

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

RYAN MENDOZA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

Ryan R. Smith, Esquire
Counsel of Record
Ryan R. Smith Law Offices
310 Grant Street, Suite 820
Pittsburgh, PA 15219
rrs@ryanrsmithlaw.com
412-235-7080
412-863-7803 (Fax)

QUESTION PRESENTED

This case presents an acknowledged circuit split on an important and recurring question of Fourth Amendment law. Specifically, whether a hotel guest maintains an objectively reasonable expectation of privacy under the Fourth Amendment in a room for which they have paid for a 24-hour block of time, where the guest has not affirmatively checked out, personal belongings remain in the room, and both hotel management and law enforcement express subjective uncertainty as to whether the guest has vacated the premises.

PARTIES TO THE PROCEEDING

Petitioner is Ryan Mendoza, who was the Defendant-Appellant in the court below. Respondent is the United States of America, which was the Plaintiff-Appellee in the court below. There is no party with an interest to disclose pursuant to Rule 29(6).

TABLE OF CONTENTS	<u>Page</u>
TABLE OF AUTHORITIES	4
OPINIONS BELOW	6
JURISDICTION	6
CONSTITUTIONAL PROVISIONS INVOLVED	7
STATEMENT OF THE FACTS	7
REASONS FOR GRANTING THE PETITION	9
CONCLUSION	24

TABLE OF AUTHORITIES

Cases	Page
<i>Abel v. United States</i> , 362 U.S. 217 (1960)	11-12
<i>Jones v. United States</i> , 362 U.S. 257 (1960)	20
<i>Katz v. United States</i> , 389 U.S. 347 (1967)	20, 23
<i>People v. Hardy</i> , 77 A.D.3d 133, 907 N.Y.S.2d 244 (N.Y. App. Div. 2010)	14
<i>Stoner v. California</i> , 376 U.S. 483 (1964)	11, 17, 22
<i>United States v. Akin</i> , 562 F.2d 459 (7th Cir. 1977)	22
<i>United States v. Allen</i> , 106 F.3d 695 (6th Cir. 1997)	18
<i>United States v. Dorais</i> , 241 F.3d 1124 (9th Cir. 2001)	13, 15-17
<i>United States v. Gill</i> , 16 F. App'x 850 (10th Cir. 2001)	14
<i>United States v. Kitchens</i> , 114 F.3d 29 (4th Cir. 1997)	10, 13, 17-18
<i>United States v. Lanier</i> , 636 F.3d 228 (6th Cir. 2011)	10, 13-14, 19-21
<i>United States v. Mendoza</i> , No. 25-1154 (3d Cir. Jan. 8, 2026)	6
<i>United States v. Owens</i> , 782 F.2d 146 (10th Cir. 1986)	10, 13-14, 19-21
<i>United States v. Parizo</i> , 514 F.2d 52 (2d Cir. 1975)	22
<i>United States v. Ross</i> , 964 F.3d 1034 (11th Cir. 2020)	10, 16, 21-23
<i>United States v. Washington</i> , 573 F.3d 279 (6th Cir. 2009)	18
<i>United States v. Watson</i> , 783 F. Supp. 258 (E.D. Va. 1992)	13-14
Constitutional Provisions:	
U.S. Const. amend. IV	7, 9-24
Statutes:	
28 U.S.C. § 1254(1)	6

28 U.S.C. § 1651(a) 6

Other Authorities:

Merriam-Webster Dictionary, Society, <https://www.merriam-webster.com/dictionary/society> 23

Supreme Court Rule 29(6) 3

OPINIONS BELOW

1. **United States v. Ryan Mendoza**, No. 25-1154 (3d Cir. Jan. 8, 2026)
2. **United States v. Ryan Mendoza**, No. CR 2:21-cr-00503. (W.D. Pa. June 2, 2024).

The judgment of the United States Court of Appeals for the Third Circuit, entered on January 8, 2026, with an Order affirming the District Court's decision on Appellant's Motion to Suppress. (Appendix, pages 10). The Memorandum Opinion and Order of the United States District Court for the Western District of Pennsylvania, entered on June 2, 2024 (Appendix, Pages 12-31) denying Appellant's Motion to Suppress.

