probative value of a factor that leads to suspicion, *id.*, innocent explanations remain relevant to the totality of the circumstances analysis. At the outset, the test requires a look at *all* the facts. It is an inclusive rather than an exclusive analysis that considers the “whole picture” that develops prior to the stop. *United States v. Cortez*, 449 U.S. 411, 417 (1981).

But the Ninth Circuit has removed innocent explanations from the totality of the circumstances, which invites courts to engage in a type of “divide-and-conquer analysis” that the Court specifically cautioned against. *Arvizu*, 534 U.S. at 274.

According to the Ninth Circuit, when reviewing an officer’s reasonable suspicion determination, judges “should focus not on the likelihood of *innocent* behavior in context but of *criminal activity*.” *Bejar-Guizar*, 142 F.4th at 1192 (citing

Valdes-Vega). The Ninth Circuit, thus, states that after deferring to inferences from the officers on the scene, the reviewing court, itself, need not consider innocent explanations surrounding the circumstances of the stop. That is not consistent with this Court's precedent. This new principle is both contrary to the Court's totality of the circumstances test and it relinquishes judicial review to the suspicions of the officer.

II. Other Circuits have held that the Court's precedent does require courts to consider all factors, including possible innocent explanation.

Contrary to the Ninth Circuit, other court of appeals, including the First, Fourth, Tenth, and the D.C. Circuit, apply this Court's precedents by viewing the evidence bearing on reasonable suspicion in its totality, including consideration of innocent explanations. *See United States v. Dapolito*, 713 F.3d 141, 149 (1st Cir. 2013); *Wingate v. Fulford*, 987 F.3d 299 (4th Cir. 2021), as amended (Feb. 5, 2021); *United States v. Santos*, 403 F.3d 1120 (10th Cir. 2005); *United States v. Delaney*, 955 F.3d 1077 (D.C. Cir. 2020).

These courts recognize that innocent explanations are relevant to the reasonable suspicion analysis because to “sweep those considerations to the side, [] would be a sort of ‘divide-and-conquer’ approach that would isolate only those facts helpful to the government’s case.” *Dapolito*, 713 F.3d at 149. Instead, courts should examine reasonable suspicion by “stepping back” and looking at all the circumstances as a whole. *Delaney*, 955 F.3d at 1087. Under this view, the mandate to examine “the totality of the circumstances” logically requires looking at all of the facts known to the officer at the time of the search or seizure, not just a subset.

United States v. Andrade, 551 F.3d 103, 110 (1st Cir. 2008). Thus, reviewing courts must look to the likelihood of both innocent and criminal activity.

Importantly, the other Circuit Courts of Appeal hold that consideration of innocent explanation is relevant to developing the whole picture approach to the totality of the circumstances test. The First Circuit has specifically held that excluding exculpatory facts from the reasonable suspicion equation constitutes an erroneous “‘divide-and-conquer’ analysis.” *Dapolito*, 713 F.3d at 149. The First Circuit reasoned that although the district courts are to defer to the experience of an officer, it is not *carte blanche*. *Id.* at 149–150. The law requires courts to look at the circumstances “through the lens of a reasonable police officer,” which in turns requires that the court look at all the objective facts. *Id.* at 149. That is why it cannot be that courts can “sweep [innocent explanations] to the side.” *Id.* An officer’s experience may furnish the background, but the reviewing courts must take everything into consideration to evaluate whether a reasonable office would find reasonable suspicion. *Id.* As explained by the Fourth Circuit, the need for the courts to step back and look at the factors in context is critical because the facts relied on by the officers may encompass “both criminal suspects and an immeasurable subset of the law-abiding population, [resulting in] little investigatory value.” *Wingate*, 987 F.3d at 307.

The D.C. Circuit’s decision in *Delaney* illustrates the importance of stepping back and considering innocent explanations and not just focusing on the possibility of criminal activity. In that case, on New Year’s Eve, officers heard gun shots in

“close vicinity” to the location of the defendant. *Delaney*, 955 F.3d at 1087. The officers “saw no one else” in that area and the defendant “exhibited very strange behavior” by beginning to kiss his partner as the officers approached. *Id.* at 1085. The officers ultimately recovered a gun from the defendant’s car. *Id.* at 1080.

