NO. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Antoan Raban,

Petitioner,

v.

United States of America,

Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether appellate review of the evidence from a suppression hearing "in the light most favorable to the government," a deferential standard followed by some, but not all courts of appeals, conflicts with this Court's decision in *Ornelas v. United States*, 517 U.S. 690 (1996)?

PARTIES TO THE PROCEEDINGS

Petitioner is Antoan Raban, defendant and appellant below.

Respondent is the United States of America, appellee below.

RELATED PROCEEDINGS

This case arises from the following proceedings:

- *United States v. Raban*, No. 24-1359 (10th Cir.)
- *United States v. Raban*, No. 1:23-cr-00329-RMR-1 (D. Colo.)

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PETITION FOR A WRIT OF CERTIORARI

Petitioner, Antoan Raban, respectfully petitions for a writ of certiorari to review the order and judgment of the United States Court of Appeals for the Tenth Circuit entered on December 30, 2025.

OPINION BELOW

The published decision of the United States Court of Appeals for the Tenth Circuit in *United States v. Raban*, 162 F.4th 1223 (10th Cir. 2025) appears in the Appendix at A1.

JURISDICTION

The United States District Court for the District of Colorado had jurisdiction in this criminal case under 18 U.S.C. § 3231. The Tenth Circuit had jurisdiction pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3742. The circuit entered judgment on December 30, 2025. (App. at A1.) On March 24, 2026, the time within with to file a petition for a writ of certiorari was extended to April 29, 2026. (App. at 18.) This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

FEDERAL PROVISION INVOLVED

U.S. Const. amend. IV, provides in full, that:

> 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.

STATEMENT OF THE CASE

On a May afternoon in 2023, two Denver Police Department officers, Tyler Danielson and Zachary Moldenhauer, were patrolling local thoroughfares just off Interstate 70. (Vol. I at 73-74, 123.)[1] At a gas station, they noticed that a sedan getting gas was missing its front license plate. (*Id.* at 74, 173.) As the car departed, it did not signal when entering the roadway, and the officers trailed it down local roads. (*Id.* at 74-75, 90-91.). Shortly thereafter, they pulled it over. (*Id.* at 18.)

The car stopped promptly, and Officer Danielson approached the driver's side window while Officer Moldenhauer went to the passenger's side. (*Id.* at 18, 97, 142.) Officer Danielson asked the driver to roll down the back windows because they were tinted, and the driver, later identified as defendant, Antoan Raban, complied. (*Id.* at 26, 77.) After Officer Danielson explained that the stop was due to a missing front license plate, Mr. Raban explained that this was his girlfriend's car, and that it had been in a recent accident that damaged the front. (*Id.* at 65.) Mr. Raban did not have the car's registration or insurance, or any identification, but provided his name, address, and date of birth to the officers; Officer Moldenhauer left to run a records check, while Officer Danielson stayed with Mr. Raban. (*Id.* at 26, 87-88, 116.)

[1] Citations are to the record on appeal in the Tenth Circuit and the page number at the bottom, right-hand side of each page. The citations are provided for the Court's convenience in the event this Court deems it necessary to review the record to resolve this petition. *See* Sup. Ct. R. 12.7.

The two men engaged in small talk while they waited. As relevant here, during their conversation, Mr. Raban acknowledged that he did not have a driver's license. (*Id.* at 81-82.) Additionally, Officer Danielson noticed a can of beer that had spilled on the rear floorboard, directly behind the driver. (*Id.* at 86, 126.) Additionally, Officer Danielson observed that Mr. Raban had face tattoos, ones he believed to be associated with a gang. (*Id.* at 79, 97-98.) Officer Danielson indicated that he knew the area of the stop, however, was a rival gang's territory and was known as a high-crime area. (*Id.* at 81.)

Additionally, while the officers were talking with Mr. Raban, his girlfriend's brother drove by, turned around, and parked across the street to watch the interaction. Officer Danielson identified the brother as someone he knew to be a gang member with a criminal history. (*Id.* at 79-80.) Near the beginning of the stop, it appeared to the officers that he tried to call Mr. Raban, but Mr. Raban did not pick up. (*Id.* at 101-02.) Throughout the stop's duration, the man did not engage with officers at all, but simply waited in his parked car across the street. (*Id.* at 102-03.)