JURISDICTION

Jurisdiction is conferred upon this Court by 28 U.S.C. §1254(1), which grants the United States Supreme Court jurisdiction to review by writ of certiorari all final judgments of the courts of appeals. Jurisdiction is also conferred upon this Court by 28 U.S.C. §1651(a), which grants the United States Supreme Court jurisdiction to issue all writs necessary or appropriate in aid of respective jurisdiction and agreeable to the usages and principles of law.

The time for filing a Petition for Writ of Certiorari began to run on January 8, 2026, when the United States Court of Appeals for the Third Circuit affirmed the District Court's Opinion. On March 23, 2026, Justice Alito granted petitioner's motion for an extension of time to file the within petition. The time for filing a Petition for Writ of Certiorari expires after May 8, 2026.

CONSTITUTIONAL PROVISIONS INVOLVED

FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION

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 particularity describing the place to be searched, and the persons or things to be seized.

STATEMENT OF THE FACTS

Ryan Mendoza checked into the Doubletree Hotel in Pittsburgh shortly before 1:00 a.m. on February 24, 2021, paying for a two-day stay. Approximately 37 hours later, well before the expiration of that paid period, the hotel manager entered his room under the guise of determining whether it had been vacated. The room plainly appeared occupied: personal belongings remained, including clothing, food, a phone charger, and a backpack in the closet. Rather than follow hotel policy requiring staff to secure and attempt to return guest property, the manager opened the backpack and its contents, discovering suspected narcotics. He later admitted this was a “very bad decision” and contrary to policy, which required holding the items and contacting the guest.

Critically, the manager acknowledged that guests commonly believe they rent rooms in 24-hour blocks and that Mr. Mendoza, who paid for two such periods, would reasonably think he retained possession of the room until the early morning of February 26. He expressly agreed that Mr. Mendoza may have believed he still had the room at the time of the entry and search. Despite this, police were summoned hours later. When

officers arrived, they questioned whether Mr. Mendoza had checked out and whether he had retained an expectation of privacy in his room. While already inside the room and actively searching, officers asked the manager if the guest had checked out; his response, “I think so”, was equivocal, and he confirmed that Mr. Mendoza had not physically checked out.

Notwithstanding these unresolved doubts, and despite clear indicia that the room remained occupied and under the guest’s control, officers proceeded with a warrantless search. Mr. Mendoza later returned to the hotel that evening with his room key and receipt in his possession, further confirming his ongoing expectation of privacy. This case squarely presents the question whether a hotel guest’s Fourth Amendment rights may be extinguished based on a bright line check out status, despite prepaid occupancy, retained belongings, and acknowledgement that some guests believe they rent rooms in 24-hour increments.

REASONS FOR GRANTING THE PETITION

The Court Should Resolve a Mature and Acknowledged Circuit Split Regarding the "Pattern or Practice" Exception to Hotel Checkout Times.

The United States Courts of Appeals are irreconcilably divided on a recurring question of Fourth Amendment law: whether a hotel guest's objectively reasonable expectation of privacy terminates strictly at the posted checkout time, or whether that expectation may persist based on the "patterns and practices" of the hotel.

The "Pattern or Practice" Jurisdictions

The Fourth, Sixth, Ninth, and Tenth Circuits hold that a guest may retain a legitimate expectation of privacy after the formal checkout time if the hotel's policies or actions make such an expectation reasonable.

United States v. Kitchens, 114 F.3d 29, 32 (4th Cir. 1997).

United States v. Lanier, 636 F.3d 228, 232 (6th Cir. 2011).

United States v. Dorais, 241 F.3d 1124, 1129 (9th Cir. 2001).

United States v. Owens, 782 F.2d 146, 150 (10th Cir. 1986).

The "Bright-Line" Jurisdictions

Conversely, the Eleventh Circuit has expressly rejected this exception, favoring a rigid rule that privacy interests expire the moment checkout passes. *United States v. Ross*, 964 F.3d 1034, 1043 n.6 (11th Cir. 2020). By affirming the conviction here, the Third Circuit has joined this "bright-line" camp, ignoring the specific facts of the hotel's conduct.

This Case is an Ideal Vehicle to Resolve a Circuit Split on important Fourth Amendment Privacy Rights.

The facts of this case provide a "textbook" example of why the circuit split matters. Had this search occurred in the Fourth, Sixth, Ninth, or Tenth Circuit, the manager's equivocal "I think so" and the officers' recorded hesitation regarding the "24-hour block" rule and the manager's admission that some guests believe they rent a room in 24-hour blocks, would likely have resulted in suppression. In the Third Circuit, however, these facts were rendered irrelevant by a rigid adherence to the clock. This Court should grant certiorari to ensure that the Fourth Amendment does not provide varying levels of protection based solely on geography.

