No. _____

In the Supreme Court of the United States

Triston Steinman,

Petitioner,

v.

United States of America,

Respondent.

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

Petition for Writ of Certiorari

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Questions Presented

1. Did the Ninth Circuit's reversal of the district court's suppression ruling violate the party presentation principle, because the court reached a dispositive issue the government waived on appeal and applied a legal theory the government disclaimed in the district court?

2. Whether the Fourth Amendment allows the police to prolong a traffic stop by asking investigatory questions for a *de minimis* period, notwithstanding *Rodriguez v. United States*, 575 U.S. 348 (2015)?

List of Parties

Triston Steinman is the petitioner. The United States of America is the respondent. No party is a corporate entity.

Related Proceedings

The prior proceedings in this case are:

United States v. *Steinman*, Case No. 23-1703 (9th Cir.) (amended opinion entered November 13, 2025).

United States v. *Steinman*, Case No. 3:22-cr-68-ART-CLB (D. Nev.) (oral suppression order entered July 13, 2023).

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Petition for Writ of Certiorari

Petitioner Triston Steinman respectfully requests this Court issue a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

Opinions Below

The Ninth Circuit issued a published amended opinion reversing the district court's suppression ruling. Pet. App. 4-54. The amended opinion is reported at 159 F.4th 550. The district court entered an oral ruling granting suppression. Pet. App. 205-18. The oral ruling is unreported.

Jurisdiction

The district court had jurisdiction under 18 U.S.C. § 3231. The Ninth Circuit issued an amended opinion reversing the district court's suppression ruling on November 13, 2025. Pet. App. 4-54. It denied a timely rehearing petition on January 21, 2026. Pet. App. 2. Mr. Steinman is timely filing this petition. See Sup. Ct. R. 13.1, 13.3. Mr. Steinman is seeking to invoke this Court's jurisdiction under 28 U.S.C. § 1254(1).

Constitutional and Statutory Provisions

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, 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

The two questions presented implicate significant issues, both of which warrant this Court's review.

First, the decision below misapplies the party presentation principle. The defense sought to suppress evidence for three independent reasons. The district court ordered suppression based on all three. The government appealed, but its opening brief failed to address the third ground, and its reply brief maintained the district court never rendered a decision on that ground—"a surprising and unpersuasive contention in light of the clarity of the district court's oral ruling." Pet. App. 46 n.11. The Ninth Circuit correctly concluded the government "waived any challenge to" that issue. Pet. App. 46. Yet the court revived the waived issue anyway and reversed, based on a legal theory the government disclaimed in the district court. This mode of analysis severely violates the party presentation principle. See, e.g., *Clark* v. *Sweeney*, 607 U.S. 7 (2025) (per curiam). This Court should summarily reverse.

Second, this Court should grant certiorari and set this case for merits briefing and argument based on the Ninth Circuit's prolongation ruling: a holding that resolves a frequently recurring and consequential Fourth Amendment issue that impacts drivers every day. The court concluded that when officers conduct traffic stops, they may ask investigatory questions while purporting to work on citations, because officers aren't "required to sit in stony silence like schoolchildren taking an exam." Pet. App. 24. This rule is a *de minimis* exception by another name: officers may ask *de minimis* investigatory questions while supposedly working on a ticket.

But this Court has already foreclosed even "*de minimis* intrusion[s] on [a driver's] Fourth Amendment rights." *Rodriguez* v. *United States*, 575 U.S. 348, 353 (2015). Lower courts are deeply divided over whether *Rodriguez* means what it says, with five courts enforcing *Rodriguez* and ten courts applying a *de minimis* rule in name or substance. This Court should grant certiorari.

Statement of the Case

1. A Nevada state trooper, William Boyer, pulled over Mr. Steinman for speeding in August 2022. As the trooper approached Mr. Steinman's car, he noticed an ammunition box in the front passenger footwell. Mr. Steinman admitted he had ammunition in the car but denied having guns. The trooper ordered Mr. Steinman to exit his car and sit in the front passenger seat of the patrol car. After Mr. Steinman gave the trooper his insurance information, the trooper started the process of preparing a ticket.

While the ticket was pending, Trooper Boyer asked Mr. Steinman an initial set of questions occupying over 30 seconds. The topics were how long Mr. Steinman had lived in Washington state, whether this was his first time returning to Utah (where he had previously lived and was moving), and the route he took when he originally moved to Washington.

Trooper Boyer asked dispatch to perform a criminal history check. While waiting for the check, and with the ticket still pending, the trooper asked Mr. Steinman a second set of questions— travel plan questions, as well as a question about Mr. Steinman's employment—occupying roughly a minute.

Trooper Boyer received the results of the criminal history check. While reviewing the results, and again with the ticket still pending, the trooper asked Mr. Steinman a third set of questions occupying roughly 25 seconds. The topics were whether Mr. Steinman grew up in Washington and once again about his employment in Washington. The criminal history check appeared to indicate at least one prior felony conviction.

Between when Trooper Boyer received all the necessary citation-related documentation from Mr. Steinman and when the trooper finished reviewing the criminal history check, the trooper asked three sets of off-mission or travel plan questions totaling nearly two minutes.

