

No. _____

**In the
Supreme Court of the United States**

James Patrick Burns,

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

Rene Valladares
Federal Public Defender, District of Nevada
*Rohit Rajan
Assistant Federal Public Defender
Office of the Federal Public Defender
411 E. Bonneville Ave., Ste. 250
Las Vegas, NV 89101
(702) 388-6577
Rohit_Rajan@fd.org

*Counsel of Record for Petitioner

Questions Presented for Review

1. Whether individuals retain a reasonable expectation of privacy in IP addresses and basic subscriber information associated with their online accounts?
2. Whether this Court should grant the petition, vacate the decision below, and remand after its decision in *Chatrue v. United States*, No. 25-112, which will likely provide greater guidance on a reasonable expectation of privacy in electronic data?

List of Parties

James Patrick Burns is the petitioner. The United States of America is the respondent. No party is a corporate entity.

Related Proceedings

The prior proceedings for this case can be found at:

- *United States v. Burns*, No. 24-4599, 2025 WL 3022316 (9th Cir. Oct. 29, 2025),
- *United States v. Burns*, No. 24-4599, ECF No. 52 (9th Cir. Feb. 18, 2026), and
- *United States v. Burns*, No. 21-cr-46-MMD, ECF No. 319, (D. Nev. Sept. 6, 2022).

Table of Contents

Questions Presented for Review	i
List of Parties.....	ii
Related Proceedings.....	ii
Table of Contents	iii
Table of Authorities	iv
Petition for Writ of Certiorari	1
Opinions Below	1
Jurisdiction	1
Constitutional and Statutory Provisions	1
Introduction	2
Statement of the Case	3
Reasons for Granting the Petition	6
I. This Court should grant certiorari to decide whether an individual possesses a Fourth Amendment interest in IP addresses and basic subscriber information.....	6
A. The decision below is wrong under <i>Carpenter</i> and improperly discounts individuals’ Fourth Amendment interests.	7
B. The proper application of <i>Carpenter</i> and the third-party doctrine is of exceptional importance.	11
C. This case presents the ideal opportunity to consider this question.	14
II. Alternatively, this Court should hold this petition pending <i>Chatrpie</i>	15
Conclusion.....	16

Table of Authorities

Federal Cases	Page(s)
<i>Camara v. Municipal Court of City & County of San Francisco</i> , 387 U.S. 523 (1967)	6
<i>Carpenter v. United States</i> , 585 U.S. 296 (2018)	2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15
<i>Lawrence v. Chater</i> , 516 U.S. 163 (1996)	16
<i>McIntyre v. Ohio Elections Comm’n</i> , 514 U.S. 334 (1995)	14
<i>Okla. Press Pub. Co. v. Walling</i> , 327 U.S. 186 (1946)	14
<i>United States v. Bynum</i> , 604 F.3d 161 (4th Cir. 2010)	7
<i>United States v. Chatrue</i> , 136 F.4th 100 (4th Cir. 2025)	13, 15
<i>United States v. Davis</i> , 785 F.3d 498 (11th Cir. 2015)	7
<i>United States v. Forrester</i> , 512 F.3d 500 (9th Cir. 2008)	7, 9, 10
<i>United States v. Howard</i> , 426 F. Supp. 3d 1247 (M.D. Ala. 2019)	13
<i>United States v. Huyck</i> , 849 F.3d 432 (8th Cir. 2017)	11
<i>United States v. Jones</i> , 565 U.S. 400 (2012)	9
<i>United States v. Miller</i> , 425 U.S. 435 (1976)	7, 8, 9
<i>United States v. Rosenow</i> , 33 F.4th 529 (9th Cir. 2022)	4, 5, 6, 9
<i>United States v. Skinner</i> , 690 F.3d 772 (6th Cir. 2012)	7