The Patterns and Practices Jurisdictions

Under the Fourth Amendment, a hotel guest's privacy interest in a hotel room is the same as that of a tenant in a rented house. *Stoner v. California*, 376 U.S. 483, 490 (1964). But that interest dissipates once a guest has *paid his bill* and vacates the room. The hotel then has the exclusive right to its possession. *Abel v. United States*, 362 U.S. 217, 241 (1960) *emphasis added*. Although, the *Stoner* and *Abel*, opinions set forth a seemingly simple standard to apply, the Circuits have not consistently applied that standard. Reading the two cases together, a hotel guest's privacy terminates only when he pays his bill, and then vacates the room. The fact that a hotel guest must pay his bill and then vacate the room implies an affirmative act by the hotel guest in relinquishing his privacy in the hotel room. That is exactly what happened in *Abel*. In holding that items found by an FBI agent immediately after the petitioner paid his bill and vacated his room this Court held that no warrant was required for the search of petitioner's hotel room because at that moment the hotel had exclusive right to its possession. *Id.* at 241. The Circuits do not uniformly apply this standard.

The Fourth, Sixth, Ninth, and Tenth Circuits hold that a guest may retain a legitimate expectation of privacy after the formal checkout time if the hotel's policies or actions make such an expectation reasonable.

The Fourth Circuit has stated that a guest may have a legitimate expectation for privacy even after his rental has terminated, if there is a pattern or practice which would make that expectation reasonable. See *United States v. Kitchens*, 114 F.3d 29, 31 (4th Cir. 1997), *citing United States v. Watson*, 783 F. Supp. 258, 263 (E.D. Va.

1992) (legitimate expectation of privacy since guest had continually paid his bill several hours after the check-out time); and *United States v. Owens*, 782 F.2d 146, 150 (10th Cir. 1986) (legitimate expectation of privacy in a motel room after check-out time since the guest continued to occupy the room and had paid for the room late on several occasions).

The Sixth Circuit has held that a hotel's practices and communications with the guest may modify the general rule. In *United States v. Lanier*, 636 F.3d 228, 232 (6th Circuit 2011), the Court noted that "[T]he policies and practices of a hotel may result in the extension past checkout time of a defendant's reasonable expectation of privacy." *citing, United States v. Dorais*, 241 F.3d 1124, 1129-30 (9th Cir. 2001); *see also United States v. Gill*, 16 F. App'x 850, 854 (10th Cir. 2001); *United States v. Kitchens*, 114 F.3d 29, 31-32 (4th Cir. 1997); *United States v. Owens*, 782 F.2d 146, 149-50 (10th Cir. 1986); *Larson*, 760 F.2d at 855; *United States v. Watson*, 783 F. Supp. 258, 263 (E.D. Va. 1992); *People v. Hardy*, 77 A.D.3d 133, 907 N.Y.S.2d 244, 248 (N.Y. App. Div. 2010). As relevant here, these practices often take two forms: giving a guest permission to stay until a later check-out time or generally acquiescing when a guest stays until a later check-out time.

The Ninth Circuit has held that, *as a general rule*, (emphasis added) a hotel guest's expectation of privacy expires at checkout time. See *United States v. Dorais*, 241 F.3d 1124 (9th Cir. 2001). "However, the policies and practices of a hotel may result in the extension past checkout time of defendant's reasonable expectation of privacy. The

existence and duration of that expectation period depend on the facts and circumstances in each case”. *Id.*

The Tenth Circuit also examines a hotel guest’s privacy interest in his hotel room based on his subjective understanding of the amount of time for which he believes he has rented his room. In *United States v. Owens*, 782 F.2d 146, 150 (10th Cir. 1986), stating that “All hotel guests cannot be expected to be familiar with the detailed internal policies and bookkeeping procedures of the inns where they lodge. Even assuming that Owens was renting on a day-to-day basis, his reasonable expectation of privacy extended past check out time for at least the short period in question here”. *Id.*