The off-mission questions continued until a sergeant arrived at the scene. At that point, Trooper Boyer unsuccessfully asked for consent to search Mr. Steinman's car. The trooper then called multiple people, including a lay justice of the peace, to ask whether he had probable cause to search. The trooper elected instead to seize the car and submit a search warrant application. He printed the traffic citation and gave it to Mr. Steinman nearly 50 minutes into the stop. He ended the stop by returning Mr. Steinman's documentation after a total of about 90 minutes.

Trooper Boyer submitted a search warrant application relying on a suspected state firearm possession offense. The application sought authority to search for multiple items—stolen property, controlled substances, and paraphernalia—that were unrelated to the asserted firearm-related basis for the search. The police received the approved search warrant, executed it, and discovered various contraband, including ammunition and alleged silencers.

2. A federal grand jury indicted Mr. Steinman on one count of prohibited person in possession of ammunition under 18 U.S.C. § 922(g)(1) and one count of possession of unregistered firearms (alleged silencers) under 26 U.S.C. § 5861(d).

The defense filed a motion to suppress the ammunition and silencers. The motion presented three independent Fourth Amendment arguments. First, Trooper Boyer unconstitutionally prolonged the stop. Second, Trooper Boyer lacked probable cause to seize the car because there was insufficient reason to believe Mr. Steinman was violating the state law crime of prohibited person in possession of a firearm; unlike federal law, Nevada law doesn't extend its criminal prohibition to mere ammunition. Third, the search warrant was unconstitutionally overbroad because it sought permission to search for stolen property, controlled substances, and paraphernalia, items unrelated to the scope of the firearms investigation.

The district court held an evidentiary hearing on the motion and entertained oral argument immediately after. During argument, the district court asked the government whether the defense's warrant-overbreadth theory was "irrelevant" "if probable cause exists," i.e., if the police could've hypothetically conducted a warrantless search under the automobile exception. Pet. App. 183. The government responded, "No." Pet. App. 183. It conceded the police "wouldn't have searched this car without a warrant." Pet. App. 183. It expressed concern about "penaliz[ing]" officers who elect to get a "warrant," and it observed that, "technically, they could have still searched the vehicle," but it concluded, "I don't know that they would have." Pet. App. 184. The district court attempted to clarify: "I'm trying to figure out if I even need to address the defective warrant because if

you have probable cause, I'm done." Pet. App. 184. The government neglected to endorse that theory. Rather, it maintained suppression was inappropriate because "there was probable cause for the warrant," the overbroad portions could be "severed," and the police "executed" the warrant "in good faith." Pet. App. 185.

After a recess, the district court entered an oral ruling granting the motion to suppress. It provided three bases. First, the trooper "unreasonably prolonged" the stop in part "by the detailed questioning of Mr. Steinman, which . . . distracted from Trooper Boyer's ability to actually verify his information and complete and then issue the citation." Pet. App. 207. The trooper was "slow playing . . . the citation process," which "was slowed down significantly by the questioning" (among other things). Pet. App. 208. Second, "[t]here was no probable cause to seize the vehicle." Pet. App. 214. Third, "the search warrant was impermissibly overbroad in violation of constitutional safeguards." Pet. App. 215. The district court made it "clear" it was "suppressing on multiple independent grounds." Pet. App. 217.

3. The government appealed the suppression ruling. In its opening brief, the government disputed the prolongation and probable cause rulings yet said nothing about overbreadth, the third basis for the district court's suppression order. The defense's answering brief noted the omission and maintained the government had waived or forfeited a challenge to overbreadth as a basis for suppression. The government's reply brief alleged the district court didn't, in fact, order suppression based on overbreadth; it also asserted any such overbreadth ruling would've been an erroneous reason to suppress. At oral argument in the Ninth Circuit, the

defense stressed the government had waived a challenge to overbreadth. The panel solicited supplemental briefing on the overbreadth issue.

The panel issued a published opinion reversing the district court. First, it concluded Trooper Boyer didn't prolong the stop, despite asking investigatory questions while he supposed to be working on the ticket, because officers aren't "required to sit in stony silence like schoolchildren taking an exam during the process of filling out a traffic citation." Pet. App. 24. Second, it concluded a state officer may cross-enforce federal law and conduct a search or seizure based on suspected conduct that violates federal but not state law. It therefore found Trooper Boyer had probable cause for the seizure based on his suspicion that Mr. Steinman was a prohibited person unlawfully in possession of ammunition under federal (but not state) law. It alternatively found the trooper had probable cause to believe Mr. Steinman was unlawfully possessing a firearm under state law. Third, while the panel agreed the government had "waived any challenge to overbreadth," Pet. App. 46, it nevertheless reversed the district court's decision to suppress based on overbreadth. Judge Wu authored a separate concurring opinion discussing problems with the panel's cross-enforcement holding, which "rests on doubtful assumptions and thrusts Fourth Amendment jurisprudence into a precarious position with no clear limiting principles." Pet. App. 51.

The defense timely sought rehearing. The panel issued an amended published opinion tempering its cross-enforcement ruling. Judge Wu's concurrence remained materially identical. The defense timely sought rehearing again, which the Ninth Circuit denied.

