

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

FRANCISCO SORIA,

PETITIONER,

vs.

UNITED STATES OF AMERICA,

RESPONDENT.

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

PETITION FOR WRIT OF CERTIORARI

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Appointed Under the Criminal Justice Act of 1964

QUESTION PRESENTED FOR REVIEW

When officers executing a search warrant realize the warrant is overbroad but are unable to narrow its scope, may they continue to rely on that warrant?

PARTIES TO THE PROCEEDING

Petitioner is Francisco Soria, the defendant/appellant in the proceedings below.

Respondent is the United States of America.

STATEMENT OF RELATED PROCEEDINGS

The proceedings identified below are directly related to the above-captioned case in this Court.

- *United States v. Francisco Soria*, No. 22-cr-00335-MFW-1, U.S. District Court for the Central District of California (Los Angeles). Judgment entered June 4, 2024.
- *United States v. Francisco Soria*, No. 24-3541, U.S. Court of Appeals for the Ninth Circuit. Memorandum Opinion entered September 18, 2025. Petition for Rehearing denied February 2, 2026.

TABLE OF CONTENTS

QUESTION PRESENTED i

PARTIES TO THE PROCEEDING ii

STATEMENT OF RELATED PROCEEDINGS ii

TABLE OF CONTENTS.....iii

TABLE OF AUTHORITIES v

OPINIONS BELOW 1

JURISDICTION..... 1

CONSTITUTIONAL PROVISION INVOLVED 1

INTRODUCTION 1

STATEMENT OF THE CASE..... 3

 1. Course of Conduct 3

 2. District Court Proceedings..... 4

 3. Circuit Court Proceedings..... 4

REASONS FOR GRANTING THE PETITION 6

 A. Every other Court of Appeals to have considered this matter had held that officers may not rely on an overbroad warrant where they are unable to narrow the scope of that warrant 6

 B. The Ninth Circuit’s decision creates a circuit split by holding that officers may rely on an overbroad warrant even where they cannot narrow the scope of that warrant 8

 C. The Ninth Circuit’s decision is wrong 9

CONCLUSION..... 10

INDEX TO APPENDICES

Appendix A: U.S. Court of Appeals Ninth Circuit Opinion Affirming
Conviction and Sentence (September 18, 2025)..... App-1

Appendix B: U.S. District Court Judgment (June 4, 2024)..... App-5

Appendix C: U.S. District Court Order Denying Motion to Suppress
Evidence (March 7, 2024) App-10

Appendix D: U.S. Court of Appeals Ninth Circuit Order Denying Petition
for Rehearing (February 2, 2026) App-13

TABLE OF AUTHORITIES

Cases

Jacobs v. City of Chicago, 215 F.3d 758 (7th Cir. 2000)..... 2, 7-9
Maryland v. Garrison, 480 U.S. 79 (1987)..... 1-3, 5, 7-10
United States v. Crumpton, 824 F.3d 593 (6th Cir. 2016)..... 9
United States v. Higgins, 428 F.2d 232 (7th Cir. 1970) 8
United States v. Ritter, 416 F.3d 256 (3d Cir. 2005) 2, 6-9

Statutes

28 U.S.C. § 1254(1) 1

Constitutional Provisions

U.S. Const. amend. IV 1, 6-10

OPINIONS BELOW

The Ninth Circuit’s opinion is reprinted in the Appendix to the Petition. App-1–4.

JURISDICTION

On September 18, 2025, the United States Court of Appeals for the Ninth Circuit entered its decision affirming the district court’s denials of the petitioner’s motion to suppress and request for an evidentiary hearing. On February 2, 2026, the United States Court of Appeals for the Ninth Circuit entered its order denying the petitioner’s petition for rehearing. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISION INVOLVED

United States Constitution, Amendment IV:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

INTRODUCTION

In *Maryland v. Garrison*, this Court held that law enforcement officers are required to discontinue a search once they realize that a search warrant is overbroad—unless the officers have sufficient information to narrow the scope of the warrant. 480 U.S. 79, 87 (1987).

In *Garrison*, the magistrate had validly issued a warrant for what was understood to be a single apartment spanning the entire third floor of a building—but, while executing the warrant, officers realized the third floor contained two separate apartments. *Id.* at 80. The officers were able to narrow the scope of the warrant only because they determined which unit was the target’s *before* realizing the warrant was overbroad. *Id.* at 88.