<i>United States v. Whipple</i> , 92 F.4th 605 (6th Cir. 2024)	13
---	----

<i>Wheaton Coll. v. Burwell</i> , 573 U.S. 958 (2014)	12
--	----

Constitutional Provisions, Statutes, and Rules

U.S. Const. amend. IV	1
-----------------------------	---

18 U.S.C. § 3231	1
------------------------	---

28 U.S.C. § 1254	1
------------------------	---

Supreme Court Rule 13	1
-----------------------------	---

Secondary Sources

Electronic Frontier Foundation, <i>Protect Your Users From Lawless DHS Subpoenas</i> (Feb. 10, 2026)	14
---	----

Matthew Tokson, <i>The Aftermath of Carpenter: An Empirical Study of Fourth Amendment Law, 2018-2021</i> , 135 Harv. L. Rev. 1790 (2022)	11, 12, 13
--	------------

Pew Research Center, <i>Internet, Broadband Fact Sheet</i> (Nov. 20, 2025)	10
--	----

Petition for Writ of Certiorari

James Patrick Burns petitions for 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 an unpublished decision affirming Burns's convictions. Pet. App. 1a–8a. This unpublished decision can be found at *United States v. Burns*, No. 24-4599, 2025 WL 3022316 (9th Cir. Oct. 29, 2025) and Pet. App. 1a–8a. The Ninth Circuit denied rehearing in an unreported order. Pet. App. 47a. The district court denied suppression in an oral ruling. Pet. App. 39a–43a. The oral ruling is also unreported.

Jurisdiction

The district court had jurisdiction under 18 U.S.C. § 3231. The Ninth Circuit affirmed Burns's convictions, including the denial of his suppression motion, on October 29, 2025. Pet. App. 1a–8a. It denied a timely rehearing petition on February 18, 2026. Pet. App. 47a. Burns is timely filing this petition. *See* Sup. Ct. Rule 13.1, 13.3. Burns is seeking to invoke this Court's jurisdiction under 28 U.S.C. § 1254(1).

Constitutional and Statutory Provisions

U.S. Const. amend. IV:

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

Introduction

This case asks how far the government can go in collecting our data. In February 2021, police learned about a TikTok account connected with the exploitation of a minor. Police eventually obtained a search warrant for that account and received information that purportedly connected James Burns to the crime. When Burns tried to argue that the search warrant was overbroad, the district court sidestepped that argument. The district court, instead, advanced the remarkable proposition that there are no reasonable expectations of privacy in internet protocol (IP) addresses and basic subscriber information associated with online accounts. Because that proposition derives from Ninth Circuit precedent, the Ninth Circuit affirmed that conclusion on appeal.

This Court should reject that holding. For starters, the Ninth Circuit's conclusion is at odds with *Carpenter v. United States*, 585 U.S. 296 (2018). *Carpenter* “decline[d] to grant” the government “unrestricted access” to “deeply revealing” physical location information. *Id.* at 320. That same concern is implicated here. Through the IP address information at issue here, police learned the whereabouts of the TikTok user over a 23-day period. This case also presents an ideal opportunity to provide guidance to the lower courts on a critical issue. Since *Carpenter*, lower courts have badly split on how to measure expectations of privacy in the digital age. At minimum, this Court should hold this petition until it resolves *Chatrue v. United States*, No. 25-112—another case examining reasonable expectations of privacy in electronic data. After *Chatrue* provides critical guidance, this Court can grant certiorari, vacate, and remand for further consideration.

Statement of the Case

1. In February 2021, a minor reported that she was being sexually exploited online. The only information she had about the perpetrator was his TikTok and Snapchat usernames. Police then sought information for these accounts. In June, TikTok responded to a search warrant with IP addresses for the perpetrator's account. Although most of the IP addresses geo-located to South Korea, one returned to Sparks, Nevada and was registered with Charter Communications, an internet service provider.