Reasons for Granting the Petition

I. This Court should summarily reverse because the Ninth Circuit severely violated the party presentation principle.

Earlier this Term, this Court summarily reversed the Fourth Circuit because it granted post-conviction relief in violation of the party presentation principle. *Clark* v. *Sweeney*, 607 U.S. 7 (2025) (per curiam). Five years earlier, this Court reversed the Ninth Circuit for similar reasons. *United States* v. *Sineneng-Smith*, 590 U.S. 371 (2020). The Ninth Circuit has yet again violated the party presentation principle. This Court should summarily reverse.

In *Sweeney*, a juror investigated the crime scene and discussed the visit with other jurors. The parties agreed to dismiss the offending juror, and the case proceeded to deliberations with only 11 jurors. The defendant was convicted and sought post-conviction relief, arguing trial counsel was ineffective for not seeking to *voir dire* the remaining 11 jurors. The Fourth Circuit ordered relief after concluding the defendant was deprived of his rights to confrontation and an impartial jury.

This Court summarily reversed. "In our adversarial system of adjudication, we follow the principle of party presentation." *Sweeney*, 607 U.S. at 9 (cleaned up). "The parties frame the issues for decision, while the court serves as neutral arbiter of matters the parties present." *Ibid.* (cleaned up). "To put it plainly, courts call balls and strikes; they don't get a turn at bat." *Ibid.* (cleaned up). "The Fourth Circuit transgressed the party-presentation principle by granting relief on a claim that Sweeney never asserted and that the State never had the chance to address."

Ibid. "Sweeney asserted one, and only one, claim in his federal habeas petition": an ineffectiveness claim regarding "whether other jurors had been prejudiced by [the] crime-scene visit." *Ibid.* "Instead of ruling on that claim, the Fourth Circuit devised a new one." *Ibid.* "The Fourth Circuit's radical transformation of Sweeney's . . . claim departed so drastically from the principle of party presentation as to constitute an abuse of discretion." *Id.* at 10 (cleaned up).

Sineneng-Smith is similar. There, the defendant allegedly gave paid immigration advice to noncitizens and encouraged them to seek lawful status under a program that expired years earlier. In the district court and on appeal, the defense asserted various challenges to the prosecution, including a free speech claim. "Instead of adjudicating the case presented by the parties," the Ninth Circuit asked amici curiae to brief additional questions, including a potential First Amendment overbreadth challenge, which it found meritorious. 590 U.S. at 374.

This Court reversed. "[A]s a general rule, our system is designed around the premise that parties represented by competent counsel know what is best for them, and are responsible for advancing the facts and argument entitling them to relief." *Sineneng-Smith*, 590 U.S. at 375-76 (cleaned up). Courts "do not, or should not, sally forth each day looking for wrongs to right. They wait for cases to come to them, and when cases arise, courts normally decide only questions presented by the parties." *Id.* at 376 (cleaned up). The Ninth Circuit violated these principles. "Electing not to address the party-presented controversy," the court adopted a new theory to support the defense, which had "presented a contrary theory of the case in the District Court." *Id.* at 379-80. Although the defense ultimately adopted the

"argument suggested by the panel [on appeal] . . . [its] own arguments, differently directed, fell by the wayside." *Id.* at 379. "[T]he Ninth Circuit's radical transformation of this case goes well beyond the pale." *Id.* at 380. This Court "remand[ed] the case for reconsideration shorn of the overbreadth inquiry interjected by the appellate panel and bearing a fair resemblance to the case shaped by the parties." *Ibid.*; see also, e.g., *Wood* v. *Milyard*, 566 U.S. 463, 472-73 (2012) ("It would be an abuse of discretion . . . for a court to override a . . . deliberate waiver.") (cleaned up); *Greenlaw* v. *United States*, 554 U.S. 237, 243 (2008) ("[W]e follow the principle of party presentation.").

The decision below violates the party presentation principle at least twice over. First, the Ninth Circuit elected to rule—and reverse—on an issue the government explicitly waived. The government's opening brief "asserted [two], and only [two], claim[s]": challenges to the district court's rulings on prolongation and probable cause. *Sweeney*, 607 U.S. at 9. Yet the brief declined to address the overbreadth ruling. After the defense's answering brief noted the omission, the government's reply brief asserted that, actually, the district court never ruled on overbreadth—a position the Ninth Circuit described as "a surprising and unpersuasive contention in light of the clarity of the district court's oral ruling." Pet. App. 46 n.11. The court rightly concluded the government affirmatively "waived any challenge to overbreadth." Pet. App. 46. Yet the court reversed the district court's decision to order suppression based on the waived overbreadth issue. It was "an abuse of discretion" for the Ninth Circuit "to override" the government's "deliberate waiver" and revive the waived overbreadth issue, the existence of which

the government expressly denied. *Wood*, 566 U.S. at 472-73 (cleaned up). The court's "radical transformation" of the appeal violated "the principle of party presentation." *Sweeney*, 607 U.S. at 10 (cleaned up). This Court should "remand the case for reconsideration shorn of the overbreadth inquiry interjected by the appellate panel." *Sineneng-Smith*, 590 U.S. at 380.