The “Bright-Line” Jurisdictions

The Eleventh Circuit holds that at checkout time a hotel guest automatically loses his Fourth Amendment expectation of privacy in his hotel room. *United States v. Ross*, 964 F.3d 1034 (11th Cir. 2020). In *Ross*, the court reasoned, “At checkout time, everything changes. At that point the housekeeping crew will need to—and has the authority to—access the room to clean and prepare it for the next registered guest, often on a very tight turnaround. A guest's doorhanger no longer bars entry. Accordingly, as the Second Circuit has held, after checkout time, even if a guest "ha[s] not completely vacated [his] room, the motel manager ha[s] the right to enter and examine the room as if it had been relinquished," because the guest no longer has "sufficient control over the premises to establish a right to privacy therein." (*citations omitted*); (holding that [s]ince the record supports the district court's conclusion that the rental period ended at the 1:00 [p.m.] check-out time rather than at 6:00 [p.m.] when an individual would be

billed for an additional day, the authorized representative of the hotel had the authority to consent to the search of the room" after 1:00 p.m.). We hold, therefore, that a hotel guest loses his reasonable expectation of privacy in his room following checkout time, and that hotel management can validly consent to a search of the room at that point". *Id.* at 1043.

ARGUMENT

In *Stoner v. California*, 376 U.S. 483, 84 S. Ct. 889, 11 L.Ed. 2d 856 (1964), this Court held that a guest in a hotel room enjoys the same expectation of privacy in his hotel room as he does in his own house, stating, "No less than a tenant of a house, or the occupant of a room in a boarding house, (citation omitted) a guest in a hotel room is entitled constitutional protection against unreasonable searches and seizures. *Id.* at 489. Justice Stewart continued, "[t]hat protection would disappear if it were left to depend on the unfettered discretion of an employee of the hotel". *Id.* However, the Court in *Stoner* left open the question of exactly when a hotel guest's expectation of privacy in his room expires. That ambiguity has led to a long-standing split in the Circuit Courts. The Eleventh Circuit has held that privacy interests in hotel rooms expire the moment checkout passes. *United States v. Ross*, 964 F.3d 1034, 1043 n.6 (11th Cir. 2020). Conversely, the Fourth, Sixth, Ninth, and Tenth Circuits hold that a guest may retain a legitimate expectation of privacy after the formal checkout time if the hotel's policies or actions make such an expectation reasonable. *United States v. Kitchens*, 114 F.3d 29, 32 (4th Cir. 1997), *United States v. Lanier*, 636 F.3d 228, 232 (6th Cir. 2011), *United States*

v. Dorais, 241 F.3d 1124, 1129 (9th Cir. 2001), *United States v. Owens*, 782 F.2d 146, 150 (10th Cir. 1986).

In *Kitchens supra*, the 4th Circuit Court of Appeals acknowledged that a guest may have a legitimate expectation of privacy even after his rental period has terminated, if there is a pattern or practice which would make that expectation reasonable. *Id.* at 32. Finding that there was no evidence of such a pattern or practice, specifically, that there was no evidence in the record that the motel had a pattern or practice of allowing the Kitchens family to stay past check out time, and that the manager testified that the motel had a strict policy regarding check out, the Kitchens had no expectation of privacy in the hotel room when the police entered it. *Id.* In Ryan Mendoza's case, the manager was equivocal, at best, regarding whether the hotel had a strict policy regarding check-out time. In fact, the manager acknowledged that some people believe they rent a room in twenty-four-hour blocks of time. Importantly, the police seemed troubled before entering the room questioning the manager several times as to whether Mr. Mendoza still occupied the room. The Police entered the room without a warrant, despite there being an approximate five-hour delay between the manager's entrance into Mr. Mendoza's room and his call to 911. When the manager entered Mr. Mendoza's room it was filled with Mr. Mendoza's personal items including a backpack in the closet.

In *Lanier, supra*, the Sixth Circuit Court of Appeals set forth the following analysis of a hotel guest's expectation of privacy.

[The starting point is that a hotel guest has a periodic right to occupy a room, not a permanent one. "Once a hotel guest's rental period has expired or been lawfully terminated, the guest does not have a legitimate

expectation of privacy in the hotel room or in any article therein of which the hotel lawfully takes possession." *Citing United States v. Allen*, 106 F.3d 695, 699 (6th Cir. 1997) (internal quotation omitted). "[A] hotel guest's right to a room is limited to a predetermined period of occupancy," and it is reasonable to presume as a general matter "that hotel guests will check out at the designated time and their right in the premises does not automatically continue for some indefinite period." *United States v. Washington*, 573 F.3d 279, 285 (6th Cir. 2009).