Rather than obtain a search warrant for the subscriber's information, police served an administrative subpoena on Charter. Charter identified the subscriber as James Burns. More than a month later, police executed a search warrant at Burns's home. Police seized all of Burns's electronic devices and arrested him that day. Burns immediately denied exploiting any minors. He instead implicated a man in Norway who he believed hacked and placed incriminating files on his electronic devices.

2. Police identified eight exploited minors from files on Burns's devices. A federal grand jury indicted him for 21 child exploitation related offenses.

Burns sought suppression, challenging both the search warrant for the TikTok account and the one for his home. He argued that the warrant for the TikTok account was overbroad because it sought too much information. And if that warrant was unlawful, the residential search was improper because it primarily relied on the information received from TikTok. At any rate, the residential search

warrant lacked probable cause because most of TikTok’s IP address information implicated a perpetrator in South Korea, not Nevada.

The district court held oral argument on Burns’s suppression motion. Just a few months earlier, the Ninth Circuit held in *Rosenow*, 33 F.4th 529 that an individual “has no expectation of privacy in IP addresses or basic subscriber information.” 50 F.4th at 738 (citation modified). Because TikTok produced only IP addresses, the district court held that Burns lacked a Fourth Amendment interest in the information produced by TikTok. Pet. App. 40a–41a. Because that information was lawfully obtained, the district court also concluded that probable cause existed for the residential search warrant. Pet. App. 41a–43a. The district court therefore refused to suppress any evidence gathered from Burns’s home. Pet. App. 43a.

3. Burns proceeded to trial. The files recovered from Burns’s electronic devices during the residential search featured prominently in the government’s case. For his part, Burns advanced a third-party guilt defense, persisting with the argument that someone else hacked and placed these files on his devices. Evidence supported this defense. While he remained in pretrial detention, one minor was revictimized in a similar manner. Data also revealed that someone in Norway—the same country Burns identified at his arrest—accessed the perpetrator’s Snapchat account while he was detained. And none of the minors could identify Burns, by face or voice, as the person who exploited them. After the district court excluded much of Burns’s exculpatory evidence, the jury found him guilty on all counts. The district

court sentenced Burns to an aggregate term of 65 years, which is a de facto lifetime sentence given his age. Pet. App. 51a.

4. Burns appealed his convictions and sentence. One argument challenged the denial of his suppression motion. Relying on this Court’s decision in *Carpenter v. United States*, 585 U.S. 296 (2018), Burns explained that he retained a privacy interest in the IP address information produced by TikTok. Like the cell-site location information at issue in *Carpenter*, the IP address information in this case allowed police to collect an “exhaustive chronicle of location information” about the user of the TikTok account. *Id.* at 315. The IP address information allowed police to geo-locate the user of the TikTok account for almost a month, implicating the same Fourth Amendment privacy concerns as *Carpenter*. Ninth Circuit case law insufficiently accounted for these concerns, because it thought that the voluntary transmission of IP address information to third parties vitiated any privacy interests. *Rosenow*, 50 F.4th at 738. But *Carpenter* rejected the very idea that “voluntary exposure” of location information diminishes a person’s privacy interests. 585 U.S. at 315.

Finding itself bound by *Rosenow*, the three-judge Ninth Circuit panel concluded that Burns had “no expectation of privacy in the third-party subscriber information he voluntarily provided to TikTok.” Pet. App. 5a. Because “this information provided the basis to search his home, the district court did not err in declining to suppress search warrant evidence.” Pet. App. 5a. Burns timely sought rehearing. The panel denied panel rehearing, and the Ninth Circuit denied rehearing en banc. Pet. App. 47a.

Reasons for Granting the Petition

I. This Court should grant certiorari to decide whether an individual possesses a Fourth Amendment interest in IP addresses and basic subscriber information.

The Fourth Amendment protects “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” The “basic purpose of this Amendment, as recognized in countless decisions of this Court, is to safeguard the privacy and security of individuals against arbitrary invasions by governmental officials.” *Camara v. Municipal Court of City & County of San Francisco*, 387 U.S. 523, 528 (1967). Despite the sweeping protection offered by the Fourth Amendment, lower courts refuse to accord any Fourth Amendment protection to certain highly revealing categories of evidence.