Although the D.C. Circuit acknowledged that certain factors indicated criminal activity was afoot broadly, it emphasized the requirement of “stepping back and ‘consider[ing] the whole picture,’ to ensure [the court does] not miss the proverbial forest for the trees.” *Id.* at 1087. The D.C. Circuit considered possibility of innocent explanation particularly that this was a “populated residential area shortly after midnight on New Year’s Eve, a time when one would have expected other folks to be out and about celebrating.” *Id.* “And necking, especially shortly after midnight on New Year’s Eve,” would not indicate criminal activity was afoot. *Id.* at 1086. Thus, the D.C. Circuit considered innocent explanations to assess the reasonableness of the suspicion and not simply to focus on criminal activity. *Id.*

III. The division among the circuits demands the Court’s attention and this case is a proper vehicle.

Resolving this circuit split is particularly important here. As the Court has recognized, “[t]he scheme of the Fourth Amendment becomes meaningful only when it is assured that at some point the conduct of those charged with enforcing the laws can be subjected to the more detached, neutral scrutiny of a judge who must evaluate the reasonableness of a particular search or seizure in light of the particular circumstances.” *Terry v. Ohio*, 392 U.S. 1, 21 (1968). The reasonable suspicion standard is meant to protect from officers having unbridled discretion.

Arvizu, 534 U.S. at 273. And it is meant to protect “large category of presumably innocent” people from being harassed by these officers with unbridled discretion. *Reid*, 448 U. S. at 441. The Ninth Circuit’s exclusion of the “likelihood innocent behavior,” *Bejar-Guizar*, 142 F.4th at 1192, from the equation threatens to disrupt the delicate “balance between the public interest and the individual’s right to personal security.” *Arvizu*, 534 U.S. at 122.

Furthermore, Mr. Mateo-Reyes’s case is the right vehicle to resolve this Circuit split, as his case squarely presents the issue. The issue was properly preserved below. Mr. Mateo-Reyes requested that the district court suppress the evidence based on the Fourth Amendment violation. The district court heard evidence and denied the motion.

Mr. Mateo-Reyes argued on appeal that the courts must consider the context of where he was stopped. That included at least four factors: (1) Mr. Mateo-Reyes was not taking advantage of “terrain and vegetation” that made his location “difficult for Border Patrol Agents to access,” as Agent Peres claimed illegal entrants would. Instead, he was sitting out in the open on an accessible truck trail. (2) Though Agent Peres claimed that Lucky Six Truck Trail was not itself a common hiking spot, Mr. Mateo-Reyes was an eight-minute walk from the start of a popular trail with dozens of online reviews. (3) Mr. Mateo-Reyes was wearing ordinary clothes (pants, a t-shirt, and sneakers), and there was no evidence that illegal entrants navigating the mountains were any more likely than hikers to dress that way. (4) Dulzura is home to vineyards, churches, businesses, ranches, and houses,

including a monastery and ranch in walking distance. Thus, in addition to being a smuggling route, it is also peopled by ordinary citizens going about their everyday lives. Taken together, these facts made it more likely that Mr. Mateo-Reyes was an ordinary Dulzura resident or visitor enjoying the mountains' natural beauty.

Yet under *Bejar-Guizar* and *Valdes-Vega*, the Ninth Circuit pushes consideration of innocent explanations aside from the reasonable suspicion analysis and only focuses on possible criminal activity. Had Mr. Mateo-Reyes's case been in the First, Fourth, Tenth, or D.C. Circuits, a Fourth Amendment violation may have been found.

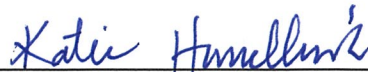
If the Court agrees that the Ninth Circuit improperly conducted the reasonable suspicion analysis, Mr. Mateo-Reyes would be eligible for relief. At trial, the government relied on fruits of the poisonous tree, most notably Mr. Mateo-Reyes's statements. Without this evidence, the government would not have been able to establish import elements of the illegal entry offense. Accordingly, Mr. Mateo-Reyes's case provides an ideal vehicle to resolve this circuit split.

CONCLUSION

For these reasons, this Court should grant Mr. Mateo-Reyes's petition for a writ of certiorari.

Respectfully submitted,

Date: March 12, 2026



KATIE HURRELBRINK
Federal Defenders of San Diego, Inc.
225 Broadway, Suite 900
San Diego, California 92101
Telephone: (619) 234-8467
Attorneys for Petitioner