Second, the decision below adopts a legal theory the government abandoned in the district court. The Ninth Circuit concluded the warrant, while overbroad, didn't require suppression because the police could've hypothetically searched the car without a warrant based on the automobile exception. But the government disclaimed that position in the district court. During oral argument immediately after the suppression hearing, the district court asked the government whether the defense's warrant-overbreadth argument was "irrelevant" "if probable cause exists." Pet. App. 183. The government responded, "No." Pet. App. 183. The district court sought to clarify: "I'm trying to figure out if I even need to address the defective warrant because if you have probable cause, I'm done." Pet. App. 184. The government neglected to endorse that theory. Then, after the government waived the overbreadth issue wholesale on appeal, the court revived the waived issue and reversed the district court—adopting precisely the legal theory that the district court proposed, and the government refused to adopt, in the first instance. In other words, the court invented a new legal theory to support the government, even though the government "presented a contrary theory of the case in the District Court." *Sineneng-Smith*, 590 U.S. at 380. This Court should summarily reverse the Ninth Circuit's egregious party-presentation error.

II. The Court should grant certiorari to enforce *Rodriguez*, which rejected a *de minimis* exception to prolongation.

The police cannot extend a traffic stop to conduct an unrelated investigation unless the police have reasonable suspicion of another offense. As this Court has clarified, the prohibition on prolongation applies even if the extension is *de minimis*. Yet the lower courts remain deeply divided over whether a *de minimis* exception exists, either in name or substance. This Court should grant certiorari and review this highly consequential issue.

Traffic stops raise Fourth Amendment concerns. "A seizure for a traffic violation justifies a police investigation of that violation," but the scope of the detention remains limited. *Rodriguez* v. *United States*, 575 U.S. 348, 354 (2015). "[T]he tolerable duration of police inquiries in the traffic-stop context is determined by the seizure's 'mission'—to address the traffic violation that warranted the stop, and attend to related safety concerns." *Ibid.* (cleaned up). "Because addressing the infraction is the purpose of the stop, it may last no longer than is necessary to effectuate that purpose." *Ibid.* (cleaned up). "A traffic stop can become unlawful if it is prolonged beyond the time reasonably required to complete the mission of issuing a warning ticket." *Id.* at 354-55 (cleaned up). "The seizure remains lawful only so long as unrelated inquiries do not measurably extend the duration of the stop." *Id.* at 355 (cleaned up). If the police seek to prolong the stop for investigatory reasons unrelated to the stop's mission, the police need "reasonable suspicion" of an independent offense. *Id.* at 355.

In *Rodriguez*, the police extended a stop for about eight minutes to allow a drug dog to conduct a sniff. The Eighth Circuit approved the extension by adopting a "*de minimis* rule," which would allow the police to prolong stops for investigatory purposes if the duration is sufficiently brief. 575 U.S. at 356. This Court rejected the rule. While the police may perform certain *de minimis* intrusions that promote officer safety, the same rationale doesn't extend to the police's "general interest in criminal enforcement." *Ibid.* So long as an investigatory task "'prolongs,'—*i.e.*, adds time to—'the stop,'" the prolongation is unconstitutional, regardless of its length. *Id.* at 357.

Although *Rodriguez* expressly rejects a *de minimis* rule, the circuit courts of appeals and state courts of last resort widely disagree about whether such a rule survives *Rodriguez*. This case is an appropriate opportunity to resolve this important issue and reaffirm *Rodriguez*.

A. Lower courts are deeply divided over whether a *de minimis* exception survives *Rodriguez*.

1. At least five courts of appeals or state courts of last resort have held, post-*Rodriguez*, that officers may not extend a stop to pursue investigatory questioning or tasks, even if the extension is brief.

The Fourth Circuit. In *United States* v. *Martin*, __ F.4th __, 2026 WL 1041869 (4th Cir. 2026), an officer asked the driver whether there was a firearm in the car, where it was located, and whether there was anything else in the car. Those "questions were not reasonably related in scope to the purpose of the stop and were instead focused on investigating unrelated criminal activity." *Id.* at *4. The

court distinguished a prior post-*Rodriguez* precedent, which allowed an officer to ask a single question about whether there was anything illegal in the car; given the facts of that prior case, the single question was a permissible officer safety measure, but in *Martin*, there were "no facts" suggesting the officer "needed to know more about what" was "in the car." *Id.* at *5 (cleaned up). Thus, in the Fourth Circuit, officers may not ask *de minimis* investigatory questions, unless the officer poses only a single question under appropriate safety-related circumstances.

The Eleventh Circuit. In *United States* v. *Campbell*, 26 F.4th 860 (11th Cir. 2022) (en banc), an officer asked the driver questions about various topics, including whether he had contraband in the car. The court concluded the questions were investigatory and prolonged the stop. *Rodriguez* "rejected the Eighth Circuit's *de minimis* rule, under which minor extensions of seizures were tolerated." *Id.* at 884. The officer's inquiries were "precisely the type of questions *Rodriguez* prohibits" and "extended the stop by approximately twenty-five seconds." *Id.* at 885.

The Idaho Supreme Court. In *State* v. *Karst*, 509 P.3d 1148 (Idaho 2022) (en banc), the officer spent 19 seconds while walking back to his car requesting a dog sniff over the phone. "Although the deviation was slight," the prolongation was nevertheless unlawful. *Id.* at 1151; see also *State* v. *Riley*, 514 P.3d 982, 988-89 (Idaho 2022) (discussing *Karst*).