This case involves one such category: IP addresses and basic subscriber information associated with online accounts. The Ninth Circuit holds that individuals have no expectation of privacy in such data, because individuals voluntarily share that information with the companies that host their accounts. *See United States v. Rosenow*, 50 F.4th 715, 737–38 (9th Cir. 2022). This application of the third-party doctrine is wrong. In *Carpenter*, this Court chided lower courts for “mechanically applying the third-party doctrine” to new categories of information. 585 U.S. 296, 314 (2018). IP addresses and basic subscriber information, like the cell-site location information at issue in *Carpenter*, reveal sensitive information about individuals and thus deserve the same “special solicitude” this Court applied in *Carpenter*. *Id.* Because lower courts have also struggled in applying *Carpenter*, this case presents an appropriate opportunity to resolve this important issue.

A. The decision below is wrong under *Carpenter* and improperly discounts individuals' Fourth Amendment interests.

This Court's decision in *Carpenter* was a significant departure from the interpretation of the Fourth Amendment in the federal courts of appeals. Before *Carpenter*, most circuits used the third-party doctrine to extinguish most claimed Fourth Amendment interests in electronically generated information. "The third-party doctrine partly stems from the notion that an individual has a reduced expectation of privacy in information knowingly shared with another." *Carpenter*, 585 U.S. at 314. In *Miller*, for example, this Court found that the defendant's knowing exposure of his bank records to his bank deprived him of any Fourth Amendment interest. 425 U.S. 435, 441 (1976). In the years since *Miller*, courts of appeals mechanically extended the third-party doctrine to a host of electronic data. *See, e.g., United States v. Bynum*, 604 F.3d 161, 164 (4th Cir. 2010) (internet and phone subscriber information); *United States v. Skinner*, 690 F.3d 772, 777–78 (6th Cir. 2012) (real time cell phone location information); *United States v. Forrester*, 512 F.3d 500, 510 (9th Cir. 2008) (IP addresses and non-content email information); *United States v. Davis*, 785 F.3d 498, 511–12 (11th Cir. 2015) (en banc) (cell-site information).

Carpenter significantly cabined the scope of the third-party doctrine. There, this Court addressed "whether the Government conducts a search under the Fourth Amendment when it accesses historical cell phone records that provide a comprehensive chronicle of the user's past movements." 585 U.S. at 300. The Sixth Circuit had held that the defendant lacked a reasonable expectation of privacy in

this location information “because he had shared that information with his wireless carriers.” *Id.* at 303. This Court disagreed, rejecting the “significant extension” of the third-party doctrine “to a distinct category of information.” *Id.* at 314. The mere act of sharing the information by itself is not dispositive of whether an individual has a legitimate privacy interest in the records. *Id.* Rather, courts must consider “the nature of the particular documents sought” to determine whether Fourth Amendment protections apply. *Id.* (quoting *Miller*, 425 U.S. at 442).

This Court rejected the application of the third-party doctrine in *Carpenter* given the significant privacy concerns associated with historical cell-site records. *Id.* at 311. “Mapping a cell phone’s location” for a significant period “provides an all-encompassing record of the holder’s whereabouts.” *Id.* With such a record, the government has “an intimate window into a person’s life” that not only reveals his movements, “but through them his familial, political, professional, religious, and sexual associations.” *Id.* (citation modified). And this record creeps “beyond public thoroughfares and into private residences, doctor’s offices, political headquarters, and other potentially revealing locales.” *Id.* Thus, in light of the “revealing nature” of cell-site location information and the “special solicitude” location information has historically enjoyed, the records at issue in *Carpenter* deserved Fourth Amendment protection. *Id.* at 314.