This case presents the same situation, but where officers had *not* determined which unit was the target’s at the time they realized the warrant was overbroad. Here, the magistrate validly issued a warrant for what was believed to be a “single-family residence”—but, while executing the warrant, officers realized the residence contained three separate residential subunits. Because the officers knew that Francisco Soria was the target of the warrant, *Garrison* would have permitted them to narrow the scope of the overbroad warrant to Mr. Soria’s residential unit—but the officers did not know which unit was Mr. Soria’s, so *Garrison* compelled them to discontinue their search. They did not. Instead, they continued their search—and it was only by continuing the search that officers (1) determined which unit was Mr. Soria’s and (2) uncovered contraband in Mr. Soria’s unit. Because the search was unlawful, its fruits should have been suppressed.

In analogous cases, both the Third and Seventh Circuits have correctly interpreted *Garrison* to mandate suppression. *See United States v. Ritter*, 416 F.3d 256 (3d Cir. 2005); *Jacobs v. City of Chicago*, 215 F.3d 758 (7th Cir. 2000). Here, the district court denied Mr. Soria’s motion to suppress, and the Ninth Circuit affirmed

that decision. The Ninth Circuit’s holding is incompatible with *Garrison* and creates a split among the federal Courts of Appeal. Mr. Soria calls on this Court to resolve this split.

STATEMENT OF THE CASE

1. Course of Conduct

On May 4, 2020, a California state court magistrate signed a search warrant commanding law enforcement to search 9621 Laurel Street, which was described as a “one-story single-family residence” with a single door facing east. ER-155–58.¹

On May 8, 2020, officers executed the search warrant. ER-97. After breaching the multiple entrances, officers “learned that 9621 Laurel Street consisted of three living spaces[.]” ER-108. At this critical juncture—when the officers executing a search warrant for a “single-family residence” realized the premises in fact contained three separate residences—officers did not know which of the three residences was Mr. Soria’s.²

Despite not knowing which of the three residential subunits was Mr. Soria’s, officers proceeded to search all three units. ER-55. In Mr. Soria’s residence, officers

¹ “ER” refers to the Excerpts of Record filed in the Ninth Circuit and “DE” refers to the Ninth Circuit docket.

² After the government refused to answer direct questions as to how and when officers ultimately determined which unit was Mr. Soria’s, the district court took the government’s refusal “as a tacit admission” that officers determined which unit was Mr. Soria’s only through the subsequent search. ER-80; ER-56. On appeal, the government conceded that, “[a]fter entering the building” and “realiz[ing] there were multiple living areas,” officers “did not know which unit was occupied by [Mr. Soria.]” DE 23.1 at 29.

found the drugs and guns that underpinned the criminal charges in this case. ER-139.

2. District Court Proceedings

On July 22, 2022, Mr. Soria was indicted on federal gun and drug charges. ER-216–42. On February 5, 2024, he sought suppression of the evidence seized from his residence—and requested an evidentiary hearing “to determine precisely what the police knew before, during and after they proceeded with their full-scale search.” ER-133; ER-152.

On March 4, 2024, the district court heard argument on the suppression motion and denied Mr. Soria’s request for an evidentiary hearing. ER-83; ER-57. On March 7, 2024, the district court issued a written order denying the suppression motion. ER-55; App-10–12.

On March 9, 2024, Mr. Soria signed a conditional plea agreement that preserved his right to appeal the district court’s denial of his suppression motion. ER-31–32, 35. On March 11, 2024, Mr. Soria pled guilty to federal gun and drug charges. ER-29. On June 3, 2024, the district court sentenced Mr. Soria to 181 months’ imprisonment. ER-4; ER-21; App-5.

3. Circuit Court Proceedings

On October 30, 2024, Mr. Soria appealed the denial of the suppression motion. DE 15.1. He argued that, from the moment officers realized there were three residential units and did not know which of those three units was Mr. Soria’s, they did not have legal authority to continue their search. DE 15.1 at 14–20.