During this time, four other officers arrived at the scene. (*Id.* at 102-03.) Ultimately, Officer Moldenhauer pulled up a DMV photo of Mr. Raban, which looked "very similar" to him but did not have any face tattoos. (*Id.* at 137.) To verify his identify, Officer Moldenhauer decided to fingerprint Mr. Raban, and directed Officer Danielson to remove Mr. Raban from the vehicle. (*Id.* at 84-85, 138-39.)

Officer Danielson told Mr. Raban to get out of the car; Mr. Raban complied, and when he did Officer Danielson turned him around and frisked him for weapons, finding none, but noticing that Mr. Raban was wearing an ankle monitor. (*Id.* at 84.) He did not inquire further whether the ankle monitor was for pretrial release, parole supervision, or some other reason. (*Id.* at 105-06.)

Mr. Raban was directed to sit on the curb and cross his legs, where he was surrounded by no fewer than four (uniformed and armed) officers. (*Id.* at 139-40, 160, 163.) While Officer Moldenhauer retrieved the fingerprint machine, Officer Danielson, rather than assisting with that investigation, immediately began searching the car he had just ordered Mr. Raban to leave. (*Id.* at 85-86.) During this search he found a handgun under the driver's seat, and Mr. Raban was arrested. (*Id.* at 16.)

The federal government charged Mr. Raban with possessing a firearm as a previously-convicted felon, in violation of 18 U.S.C. § 922(g)(1). (*Id.* at 10.) Mr. Raban moved to suppress the firearm and ammunition on the grounds that the warrantless search of the car was unlawful. (*Id.* at 14.) Officer Danielson, he explained, had justified the search as a "protective sweep" for weapons. (*Id.* at 16.) And while *Michigan v. Long*, 663 U.S. 1032 (1983) identified such searches as a narrow exception to the general rule that searches generally require warrants to comply with the Fourth Amendment, such 'sweeps' are permissible only where the officer has reasonable suspicion to believe that the individual is *both* (1) armed and dangerous, *and* (2) may

gain immediate control of weapons within the vehicle. And Mr. Raban explained, the government could not make that showing here.

At an evidentiary hearing on the motion, both officers Danielson and Moldenhauer testified. (*Id.* at 68, 121.) As relevant here, Officer Danielson articulated his belief that this wide area of northeast Denver, and the two major roads Mr. Raban traveled on before being stopped, all was high-crime area, and that there'd been a significant amount of crime at the gas station in the past. (*Id.* at 81-83.) He maintained that he searched the vehicle to ensure there were no weapons that would have been within immediate reach in the event they released Mr. Raban with a citation back inside the vehicle. (*Id.* at 87.) Under questioning from the court, he insisted that despite Mr. Raban not having a license and there being an open container in the vehicle, Mr. Raban might have been released back to the vehicle. (*Id.* at 116.) Officers would have simply advised him not to drive away, lest he be pulled over again. (*Id.* at 117.) He acknowledged, however, that it also "was a consideration that we were going to either park and lock or tow his vehicle from that scene." (*Id.* at 116-18.)

Focusing on what Officer Danielson knew at the time of the protective sweep (*id.* at 154, 156, 158, 172), the district court described the case as a "close call," but ultimately denied Mr. Raban's suppression motion from the bench (*id.* at 172). In doing so, the court concluded that the protective sweep was lawful because Officer Danielson had reasonable suspicion that Mr. Raban was "armed and dangerous." (*Id.*

at 176.) In support, the court looked at four principal factors, in totality: (1) the characteristics of the neighborhood Mr. Raban was traveling through; (2) Mr. Raban's purported gang affiliations; (3) the presence of the brother of Mr. Raban's girlfriend; and (4) that Mr. Raban was wearing an ankle monitor. (*Id.* at 172-76.)[2]

Mr. Raban subsequently entered a conditional plea, preserving his right to appeal the denial of his suppression motion. (*Id.* at 216-17.)