Carpenter provided guideposts for courts to use in analyzing whether other types of information enjoy a reasonable expectation of privacy, notwithstanding the sharing of this information with third parties. Courts examine “the revealing nature” of the information, the “depth” and “breadth”—that is, the amount

collected, the “comprehensive reach” of the surveillance, and “the inescapable and automatic nature of its collection.” *Id.* at 320.

The Ninth Circuit has failed to correctly apply *Carpenter*. In *Rosenow*, the Ninth Circuit summarily rejected any privacy interest in IP addresses or basic subscriber information. 50 F.4th at 738. The Ninth Circuit largely relied on its pre-*Carpenter* caselaw, *id.* (citing *Forrester*, 512 F.3d at 510), which employed exactly the mechanical application of the third-party doctrine that this Court disapproved of in *Carpenter*, see 585 U.S. at 314. Although the Ninth Circuit claimed “*Carpenter* is distinguishable,” the court did not meaningfully engage with any of *Carpenter*’s guideposts. *Rosenow*, 50 F.4th at 738. Under those guideposts, IP addresses and subscriber information qualify as Fourth Amendment protected information.

First, the information revealed by IP address and basic subscriber information is “deeply revealing.” *Carpenter*, 585 U.S. at 320. Indeed, IP address information implicates many of the same concerns as the cell-site location information at issue in *Carpenter*. IP addresses, too, reveal a user’s geographic location, allowing police to track the user of an account over a lengthy period and gain a detailed recounting of their whereabouts. Here, police used this IP address information to figure out the account’s very location for almost a month. Such “a precise, comprehensive record of a person’s” location can reveal “a wealth of detail about [a person’s] familial, political, professional, religious, and sexual associations.” *United States v. Jones*, 565 U.S. 400, 415 (2012) (Sotomayor, J., concurring). Thus, IP addresses and basic subscriber information implicate “privacy

concerns far beyond those considered” in traditional third-party doctrine cases like *Miller. Carpenter*, 585 U.S. at 315.

Second, the amount of IP address information collected was significant. As in *Carpenter*, police here collected this information over a significant time period—from January 28, 2021 through February 20, 2021. This period well exceeds the collection of seven days of cell-site location information found sufficient to constitute a search in *Carpenter*. See 585 U.S. at 310 n.3. And during this period here, police logged 66 distinct attempts to access the account, each with a corresponding IP address. This information not only detailed the IP address but also included the country associated with the IP address and the time of log-in attempt. Thus, this information too was “detailed” and “encyclopedic,” providing “an all-encompassing record of the holder’s whereabouts.” *Id.* at 309, 311.

Finally, addressing the last two factors, the reach of this type of surveillance is “comprehensive” and “automatic.” *Id.* at 320. Zooming out more broadly, the “newfound tracking capacity” of IP address surveillance also “runs against everyone.” *Id.* at 312. Recent survey data reveals that 96 percent of U.S. adults use the internet. Pew Research Center, *Internet, Broadband Fact Sheet* (Nov. 20, 2025), <https://www.pewresearch.org/internet/fact-sheet/internet-broadband/>. And for some groups, “internet usage is near universal.” *Id.* Surveillance necessarily accompanies this increased usage of the internet. Internet service providers automatically provide users with IP addresses to direct the routing of information. *Forrester*, 512 F.3d at 510. This automatic process necessarily reveals the user’s whereabouts. The internet service provider “associates the IP address with the physical address of the

user.” *United States v. Huyck*, 849 F.3d 432, 436 n.2 (8th Cir. 2017). “If law enforcement officials know a user’s IP address, they can subpoena the user’s ISP to provide the physical address.” *Id.* Thus, this automatic aspect necessarily means that the government’s information-gathering technique at issue here affects everyone who uses the internet—hundreds of millions of people in the country.

Because the collection of IP addresses and basic subscriber information implicates every *Carpenter* factor, the decision below is wrong. This Court should therefore grant certiorari to correct the Ninth Circuit’s misapplication of *Carpenter* and the third-party doctrine.