The Iowa Supreme Court. In *State* v. *Salcedo*, 935 N.W.2d 572 (Iowa 2019), the officer asked the driver to sit in his patrol car and spent about six minutes reviewing the driver's rental agreement. This review was "a stalling tactic to keep the conversation going until a drug dog arrived"; the officer didn't attempt to

"check" the driver's "identifying documents" or "prepare a traffic citation or warning." *Id.* at 580. In other words, if an officer fails to diligently prepare a citation and instead stalls for time, the delay amounts to prolongation. See also *In re Pardee*, 872 N.W.2d 384, 396 (Iowa 2015) (concluding the officer was "blending" his preparation of the citation with investigatory questions).

The Montana Supreme Court. In *State* v. *Noli*, 529 P.3d 813 (Mont. 2023), the court rejected an argument that "unrelated patrol car questioning" is permissible "as long as it does not substantially prolong the duration or completion of the purpose of the initial lawful stop." *Id.* at 841. It distinguished the "extensive questioning" in *Noli* from a prior precedent allowing the police to ask "a single incidental question about an unrelated matter," or to seek "consent to conduct an unrelated search." *Id.* (cleaned up). Thus, in Montana as in the Fourth Circuit, the *de minimis* exception appears to extend only to a single investigatory question or request; lengthier prolongations are impermissible.

2. At least ten other circuit courts of appeals or state courts of last resort—including the court of appeals below—disagree and allow de minimis periods of investigatory questioning or tasks. Those courts adopt various theories to approve the extensions, but the practical result is the same: approval of *de minimis* prolongation.

The Third Circuit. In *United States* v. *Ross*, 151 F.4th 487 (3d Cir. 2025), an officer complemented the driver's luxury watch and asked the driver where he worked. The defense argued the question about where the driver worked was investigatory and prolonged the stop. The Third Circuit disagreed. It quoted the

opinion below, suggesting officers need not "behave like robotic 'automatons' or" operate in "'stony silence' on the side of the road." *Id.* at 496. While the officer's question "could be viewed as a lead-in to an unconstitutional fishing expedition," it could also be interpreted as a permissible attempt to defuse "objectively reasonable safety concerns." *Id.* at 500 (cleaned up). The interaction "was negligibly burdensome," and negligibly burdensome investigatory exchanges might not "measurably extend[] [a] stop" under *Rodriguez*, although the court didn't "decide" that issue. *Id.* at 502 & n.10. In other words, in the Third Circuit, an officer may ask *de minimis* investigatory questions as negligibly burdensome officer safety measures, or perhaps because negligently burdensome (i.e., *de minimis*) investigatory inquiries don't measurably extend a stop.[1]

The Sixth Circuit. In *United States* v. *Santos*, 161 F.4th 1007 (6th Cir. 2025), the trooper asked forty seconds of questions about whether the driver had weapons, drugs, heroin, or meth in the car. Those questions—even the ones about drugs—"helped ensure officer safety," so the "forty seconds' worth of questions . . . did not unreasonably prolong the stop." *Id.* at 1011-12.

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[1] *Ross* creates tension with the Third Circuit's prior precedent, which interprets *Rodriguez* faithfully. Compare *Ross*, 151 F.4th at 499-502, with *United States* v. *Hurtt*, 31 F.4th 152, 163 (3d Cir. 2022) (emphasizing that "*Rodriguez* clearly forecloses" an argument that "off-mission conduct was *de minimis*" and therefore "permissible"), and *United States v. Garner*, 961 F.3d 264, 271 (3d Cir. 2020) (suggesting that questions about a driver's "employment, family, criminal history, and other conduct unrelated to the traffic stop" could prolong a stop), and *United States* v. *Clark*, 902 F.3d 404, 410 n.4 (3d Cir. 2018) ("The Government's argument that the brevity (20 seconds) of the criminal history questioning [was permissible] fails given the Supreme Court's explicit rejection of a *de minimis* exception in *Rodriguez*.").

The Seventh Circuit. In *United States* v. *Gholston*, 1 F.4th 492 (7th Cir. 2021), the officer purported to work on a traffic citation while messaging other individuals to arrange a dog sniff. The defense argued the messaging distracted the officer from "diligently working on the ticket." *Id.* at 497. The court rejected the argument. *Ibid.*; see also, e.g., *United States* v. *Devalois*, 128 F.4th 894, 899-900 (7th Cir. 2025) (concluding an officer may ask "questions . . . unrelated to the traffic stop" if the officer is "still actively preparing the warning ticket"). Judge Hamilton dissented and emphasized *Rodriguez*'s holding "that lower courts may not shrug off delays as 'de minimis' when the subject is being detained against his will." *Gholston*, 1 F.4th at 499.

The Eighth Circuit. In *United States* v. *Puckett*, 139 F.4th 730 (8th Cir. 2025), the trooper requested consent to search and asked investigatory questions, including about whether the driver had ever been arrested and whether he had contraband in the car. The "20 seconds of questioning and request for consent" didn't "prolong the stop" because "[t]he brief duration of the inquiry [fell] within the reasonable period of the traffic stop's original purpose." *Id.* at 739. Judges Grasz and Kelly voted to grant rehearing en banc. Judge Grasz authored a dissental, noting the panel's analysis was inconsistent "with the Supreme Court's clearly-stated test in *Rodriguez*." 146 F.4th 690, 692 (8th Cir. 2025).