On appeal, he renewed his challenge that officers lacked reasonable suspicion to satisfy *Long*'s two-part framework. Consistent with Tenth Circuit law, the court articulated its standard of review as one in which "*[w]e view the evidence in the light most favorable to the government*, accept the district court's finding of fact unless clearly erroneous, and reviewed novo the ultimate determination of reasonableness under the Fourth Amendment." (App. at A4 (emphasis added).) Under that standard, and as relevant here, the Court explained that *Long*'s first prong (dangerousness) required the

[2] The district court did not explicitly articulate a basis for its holding on the second prong of *Long*. Two days later, however, the court issued a sua sponte order indicating that it was "in the interest of justice to reconsider [the Court's ruling]," and inviting the parties to weigh in. After briefing, the court made further findings in a written order that at the time of the sweep, it was objectively reasonable for Officer Danielson to believe that Mr. Raban could have been permitted to return to the vehicle after receiving a traffic citation, satisfying *Long*'s second prong. (*Id.* at 208-13.) The second prong is not directly at issue in this petition, and reversal on the first prong would be sufficient for Mr. Raban to prevail given that the government must establish reasonable suspicion for *both* prongs under *Long* to establish that a protective sweep accorded with the Fourth Amendment.

government to show that the officer has an objectively reasonable suspicion that the individual is "presently dangerous." 463 U.S. at 1047. (App. at A5.) The court disregarded the ankle monitor but concluded the other three factors on which the district court relied—the area's characteristics, Mr. Raban's purported gang affiliation, and his girlfriend's brother's presence—each contributed some modicum of suspicion to the calculus. Importantly, however, the Court recognized that none of these factors, individually, could support that finding. (App. at A3-A7.) Instead, it concluded that "[v]iewed collectively—*and in the light most favorable to the government*—the [three factors] provided reasonable suspicion that Raban was dangerous." (*Id.* at A8 (emphasis added).) This petition follows.

REASONS FOR GRANTING THE WRIT

In *Ornelas*, this Court provided clear direction that an appellate court reviewing a ruling on a motion to suppress must review the district court's findings of historical fact for clear error; "give due weight to the inferences drawn from those facts by resident judges and local law enforcement officers"; and review the district court's legal determination *de novo*. 517 U.S. at 694, 697, 699. The Tenth Circuit's "light most favorable" approach (which also is used by some, but not all, other circuits) conflicts with that framework. For three principal reasons, this Court's review is warranted to resolve this conflict on an important question related to the standard of review applied in countless criminal cases.

A. The circuits are split.

First, the court of appeals appear to be nearly equally divided, 7-5, on this question of how much deference to afford the inferences that district courts and officers draw from the historical facts in decisions resolving motions to suppress.

On one side, seven circuits—including the Tenth, as it did below—generally apply some form of "light most favorable" review to the factual findings of a district court. *See, e.g.*, *United States v. Fagan*, 71 F.4th 12, 18 (1st Cir. 2023) ("we must consider the facts in the light most favorable to the district court's ruling"); *United States v. Kramer*, 75 F.4th 339, 342 (3d Cir. 2023) (explaining that when a district court denies a suppression motion, "we view the facts in the light most favorable to the Government"); *United States v. Runner*, 43 F.4th 417, 421 (4th Cir. 2022) (explaining in same situation that court must "evaluate[] the evidence in the light most favorable to the government"); *United States v. Nelson*, 990 F.3d 947, 952 (5th Cir. 2021) (providing for review in "light most favorable to the party that prevailed in the district court—in this case, the Government"); *United States v. Sharp*, 40 F.4th 749, 752 (6th Cir. 2022) ("We take the evidence in a light most favorable to the government."); *United States v. Johnson*, 921 F.3d 991, 997 (11th Cir. 2019) (en banc) ("We view the evidence in the light most favorable to the government, as the party that prevailed in the district court.") (internal quotation marks omitted).

In contrast, the remaining five circuits do not appear to review evidence in the "light most favorable" to the prevailing party as a matter of course in appeals from suppression motion rulings. *See, e.g.*, *United States v. Pabon*, 871 F.3d 164, 173-74 (2d Cir. 2017) ("declin[ing] to view the evidence in the Government's favor"); *United States v. Radford*, 39 F.4th 377, 383 (7th Cir. 2022) ("In considering a district court's decision on a motion to suppress, we review findings of fact for clear error and questions of law *de novo."); United States v. Finley*, 56 F.4th 1159, 1164 (8th Cir. 2023) ("We review the district court's findings of fact under the clearly erroneous standard, and the ultimate conclusion of whether the Fourth Amendment was violated is subject to *de novo* review." (internal quotation marks omitted)); *United States v. Taylor*, 60 F.4th 1233, 1239 (9th Cir. 2023) ("We review the district court's denial of a motion to suppress de novo and its factual findings for clear error."); *United States v. Delaney*, 955 F.3d 1077, 1082 (D.C. Cir. 2020) (noting same and providing only for "due weight" to the inferences of district court, citing *Ornelas*).[3]