B. The proper application of *Carpenter* and the third-party doctrine is of exceptional importance.

Providing a proper understanding of the third-party doctrine and reasonable expectations of privacy after *Carpenter* would serve two important considerations. First, lower courts have badly struggled in applying *Carpenter*’s understanding of the Fourth Amendment, with many courts still relying on their pre-*Carpenter* understanding of the amendment. Second, the failure of lower courts to recognize Fourth Amendment interests in IP addresses and subscriber information significantly undermines legitimate privacy concerns implicated by such data. Either argument favors granting certiorari.

1. Although it built on this Court’s earlier development of the third-party doctrine, *Carpenter* marked a “sea change” in Fourth Amendment law as applied to “a person’s digital information.” Matthew Tokson, *The Aftermath of Carpenter: An Empirical Study of Fourth Amendment Law, 2018-2021*, 135 Harv. L. Rev. 1790,

1799–800 (2022). “For the first time, a person’s digital information could be protected by the Constitution even though that information was possessed by another party.” *Id.* at 1800. Thus, in the digital context, it reshapes “both the third-party doctrine and the law of Fourth Amendment searches more broadly.” *Id.* Still, *Carpenter* “largely left future issues to be resolved by the lower courts.” *Id.* And in its wake, lower courts have struggled in applying *Carpenter*.

Despite the major change created by *Carpenter*, lower courts remain divided on its impact. An empirical analysis using data from June 22, 2018, and March 31, 2021, reveals this division. In this period, “[t]here were 217 decisions that reached a determinative, yes-or-no ruling on a Fourth Amendment search under *Carpenter*.” *Id.* at 1821. Many of these cases appropriately recognized the transformative impact of *Carpenter*. These courts used *Carpenter*’s guideposts to drive their analysis of whether a Fourth Amendment search occurred. *Id.* at 1821–25. Yet of these 217 decisions, “[t]here were eighty-eight cases where courts issued a determinative ruling on a Fourth Amendment search but did not mention any of the *Carpenter* factors.” *Id.* at 1827. These cases reveal a failure to appropriately grapple with *Carpenter*’s impact. In some cases, for example, these “courts interpreted *Carpenter* narrowly or minimized its impact on Fourth Amendment law, generally in the course of finding no search.” *Id.* And some cases “were largely resolved under the classic *Katz* approach rather than the newer *Carpenter* paradigm.” *Id.*

This division in applying *Carpenter* requires this Court’s intervention. Most obviously, “division is a traditional ground for certiorari.” *Wheaton Coll. v. Burwell*, 573 U.S. 958 (2014) (on application for injunction). This division also reflects

“judicial inertia towards a prior status quo” in the lower courts that refuse to accord *Carpenter* with much significance. Tokson, *supra*, at 1837. To help the lower courts grow more comfortable applying *Carpenter*’s new analysis, further guidance on the scope of the decision would be helpful. *See, e.g., United States v. Howard*, 426 F. Supp. 3d 1247, 1256 & n.7 (M.D. Ala. 2019). Otherwise, as the Fourth Circuit recently encountered, the public and police may be left with “a labyrinth” of different Fourth Amendment interpretations, “many pointing in different directions.” *United States v. Chatrie*, 136 F.4th 100, 109 (4th Cir. 2025) (Diaz, J., concurring), *cert. granted*, 2026 WL 120676 (Jan. 16, 2026).

2. Allowing unfettered government access to IP addresses and basic subscriber information implicates serious privacy concerns as well. In this case, police collected these records for more than a month, allowing the government to create a detailed chronicle of the user’s movements. And here, this chronicle peered into every location in which the account was accessed—public or private. That sort of information implicates all the significant privacy concerns in physical movements that this Court recounted in *Carpenter*. 585 U.S. at 311–13.