Yet a hotel's practices and communications with the guest may modify the general rule. "[T]he policies and practices of a hotel may result in the extension past checkout time of a defendant's reasonable expectation of privacy."...*(citations omitted)* As relevant here, these practices often take two forms: giving a guest permission to stay until a later check-out time or generally acquiescing when a guest stays until a later check-out time.]

United States v. Lanier, 636 F.3d 228, 232 (6th Cir. 2011),

Under the test set forth in *Lanier*, the hotel acquiesced in not taking an affirmative step to notify that Mr. Mendoza's personal belongings had been left in his hotel room. In fact, quite the opposite happened. The hotel manager rummaged through Mr. Mendoza's backpack, rather than calling him and notify him his belongings were still in the room pursuant to hotel policy. Importantly, the manager and the police were all certain that Mr. Mendoza would return the room, which he did. His ultimate return to the hotel is indicative of his subjective belief that he still occupied the room he rented for two nights, beginning February 23, 2021, at approximately 1:00 a.m.

In *United States v. Dorais*, 241 F.3d 1124 (9th Cir. 2001), the Ninth Circuit explicitly rejected the notion that a hotel guest's Fourth Amendment protection expires automatically at the posted checkout time. Instead, the court held that whether a guest

retains a reasonable expectation of privacy depends on a fact-specific inquiry into the hotel's actual practices and its communications with the guest. Applying this framework, the court found that while the defendant's privacy interest extended past the noon checkout deadline, it expired at 12:30 p.m. because: (1) the hotel had provided a 10 a.m. reminder of the noon deadline; (2) the defendant specifically informed staff he would vacate by 12:30 p.m.; and (3) hotel policy, while lenient, viewed "thirty minutes" as the standard limit of such leeway. *Dorais* at 1131.

Because the police search in *Dorais* did not occur until 12:40 p.m., ten minutes after the guest's self-imposed extension and the hotel's customary grace period had lapsed, the court concluded the defendant lacked standing. In contrast to the rigid, temporal cutoff applied by the court below, *Dorais* establishes that the "reasonableness" of a privacy expectation is not a fixed clock, but a contextual determination based on whether the hotel has treated the guest as a trespasser or continued to recognize their possession of the room. *Id.*

The decision below cannot be reconciled with *United States v. Dorais*, 241 F.3d 1124 (9th Cir. 2001), which rejects any categorical rule that a hotel guest's Fourth Amendment protection expires at the moment of checkout. *Dorais* holds that the existence and duration of a guest's reasonable expectation of privacy turn on a fact-specific inquiry into hotel practices, communications, and whether the guest has in fact relinquished possession. *Id.* at 1128–30. Applying that framework, the Ninth Circuit recognized that a hotel's tolerance of brief overstays and its ordinary housekeeping procedures may extend a guest's expectation of privacy beyond the posted checkout time.

Id. at 1129–30. The Third Circuit acknowledged that no precedent in that court establishes a bright-line cutoff and even recognized that a “grace period” may exist depending on hotel practices and communications. Yet it effectively adopted the very rigidity *Dorais* forbids by holding that petitioner lacked any objectively reasonable expectation of privacy five hours after checkout, without engaging in the contextual inquiry *Dorais* requires.

Under the proper *Dorais* analysis, petitioner retained a reasonable expectation of privacy in his room at the time of the warrantless entry. He did not affirmatively check out; he retained his keycards and receipt; and his personal belongings, including luggage, remained in the room. The hotel’s own practices further undermine any claim that possession immediately reverted at noon: guests were not required to check out at the front desk, rooms were placed on an internal “due-out” list rather than immediately treated as abandoned, and staff entries were undertaken as part of routine housekeeping rather than unequivocal repossession. As in *Dorais*, these practices demonstrate that checkout time functioned as an administrative benchmark, not an instantaneous termination of a guest’s possessory and privacy interests. By treating the mere passage of time as dispositive and disregarding these surrounding circumstances, the decision below conflicts with *Dorais* and the settled principle that Fourth Amendment reasonableness turns on objective expectations grounded in real-world practices, not a strict adherence to a hotel’s internal policies and practices, to which most hotel guests are not privy.