[3] Moreover, even within circuits, panels periodically cite inconsistent standards. For example, despite the Second Circuit's clear holding in *Pabon*, subsequent cases in that court have occasionally cited the "light most favorable" standard, *see United States v. O'Brien*, 926 F.3d 57, 73 (2d Cir. 2019), or have noted confusion over which standard applies, *see United States v. Hagood*, 78 F.4th 570, 576-77 & n.8 (2d Cir. 2023). Similarly, even in the Tenth Circuit, where the standard has been consistently reaffirmed in explicit terms, some panels have declined to cite it. *See, e.g., United States v. Frazier*, 30 F.4th 1165, 1174 (10th Cir. 2022); *United States v. Shrum*, 908 F.3d 1219, 1229 (10th Cir. 2018). But these detours do not detract from the fundamental fact that there is a pronounced divide; if anything, they only further demonstrate the need for this Court to impart clarity across the circuits.

Most notably, the Second Circuit has expressly considered—and repudiated—the view adopted by the Tenth Circuit and others. In *Pabon*, the Second Circuit upheld the district court's denial of a motion to suppress, but in doing so declined to apply the "light most favorable" standard or to view the evidence "in either party's favor." 871 F.3d at 173. Rather, the Second Circuit adhered to the traditional principles of *de novo* review, describing that approach as the "one most consistent with precedent." *Id.* at 173-74 (discussing *Ornelas*, 517 U.S. at 699). This was so, the circuit explained, because *Ornelas* "nowhere suggested that the clear error standard should be slanted in favor of one party or another" and that "viewing the evidence in the light most favorable to the prevailing party" would make "little sense" under this Court's precedent, because *Ornelas* already requires courts to give "due weight to the inferences drawn by local law enforcement officers and by trial judges . . . ." *Id.* at 174 (noting that it was "far from clear" how courts could "layer the inferences" of "light most favorable" and "due weight" deference already required under *Ornelas*). The Second Circuit thus squarely "decline[d] to view the evidence in the Government's favor." *Id. Pabon*, therefore, clearly highlights the ongoing tension between the circuits' respective positions.

In *Ornelas*, this Court granted review to settle the applicable standards for appellate review of suppression rulings. 517 U.S. at 695. Thirty years later, the circuits are again in conflict over a related and recurring issue of how to conduct that review,

and this Court's intervention is necessary to resolve the split and reaffirm the line drawn *Ornelas*.

B. The "light-most-favorable" standard conflicts with *Ornelas*.

Second, review is also appropriate because the Tenth Circuit's (and others) approach is inconsistent with this Court's holding in *Ornelas*.

Appellate review of a motion to suppress evidence takes place along three dimensions: the courts of appeal must review (1) the "historical facts" underlying the decision, (2) the "inferences" drawn by the officers and the district court, and (3) the district court's ultimate legal determination. As to the second category, in *Ornelas* this Court made clear that reviewing courts should give "due weight to inferences drawn from those facts by resident judges and local law enforcement officers." *Id.* at 699 (emphasis added). The Court did not say that the courts of appeals should view inferences in a government-favoring light or impart upon the prevailing party the benefit of the doubt. Rather, inferences are to receive the weight they are due, and it is the appellate court's job to ensure that inferences drawn from the facts are "reasonable." *Id.* at 699-700 ("An appeals court should give due weight to a trial court's finding that the officer was credible and the inference was *reasonable.*") (emphasis added). Anything else would undermine, if not abdicate, the court of appeals' responsibility to conduct an "independent appellate review" of the district court's ultimate conclusions. *Id.* at 697.

The Tenth Circuit's approach does not track that standard. Rather, despite *Ornelas*'s clear direction, the Tenth Circuit and others following the "light most favorable" standard have grafted on an additional layer of deference that subverts the review *Ornelas* dictated. Rather than merely giving the "due weight" to inferences that *Ornelas* contemplated, these circuits effectively import a presumption favoring the district court's acceptance of inferences of suspicion, which then drive the ultimate determination of reasonableness, which should instead be reviewed *de novo*. Put simply, the Tenth Circuit, in reviewing these inferences in the "light most favorable" to the government, *assumes* that those inferences are reasonable instead of engaging in the independent review that this Court has always demanded.