Even setting aside the context of this case, unfettered access to this type of information creates an opportunity for abuse. Under the prevailing view, police can obtain via subpoena the identifying information of a subscriber linked to any IP address without establishing probable cause of criminal wrongdoing. *See United States v. Whipple*, 92 F.4th 605, 611 n.4 (6th Cir. 2024). For instance, an officer may suspect that the user of a certain IP address had anonymously posted views critical of government officials. This officer could believe that this speech encourages

criminal activity, and without the benefit of independent judicial oversight, use a subpoena to ascertain the identity of a subscriber assigned to that IP address and monitor that person's activities. This result, which allows for harassment based on political views, jeopardizes the "respected tradition of anonymity in the advocacy of political causes," *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 343 (1995), and the basic private "interests of men to be free from officious intermeddling," *Okla. Press Pub. Co.*, 327 U.S. at 213. This result is not merely hypothetical. Over the last year alone, there have been several instances of government officials trying to subpoena information for online government critics. See Electronic Frontier Foundation, *Protect Your Users From Lawless DHS Subpoenas* (Feb. 10, 2026), <https://www.eff.org/deeplinks/2026/02/open-letter-tech-companies-protect-your-users-lawless-dhs-subpoenas> (collecting examples).

For these reasons, this case presents a question of exceptional importance.

C. This case presents the ideal opportunity to consider this question.

The question presented is the sole issue implicated by the denial of Burns's motion to suppression. The Ninth Circuit's decision turns on whether it correctly determined that there is no reasonable expectation of privacy in IP addresses or basic subscriber information. Pet. App. 5a. The issue is a question of law which was preserved at every stage of litigation. It was pressed and passed upon by the courts below. And as of now, no individual in the Ninth Circuit possesses a Fourth Amendment interest in such information. This case allows the Court to finally settle this issue.

II. Alternatively, this Court should hold this petition pending *Chatrie*.

This Court is currently considering a related issue in *Chatrie v. United States*, No. 25-112. *Chatrie* concerns whether the execution of a geofence warrant, which provided anonymized location data for every device within 150 meters of a robbery, violated the Fourth Amendment. The Court’s resolution of *Chatrie* will likely provide more guidance to lower courts about how to examine reasonable expectations of privacy in electronic data and the third-party doctrine.

Indeed, the dispute at the Fourth Circuit centered on the application of the third-party doctrine after *Carpenter*. Several judges believed that the voluntary exposure of this location information meant there was no Fourth Amendment search at all. *See United States v. Chatrie*, 136 F.4th 100, 130 (4th Cir. 2025) (en banc) (Richardson, J., concurring); *see also id.* at 109 (Wilkinson, J., concurring) (“There was no search because this case involved a straightforward application of *Smith* and *Miller*.” (citations omitted)); *id.* at 113 (Niemeyer, J., concurring) (similar). Meanwhile, several other judges refused to apply the third-party doctrine, believing it to be “an increasingly tenuous barometer for reasonable privacy expectations in the digital era.” *Id.* at 119 (Wynn, J., concurring); *see also id.* at 105 (Diaz, J., concurring) (similar); *id.* at 149–53 (Berner, J., concurring) (similar). Should this Court resolve this disagreement about the modern scope of the third-party doctrine, its opinion will presumably explain the standards lower courts should follow in analyzing the doctrine’s applicability. The Court should therefore give the Ninth Circuit an opportunity to reconsider this case after it resolves

Chatrie. See *Lawrence v. Chater*, 516 U.S. 163, 166–68 (1996) (per curiam) (endorsing the grant, vacate, and remand procedure).

Conclusion

This Court should grant Burns’s petition for writ of certiorari. Alternatively, this court should hold this petition pending its decision in *Chatrie* and then grant certiorari, vacate the Ninth Circuit’s decision, and remand for further consideration in light of *Chatrie*.

Dated May 18, 2026.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Rohit Rajan
Rohit Rajan
Counsel of Record
Assistant Federal Public Defender