The Ninth Circuit. In the decision below, the court concluded Trooper Boyer's investigatory questioning didn't amount to unconstitutional prolongation. The court was "unpersuaded" by the argument "that simultaneous questioning or discussion inherently slows down the citation-writing process—and thus extends

traffic stops—because it is distracting and reduces the capacity of officers to work diligently." Pet. App. 23-24. "Police officers are not automatons required to work with the maximum possible efficiency at all costs." Pet. App. 24. "Nor are they required to sit in stony silence like schoolchildren taking an exam during the process of filling out a traffic citation." Pet. App. 24. In other words, an officer may ask *de minimis* investigatory questions while the traffic citation is pending because "officers are not automatons" and need not act like "schoolchildren." Pet. App. 24.

The Tenth Circuit. In *United States* v. *Cortez*, 965 F.3d 827 (10th Cir. 2020), an officer asked the driver where she was working, who she was staying with, and what her boyfriend did for a living. Those questions were "permissible as the type of 'negligibly burdensome' inquiries directed at ensuring officer safety." *Id.* at 839.[2]

The Supreme Court of Colorado. In *People* v. *Chavez-Barragan*, 379 P.3d 330 (Colo. 2016) (en banc), the court rejected "a bright-line rule deeming every seizure unreasonable when questions unrelated to the stop's initial purpose extend a detention for any amount of time." *Id.* at 337.

The Supreme Court of Kansas. In *State* v. *Schooler*, 419 P.3d 1164 (Kan. 2018), the officer had the driver sit in the patrol car and "continued questioning" the driver "while reviewing [the] driver's license and rental documents and entering information into [a] mobile data terminal." *Id.* at 1169. There was no prolongation

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[2] As in the Third Circuit, the Tenth Circuit's decision in *Cortez* creates tension with the court's prior precedent, which interprets *Rodriguez* faithfully. See *United States* v. *Frazier*, 30 F.4th 1165, 1171-74 (10th Cir. 2022) ("[E]ach minute that the trooper spent arranging the dog sniff was time the citation-related tasks went unaddressed.").

because the officer "was continuously engaged with [the driver] as the officer processed the traffic stop while trying to satisfy his suspicions about the conflicts in what he was observing and being told." *Id.* at 1176.

The Supreme Court of North Dakota. In *State* v. *Vetter*, 927 N.W.2d 435 (N.D. 2019), the officer asked the driver whether there was anything illegal in the car. The extension was permissible, even if the "16 seconds" spent on the investigatory interaction "were not strictly necessary for the officer to complete the traffic stop." *Id.* at 443.

The Supreme Court of Wisconsin. In *State* v. *Wright*, 926 N.W.2d 157, 166 (Wis. 2019), the officer asked the driver if he had a permit for a concealed carry weapon. Even if the question did in fact take "some amount of time to ask," that amount was "de minimis and virtually incapable of measurement." *Id.* at 166 (cleaned up).

3. The lower courts acknowledge their disagreement about whether some form of *de minimis* exception survives *Rodriguez*. In *United States* v. *Green*, 897 F.3d 173 (3d Cir. 2018), the court explained, "In several recent decisions, our sister Circuits have adopted starkly divergent interpretations of *Rodriguez*." *Id.* at 180. "Several have applied *Rodriguez*'s language quite rigidly, holding that any diversion from a stop's traffic-based mission is unlawful absent reasonable suspicion." *Id.* at 180-81. "Other Circuits have applied *Rodriguez* more leniently, evaluating police actions by something more akin to a reasonableness standard." *Id.* at 181. "As these examples demonstrate, [*Illinois* v. *Caballes*, 543 U.S. 405 (2005),] and *Rodriguez* are difficult to apply beyond their facts, which has resulted in

inconsistent application in the lower courts." *Ibid.* Likewise, in *Puckett*, Judge Grasz observed that the panel's rule—which revived the *de minimis* exception—"appears to conflict with a majority of all the other circuits." 146 F.4th at 691. Other judges have authored similar statements. See *United States* v. *Baker*, 108 F.4th 1241, 1252 (10th Cir. 2024) (Federico, J., dissenting) ("Our court has expressed the confused state of Supreme Court and Tenth Circuit precedent on the question of when a traffic stop is unreasonably prolonged . . . . *Rodriguez* . . . [can be] difficult to apply.") (cleaned up). As these examples illustrate, lower courts recognize their standards diverge, and they need further guidance from this Court to harmonize the law.

4. In sum, at least five circuit courts of appeals or state courts of last resort apply *Rodriguez* according to its terms: if multiple investigatory questions measurably extend a stop, the questions amount to prolongation, even if the extension is *de minimis*. Had the stop in this case occurred in the Fourth Circuit or Eleventh Circuit, or had it led to criminal prosecution by the states of Idaho, Iowa, or Montana, the district court's suppression order would've been upheld. By contrast, at least ten courts, including the court of appeals below, allow such investigatory questioning. Those courts rely on various theories: the investigatory extensions are *de minimis*; they qualify as negligibly burdensome officer safety measures; or officers simply need not sit in silence as they work to complete a traffic citation. Regardless of the precise reasoning, the practical outcome is the same: investigatory questions are permissible so long as they extend the stop for only a *de minimis* period. This Court should grant review to resolve the disagreement.