In *United States v. Owens*, 782 F.2d 146 (10th Cir. 1986) the Tenth Circuit Court of Appeals held that a motel guest retained a reasonable expectation of privacy in his room after his paid occupancy expired at noon on September 12. The issue in *Owens* was whether Owens had abandoned that protection by remaining in his room past the noon check-out time on the day of the search, September 12.

The *Owens* Court noted that “subtle distinctions of state landlord-tenant law cannot control the paramount constitutional question of whether Owens still had a privacy interest in his motel room when it was searched. *Citing, Jones v. United States*, 362 U.S. 257, 266, 4 L. Ed. 2d 697, 80 S. Ct. 725 (1960). The Court continued, “The Fourth Amendment protects people, not places. *Katz v. United States*, 389 U.S. 347, 19 L. Ed. 2d 576, 88 S. Ct. 507 (1967). Justice Harlan's oft quoted concurring opinion in *Katz* thus explained the standard:

The rule that has emerged from prior decisions is that there is a twofold requirement, first that a person have exhibited an actual (subjective) expectation of privacy and, second, that the expectation be one that society is prepared to recognize as 'reasonable.' *Id.* at 361.”

In the *Owens* case the Court found that Owens testified that he believed his \$100 deposit had converted his status to that of a weekly rate tenant. That coupled with his attempts to persuade the police not to enter his room further demonstrated that he held a subjective expectation of privacy. *Id.*

Moreover, the Court continued, Owens' expectation appears to have been eminently reasonable, stating

[The record reflects that a reasonable person in Owens' situation might well have expected a weekly rental rate in exchange for a \$128.45 advance deposit. *All motel guests cannot be expected to be familiar with the detailed internal policies and bookkeeping procedures of the inns where they lodge.* (emphasis added) Even assuming that Owens was renting on a day-to-day basis, his reasonable expectation of privacy continued past check-out time for at least the short period in question here. On September 9, Owens had remained in his room past check-out time without consequence. Some time after noon, on the 9th, the Inn merely had inquired politely whether he planned to stay an extra day. Eventually, after 3:00 p.m., he had paid in advance for continued occupancy.

Thus Owens' presence in the room after noon on September 12, together with his prior conduct, strongly suggested that he intended to continue his stay. It would be surprising indeed if the motel regularly authorized police entry and search of the room of every guest who failed to comply strictly with the noon checkout time requirement. Such a practice would quickly solve the problem of late checkouts, for few if any guests would ever check in to a motel thus operated.]

The decision below is at odds with *United States v. Owens*, 782 F.2d 146 (10th Cir. 1986), which held that a hotel guest's Fourth Amendment protection does not automatically expire at checkout time. Applying *Katz v. United States*, *Owens* rejected rigid reliance on contractual deadlines and instead required a fact-specific inquiry into whether the guest maintained a reasonable expectation of privacy. On facts materially analogous to those here, the Tenth Circuit concluded that even a post-checkout occupancy can remain protected where the guest's conduct and the hotel's practices reasonably suggest continued possession. By contrast, the Third Circuit treated checkout time as effectively dispositive, holding that "five hours after checkout time, any

expectation of privacy ... was not objectively reasonable,” without engaging in the contextual considerations that *Owens* deemed essential. (p.2).

Owens compels the opposite result on these facts. As the record reflects, hotels including the one here do not treat checkout time as an immediate forfeiture of occupancy; rather, they allow a period during which guests may depart, return, or resolve billing, and they often rely on internal practices such as delayed key deactivation and staff follow-up before reclaiming the room. Under *Owens*, those practices are critical to the objective reasonableness inquiry, because “all motel guests cannot be expected to be familiar with the detailed internal policies” governing checkout and billing. *Owens*, 782 F.2d at 151. By disregarding those realities and adopting a bright-line rule keyed to the passage of time, the decision below conflicts with *Owens* and deepens an acknowledged division among the circuits on whether and for how long a hotel guest retains Fourth Amendment protection after checkout.

In *United States v. Ross*, 964 F.3d 1034, 2020 U.S. App. 21028 (11th Cir. 2020) the Eleventh Circuit Court of Appeal held that a hotel guest loses his reasonable expectation of privacy in his room following checkout time, and that hotel management can validly consent to a search of the room at that point. *Id.* at 1043. *Ross* involved two separate searches of Ross’s hotel room. The first search involved a protective sweep of his hotel room soon after arriving at the hotel to arrest Ross on several outstanding warrants. The *Ross* court found this first search did not violate Ross’s Fourth Amendment expectation of privacy for reasons not pertinent to petitioner Mendoza’s argument. However, the

second search of Ross's room addressed the issue of whether, after checkout time, a hotel guest may still retain an expectation of privacy in his hotel room.