The government conceded that officers had realized the warrant was overbroad *before* determining which subunit was Mr. Soria's. DE 23.1 at 29. So, the question before the Ninth Circuit did not turn on the facts. Rather, the question was simply: when officers have determined a warrant is overbroad but do not have enough information to narrow the scope of the warrant, may they rely on that warrant?

On September 18, 2025, the Ninth Circuit affirmed the district court's denial of Mr. Soria's suppression motion in a memorandum disposition. DE 50.1; App-1–4. The panel held that “[t]he execution of the warrant as to [Mr.] Soria was also valid,” and “[Mr.] Soria cannot suppress evidence found in his home pursuant to a valid warrant.” DE 50.1 at 3; App-3. The panel cited no authority and did not elaborate further.

On October 1, 2025, Mr. Soria sought panel rehearing or rehearing en banc. DE 51.1. He argued the panel had “overlooked *Garrison*'s holding that, once officers realize a validly issued warrant is overbroad, that warrant is invalid unless it can be lawfully narrowed to the suspect.” DE 51.1 at 5–9. And he argued the panel's decision conflicted with authoritative decisions of the Third and Seventh Circuits. DE 51.1 at 9–12. The Ninth Circuit ordered the government to respond to Mr. Soria's petition for rehearing, DE 52.1, but ultimately denied the petition without explanation, DE 59.1; App-13.

REASONS FOR GRANTING THE PETITION

This case presents an opportunity to resolve a divide between the courts on an important Fourth Amendment issue.

In affirming the denial of Mr. Soria’s suppression motion, the Ninth Circuit entered a decision that conflicts with the decisions of other Courts of Appeal on the important question of whether officers may rely on a warrant they know to be overbroad—even where they have insufficient information to narrow the scope of that warrant.

A. Every other Court of Appeals to have considered this matter had held that officers may not rely on an overbroad warrant where they are unable to narrow the scope of that warrant.

Prior to the Ninth Circuit issuing its decision in this case, both the Third and Seventh Circuit Courts of Appeal had addressed cases in which officers executing a search warrant realized that warrant was overbroad and were unable to narrow the scope of the warrant.

In *United States v. Ritter*, the Third Circuit assessed a case where a validly issued search warrant covered a building believed to contain a single dwelling—but, when officers executed the warrant, they realized the building “was not a single dwelling but, rather, consisted of at least four separate apartments.” 416 F.3d 256, 259–60 (3d Cir. 2005). The government conceded that “once the officers discovered that the house had multiple dwelling units, they could no longer rely on the warrant”—and the Court accordingly held that “once the officers [realized] the error

in what they encountered versus what was authorized by the warrant,” the officers could validly search only “those areas clearly covered by the warrant” as lawfully narrowed based on the information available to the officers at that moment. *Id.* at 266–67 (citing *Garrison*, 480 U.S. at 87).³

In *Jacobs v. City of Chicago*, the Seventh Circuit considered a civil suit alleging officers had violated the plaintiffs’ Fourth Amendment rights. 215 F.3d 758, 763 (7th Cir. 2000). The officers had executed a search warrant at what was believed to be a single-family residence—but realized, while executing the warrant, that the building contained three separate apartments. *Id.* at 764. Not knowing which unit was the suspect’s, the officers searched all three apartments. *Id.* The Seventh Circuit held that the officers had violated the Fourth Amendment because, “[a]t the moment [they] discovered the defect in the description of the place to be searched”— i.e., that the purported single-family residence in fact contained multiple apartments—“they were obligated to cease that search if they could not determine which apartment was properly the subject of the warrant.” *Id.* at 769. The Court discussed *Garrison*, explaining that the search there was deemed lawful only because officers “discovered contraband in Garrison’s apartment *before* becoming aware that there were in fact two apartments on the third floor.” *Id.* at 768 (citing *Garrison*, 480 U.S. at 80–81) (emphasis added).⁴

³ Because the factual record in *Ritter* did not permit the Third Circuit to determine whether the evidence at issue was seized prior to the officers’ realization that the warrant was overbroad, the Court remanded for further factfinding. *Id.* at 267–68.