B. The question presented is important, and this case presents a clean vehicle.

1. The question presented is important. Traffic stops are a recurring feature of American life. "In 2020, an estimated 21% of U.S. residents age 16 or older (about 53.8 million persons) reported experiencing contact with police during the past 12 months." Susannah N. Tapp and Elizabeth J. Davis, *Contacts Between Police and the Public, 2020*, U.S. Dep't of Just., Bureau of Just. Stat. at 1 (November 2022).[3] Of those contacts, nearly 40% (over 21 million persons) occurred during traffic stops. *Id.* at 2 (including drivers and passengers); *see also* "Pretextual Traffic Stops," Policing Project, NYU School of Law[4] ("Police officers in the United States make more than 20 million traffic stops each year."). Traffic infractions are common, so police have wide leeway to initiate stops. See *United States* v. *Cole*, 21 F.4th 421, 436 (7th Cir. 2021) (en banc) (Hamilton, J., dissenting) ("[P]olice officers [have] the power to stop nearly any vehicle if they watch it for more than a few minutes."). This Court's jurisprudence regarding traffic stops is therefore a highly consequential area of law that affects large swaths of the population every year, indeed every day.

Traffic stops give rise to myriad federal and state prosecutions every year, and lower courts frequently wrestle with suppression motions raising prolongation arguments. Over the past decade, lower federal and state courts have cited

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[3] Available at https://bjs.ojp.gov/media/document/cbpp20.pdf.

[4] Available at https://www.policingproject.org/pretextual-traffic.

Rodriguez over 3,800 times, including in roughly 381 published decisions by federal courts of appeals and state courts of last resort.[5] This Court has repeatedly granted certiorari in cases involving roadside detention, including, among others, *Rodriguez*; *Arizona* v. *Johnson*, 555 U.S. 323 (2009); and *Illinois* v. *Caballes*, 543 U.S. 405 (2005). Prolongation issues continue to deserve this Court's attention.

The disagreement among the lower courts negatively impacts drivers, police officers, and courts themselves. *Rodriguez* provides a clear, easily administrable rule that all stakeholders can understand: if investigatory questioning measurably extends the length of a traffic stop—even if the extension is *de minimis*—then a Fourth Amendment violation occurs, unless the officer has independent reasonable suspicion that justifies the investigatory detour. Under a plain application of that rule, the bottom line is simple: officers know they cannot ask off-mission investigatory questions without reasonable suspicion. But if a lower court has endorsed a *de minimis* rule anyway in name or substance, then the governing standard in the jurisdiction is unclear. Exactly how short must an investigatory exchange be to qualify as *de minimis*? Precisely what types of investigatory questions can be recast as innocuous exchanges aimed at promoting officer safety? Where is the line between improper investigatory questions, and similar queries posed by an officer who simply finds silence awkward? This Court should dispel the confusion and provide much-needed guidance to police, civilians, and trial judges conducting suppression hearings.

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[5] This figure was generated through the "Citing References" feature in Westlaw for *Rodriguez*, filtered by jurisdiction and reported status.

2. This case presents a clean vehicle for resolving the question. In the district court, the defense sought suppression on three grounds—prolongation, probable cause, and overbreadth—each of which was independently sufficient. The case proceeded to a suppression hearing, which featured extensive testimony from Trooper Boyer. The district court granted suppression for all three reasons, including "prolong[ation]," Pet. App. 207, and it confirmed the three "grounds" for its suppression order were "independent." Pet. App. 217. Prolongation was therefore appropriately raised, ruled upon, and independently dispositive in the district court.

Likewise, on appeal, the defense sought affirmance on prolongation and stressed the lack of a *de minimis* exception. Yet the Ninth Circuit reversed in a published decision that, in effect, applied such an exception. The court was "unpersuaded" by the defense's argument "that simultaneous questioning or discussion inherently slows down the citation-writing process—and thus extends traffic stops—because it is distracting and reduces the capacity of officers to work diligently." Pet. App. 23-24. "Police officers are not automatons required to work with the maximum possible efficiency at all costs." Pet. App. 24. "Nor are they required to sit in stony silence like schoolchildren taking an exam during the process of filling out a traffic citation." Pet. App. 24. Thus, an officer may ask *de minimis* investigatory questions while working on a ticket because the alternative—remaining quiet—is unpalatable. The court's ruling therefore squarely implicates the question presented.