The Court in *Ross*, held that after checkout time a hotel guest loses his expectation of privacy in his room reasoning as follows:

[W]ith one minor caveat explained below, that a short-term hotel guest like Ross has no reasonable expectation of privacy in his room after checkout time, and thus no standing to object to a room search that police conduct with the consent of hotel management after checkout time has passed. What, one might ask, is the magic of checkout time? After all, even before then, during a hotel guest's tenure, hotel employees may enter the guest's room—say, to make the bed or restock toiletries. It's about control. Those sorts of fleeting, pre-checkout entries don't fundamentally compromise a guest's reasonable expectation of privacy in his room because as long as the guest is lawfully in the room, he has at least a qualified right to exclude others, including hotel staff—see, e.g., the "DO NOT DISTURB" doorhanger. Unsurprisingly, therefore, the Supreme Court has held that hotel employees may not validly consent to a search of an occupied hotel room without the guest's permission—during his authorized tenancy, he has a right to privacy in the space that the hotel cannot pierce. See, e.g., *Stoner*, 376 U.S. at 489-90. At checkout time, everything changes. At that point the housekeeping crew will need to—and has the authority to—access the room to clean and prepare it for the next registered guest, often on a very tight turnaround. A guest's doorhanger no longer bars entry. Accordingly, as the Second Circuit has held, after checkout time, even if a guest "ha[s] not completely vacated [his] room, the motel manager ha[s] the right to enter and examine the room as if it had been relinquished," because the guest no longer has "sufficient control over the premises to establish a right to privacy therein." *United States v. Parizo*, 514 F.2d 52, 55 (2d Cir. 1975); see also *United States v. Akin*, 562 F.2d 459, 464 (7th Cir. 1977) (holding that "[s]ince the record supports the district court's conclusion that the rental period ended at the 1:00 [p.m.] check-out time rather than at 6:00 [p.m.] when an individual would be billed for an additional day, . . . the authorized representative of the hotel had the authority to consent to the search of the room" after 1:00 p.m.).]

United States v. Ross, 964 F.3 1034 (11th Cir. 2020)

In Petitioner’s case, the Third Circuit applied a rigid, bright-line rule that a hotel guest’s expectation of privacy expires the moment checkout time passes. That approach foreclosed any meaningful inquiry into whether Petitioner retained either a subjective or objective expectation of privacy in the room, including whether he had notice of the hotel’s checkout policy or a reasonable opportunity to review it. For example, there was no consideration of whether checkout times were clearly communicated or whether the guest was aware of them.

This reasoning conflicts with the established Fourth Amendment framework, which asks whether the individual exhibited “an actual (subjective) expectation of privacy” and whether that expectation is one that society is prepared to recognize as reasonable. *Katz v. United States*, 389 U.S. 347, 361 (1967) The concept of “society” in this context refers not to a rigid rule tied to hotel policy, but to broader social norms and expectations regarding privacy. See Merriam-Webster, Society, <https://www.merriam-webster.com/dictionary/society> (last visited Apr. 28, 2026) (defining “society” as a large, organized group of people sharing common norms, laws, and customs).

This Court’s review is warranted to resolve a growing and consequential circuit split concerning the scope of Fourth Amendment protections in the hotel context. Some courts have adopted a fact-specific “patterns and practices” approach, recognizing that a guest’s reasonable expectation of privacy may extend beyond formal checkout time based on hotel customs, notice, and the parties’ conduct. Others, including the Third Circuit, impose a rigid bright-line rule that extinguishes all privacy interests the moment

checkout time passes, without regard to real-world practices or the totality of the circumstances. This divergence undermines the uniform application of the Fourth Amendment and departs from the flexible, societal-expectations framework articulated in *Katz v. United States*. Because the question presented recurs frequently and carries significant implications for privacy rights nationwide, this Court should grant the petition for a writ of certiorari to resolve the split and restore a consistent, principled standard.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

/s/ Ryan R. Smith

Ryan R. Smith, Esq.

Counsel for Petitioner

310 Grant Street, Suite 820

Pittsburgh, PA 15219

(412) 235-7080