⁴ The *Jacobs* Court also cited to a prior Seventh Circuit decision that was decided before *Garrison* but that is relevant to the execution of overboard warrants: *United*

As *Ritter* and *Jacobs* demonstrate, courts other than the Ninth Circuit have correctly followed *Garrison*'s holding that a warrant's overbreadth can be cured only where officers have information that allows them to narrow the scope of the warrant. Where officers lack such information, there can be no narrowing of the warrant. And in such cases, the warrant's overbreadth cannot be cured—meaning the warrant cannot authorize the entry and search of residences not known to be the suspect's, regardless of whether they turn out to be the suspect's.

B. The Ninth Circuit's decision creates a circuit split by holding that officers may rely on an overbroad warrant even where they cannot narrow the scope of that warrant.

Prior to the Ninth Circuit's decision in this case, no court had held that officers may rely on a warrant they know to be overbroad if they cannot narrow the scope of that warrant.

This case presented that question to the Ninth Circuit. It was uncontested that the warrant was overbroad (even if valid when issued) and that officers realized the warrant's overbreadth *before* determining which unit was Mr. Soria's. Against these facts, the Ninth Circuit held that the Fourth Amendment permitted the officers to continue their search in reliance on the search warrant they knew to be overbroad—

States v. Higgins, 428 F.2d 232 (7th Cir. 1970). There, the Seventh Circuit held “that a search was unconstitutional where the officers executed an overbroad warrant, which failed to indicate which of three apartments located in the basement of an apartment building was to be searched, by searching all of the apartments until they found the one they were looking for.” *Id.* at 234–35. Notably, in *Higgins*, the defendant was the target of the warrant—and the Court still ordered suppression.

and which they had not narrowed. DE 50.1 at 3; App-3.

This approach is in direct conflict with *Ritter* and *Jacobs*, creating a split between the Courts on this important Fourth Amendment question.

C. The Ninth Circuit’s decision is wrong.

The Ninth Circuit was wrong to create a circuit split by holding that officers may rely on an overbroad warrant even where they cannot narrow the scope of that warrant.

Garrison made clear that assessing the execution of the search warrant following a realization of overbreadth is not as simple as saying the search was “pursuant to a valid search warrant.” Rather, once officers realize that a warrant is overbroad, and where officers do not know which residence is the suspect’s (where there is “risk that they might be in a unit erroneously included within the terms of the warrant”), they are “required to discontinue the search[.]” 480 U.S. at 87. (Alternatively, where officers have already determined which residence is the suspect’s by the time they realize the warrant is overbroad, they may narrow the scope of the warrant and “limit their search” to the suspect’s residence. *Id.* at 86.) The Sixth Circuit has properly summarized *Garrison*’s central holding as: “[L]aw enforcement officers are required to discontinue a search as soon as they discover that a location is in fact subdivided into separate dwelling units, especially if it is unclear which unit belongs to the subject of the warrant.” *United States v. Crumpton*, 824 F.3d 593, 614 (6th Cir. 2016) (quoting *Garrison*, 480 U.S. at 87 (cleaned up)) (emphasis added). In short, when officers realize a warrant is overbroad but have not

yet determined which of multiple residences is the suspect's, they do not have sufficient information to "limit their search"—so they must "discontinue the search."

While the *Garrison* Court denied suppression, this was because officers had not realized the overbreadth of the warrant until after they had already determined which residence was the suspect's, at which point the officers properly limited their search to the suspect's residence. 480 U.S. at 88. The Court was careful to flag that it would be different in a case such as Mr. Soria's—i.e., a case "in which the police know there are two apartments on a certain floor of a building, and have probable cause to believe that drugs are being sold out of that floor, but do not know in which of the two apartments the illegal transactions are taking place." *Id.* at 88 n.13.

The Ninth Circuit was presented with this scenario in this case, and it should have followed the Third and Seventh Circuits in holding that officers may not rely on an overbroad warrant unless they can narrow the scope of that warrant. By holding otherwise, the Ninth Circuit ignored the clear teaching of *Garrison* (which it did not address) and created a circuit split that this Court should resolve.

CONCLUSION

The right of the people against unreasonable searches and seizures is enshrined in the Fourth Amendment and fundamental to our system of justice. Because the Ninth Circuit's decision contravenes this core constitutional principle and creates a divide between the courts, Mr. Soria respectfully asks the Court to issue a writ of certiorari..

Date: March 31, 2026

Respectfully Submitted,

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