The issue is outcome-determinative. The district court concluded prolongation was an independent basis for suppression, but the Ninth Circuit reversed based on its misunderstanding of *Rodriguez*. Had the court refrained from applying a *de minimis* exception, it would've recognized that when an officer pauses the citation writing process to ask investigatory questions, the pause necessarily amounts to prolongation. In turn, the Ninth Circuit would've been obliged to affirm the district court's suppression ruling. Notably, the government hasn't seriously argued that the trooper had independent reasonable suspicion to justify the nearly minute-plus of investigatory questioning that occurred before the trooper finished reviewing the results of the criminal history check. Thus, absent a *de minimis* exception, the court would've determined the questions amounted to unconstitutional prolongation justifying suppression. In turn, the court would've been bound to affirm, regardless of its ruling for the government on the two other potential bases for suppression. Because the issue is dispositive, this is an appropriate vehicle to resolve the question presented.

C. The decision below is wrong.

The Ninth Circuit's decision is incorrect; there is no *de minimis* exception to the prolongation doctrine.

Rodriguez resolves the issue. "A traffic stop can become unlawful if it is prolonged beyond the time reasonably required to complete the mission of issuing a warning ticket." 575 U.S. at 354-55 (cleaned up). "The seizure remains lawful only so long as unrelated inquiries do not measurably extend the duration of the stop." *Id.* at 355 (cleaned up). The Eighth Circuit's contrary "*de minimis* rule" was

erroneous. *Id.* at 356. So long as an investigatory task "'prolongs,'—*i.e.*, adds time to—'the stop,'" the extension triggers Fourth Amendment concerns, regardless of its length. *Id.* at 357. The decision below incorrectly concluded that if an officer asks investigatory questions while purporting to work on a traffic citation, the questioning causes no constitutional injury because officers need not operate in silence. That analysis conflicts with *Rodriguez* because it's an improper "*de minimis* rule," focusing on the reasonableness of the officer's conduct and not the effect of the lengthened detention on the driver's rights. *Id.* at 356.

The analysis from *Rodriguez* is correct as a matter of first principles. A traffic stop is a Fourth Amendment seizure. See *Delaware* v. *Prouse*, 440 U.S. 648, 653 (1979). The rules governing those stops are analogous to the rules governing investigatory stops under *Terry* v. *Ohio*, 392 U.S. 1 (1968). See *Johnson*, 555 U.S. at 330. Just like *Terry* stops, traffic stops must be justified by reasonable suspicion at the outset, and the stops must be limited in duration and scope to that reasonable suspicion. See *Florida* v. *Royer*, 460 U.S. 491, 500 (1983). If an officer seeks to detain a driver for additional time for reasons unrelated to the stop, there must be independent reasonable suspicion of a separate offense. Cf. *City of Indianapolis* v. *Edmond*, 531 U.S. 32, 37 (2000) ("A search or seizure is ordinarily unreasonable in the absence of individualized suspicion of criminal wrongdoing.").

For those reasons, a *de minimis* exception to prolongation is untenable. A traffic stop cannot last longer than necessary to complete the purpose of the stop. See *Caballes*, 543 U.S. at 407. If the driver is detained longer than necessary, the prolongation doctrine is implicated, even if the duration of the improper detention is

brief. The Fourth Amendment doesn't tolerate *de minimis* intrusions in other contexts—there's no permissible *de minimis* entry into a home without a warrant, or permissible *de minimis Terry* stop without reasonable suspicion—nor does it allow such intrusions during roadside detentions. The same reasoning applies to other constitutional protections as well. See *Lafler* v. *Cooper*, 566 U.S. 156, 165 (2012) ("[A]ny amount of additional jail time has Sixth Amendment significance.") (cleaned up). This Court shouldn't tolerate impermissible seizures, regardless of how long they last.

A *de minimis* exception isn't administrable. "[I]f police are to have workable rules, the balancing of competing interests inherent in the *Terry* principle must in large part be done on a categorical basis—not in an ad hoc, case-by-case fashion by individual police officers." *Michigan* v. *Summers*, 452 U.S. 692, 705 n.19 (1981). The *Rodriguez* rule—no *de minimis* prolongation—gives "needed guidance to . . . officers" administering stops and minimizes "room for manipulation." *Arizona* v. *Gant*, 556 U.S. 332, 353 (2009) (Scalia, J., concurring); see also *Riley* v. *California*, 573 U.S. 373, 398 (2014) (rejecting "flawed" arguments that "contravene[] our general preference to provide clear guidance to law enforcement through categorical rules"). By contrast, a rule focused on evaluating the post-hoc reasonableness of any given *de minimis* extension provides no forward-looking guidance whatsoever.

The Ninth Circuit erroneously declined to enforce *Rodriguez* as written, and the error warrants certiorari review.

D. At a minimum, this Court should hold the petition pending *Puckett*.

This Court is considering a similar petition for a writ of certiorari in *Puckett* v. *United States* (No. 25-629). That petition, filed November 26, 2025, presents the following question, which is materially identical to the question presented in this petition: "Whether a police officer violates the Fourth Amendment by prolonging a traffic stop with unrelated investigatory questions." The government waived its right to respond to the petition. On January 7, 2026, this Court requested a response. The government filed its response on April 15.

The instant petition and the petition in *Puckett* pose essentially the same question regarding prolongation under *Rodriguez*. This Court should grant certiorari in the instant case. Alternatively, if this Court grants certiorari in *Puckett*, it should hold the instant petition, and it should then consider granting, vacating, and remanding following a decision in *Puckett*.

Conclusion

This Court should grant the petition.

Dated April 21, 2026.

Respectfully submitted,

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