Moreover, the Tenth Circuit's approach finds no roots or justification in this Court's law. Rather, it appears the 'light most favorable' principle was transposed from a completely different context: a decision discussing the review of habeas corpus determinations. *See United States v. Canada*, 76 F.4th 1304, 1311 n.2 (10th Cir. 2023) (Rossman, J., dissenting) (recounting tensions in circuit jurisprudence). That is, the Tenth Circuit articulated the "light most favorable" rule in *Sinclair v. Turner*, 447 F.2d 1158, 1160 (10th Cir. 1971), to describe the "appellate review rule" for sufficiency-of-the-evidence challenges to a jury's guilty verdict, and then inexplicably imported that rule into the Fourth Amendment appellate-review context in *United States v. Miles*, 449 F.2d 1272, 1274 (10th Cir. 1971). *Id.* at 1311. The deferential standard applicable in

those cases, intended to avoid judicial intrusion on the prerogative of the jury, *see, e.g., Jackson v. Virginia*, 443 U.S. 307, 324 (1979), has no place in the Fourth Amendment context. And unlike other circuits which used similar framing before *Ornelas* but subsequently abandoned it, the Tenth Circuit has failed to reexamine its erroneous transposition of the jury-verdict-review standard to the Fourth Amendment context even after *Ornelas* made the error clear. *Compare supra* Part A *with, e.g.*, *United States* v. *Garcia*, 605 F.2d 349, 351 (7th Cir. 1979) (assessing the "facts adduced at the suppression hearing" in "the light most favorable to the Government"); *United States v. Weir*, 748 F.2d 459, 460 (8th Cir. 1984) (per curiam) ("[I]n reviewing the denial of a motion to suppress, we must view the evidence in the light most favorable to the government.").

Because the standard of review employed by the Tenth Circuit conflicts with *Ornelas*, this Court's review is warranted for this additional reason.

C. The issue is important and this case is a good vehicle for reviewing it.

Third, review is warranted because the question presented is important, recurring, and squarely presented.

Suppression litigation is commonplace in federal criminal cases, and *Ornelas* itself recognized that standards of review are important and that reviewing courts play a critical function in applying *de novo* review to Fourth Amendment determinations of reasonable suspicion. *See* 517 U.S. at 695, 697-98. Indeed, the question is critically

important not only to individual litigants—who face different standards of review depending on geography—but also to the development of the law. A deferential 'light most favorable' standard cedes to district courts (and indeed, law enforcement officers), much of the role of interpreting the bounds of the Fourth Amendment, undermining the role appellate courts play in defining the applicable constitutional standards that govern citizen-police encounters. After all, the goal of independent appellate review is "to unify precedent and . . . come closer to providing law enforcement officers with a defined 'set of rules which, in most instances, makes it possible to reach a correct determination beforehand as to whether an invasion of privacy is justified in the interest of law enforcement.'" *Ornelas*, 517 U.S. at 697-98 (quoting *New York v. Belton*, 453 U.S. 454, 458 (1981)). Reflexive deference to inferences drawn by officers and district courts is at odds with that principle.

Moreover, this Court has often granted certiorari to decide questions related to standards of review because they are important. *See, e.g., U.S. Bank Nat'l Ass'n v. Vill. at Lakeridge, LLC*, 583 U.S. 387, 392-93 (2018) (assessing whether courts should review certain determinations under the Bankruptcy Code de novo, or for clear error); *Metro. Life Ins. Co. v. Glenn*, 554 U.S. 105, 111, 115-16 (2008) (standard for reviewing decisions by a conflicted ERISA trustee); *Pierce v. Underwood*, 487 U.S. 552, 57-558 (1988) (standard for reviewing attorney's fee awards under the Equal Access to Justice

Act). Just as it did in *Ornelas* itself, 517 U.S. at 695, this Court should grant review here to clarify the standard of review that applies when reviewing suppression decisions.

And finally, this case is also a good vehicle for review. The district court described the case as a "close call," and the Tenth Circuit affirmed on *Long*'s first prong only by explicitly invoking the disputed standard. (App. at A8) (holding that "[v]iewed collectively—and in the light most favorable to the government—the [three factors] provided reasonable suspicion that Raban was dangerous"). The relevant historical facts aren't disputed; rather, what was disputed—and determinative—were the inferences from those facts credited by the court of appeals. Put simply, the issue is squarely presented and the standard of review well may have been outcome-determinative, and for these additional reasons review is warranted.

CONCLUSION

For these reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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