

No. 26-

IN THE
Supreme Court of the United States

AMERICAN ACCEPTANCE CORPORATION OF SC,
ON BEHALF OF ITSELF AND ALL OTHERS
SIMILARLY SITUATED,

Petitioner,

v.

JOHN GIETZ; SHERIFF BRYAN KOON, A/K/A
JAY KOON, IN HIS OFFICIAL CAPACITY;
SANDRA BLACK; JOEL M. DEASON;
JAMES WESTBURY; JESSE LAINTZ;
LEXINGTON COUNTY SHERIFF'S DEPARTMENT,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

In *City of West Covina v. Perkins*, 525 U.S. 234, 240 (1999), this Court held that “when law enforcement agents seize property pursuant to warrant, due process requires them to take reasonable steps to give notice that the property has been taken so the owner can pursue available remedies for its return.”

The Respondents seized two motorcycles in which the Petitioner holds recorded security interests for a criminal investigation and took no steps to notify the Petitioner that the property had been taken. The seizures constituted incidents of default entitling the Petitioner to immediate possession.

The Fourth Circuit did not hold that the Respondents’ failure to take steps to provide notice violated the Petitioner’s right to due process but instead held that because the motorcycles were seized in compliance with the Fourth Amendment and retained as evidence in a criminal investigation, “no further process was due” to the Petitioner.

The questions presented are:

1. Does law enforcement’s failure to take steps to provide notice of seizure shortly following seizure of property violate owners’ rights to due process?
2. Does a seizure comply with the Fourth Amendment when law enforcement takes no steps to inform owners of seized property of the seizures?

PARTIES TO THE PROCEEDING

Petitioner American Acceptance Corporation of SC was the sole plaintiff in the district court and the sole plaintiff-appellant in the court of appeals.

Respondents John Gietz; Sheriff Bryan Koon a/k/a Jay Koon, in his official capacity; Sandra Black; Joel M. Deason; James Westbury; Jesse Laintz; and Lexington County Sheriff's Department were the defendants in the district court and the defendants-appellees in the court of appeals.

CORPORATE DISCLOSURE STATEMENT

Petitioner American Acceptance Corporation of SC discloses that there is no parent or publicly held company owning 10% or more of its stock. Petitioner American Acceptance Corporation of SC has no stock ticker symbol.

STATEMENT OF RELATED PROCEEDINGS

American Acceptance Corp. of SC v. John Gietz, et al.,
Lexington County Court of Common Pleas, No.: 2024-
CP-32-00492 (removed on March 1, 2024)

American Acceptance Corp. of SC v. John Gietz, et al.,
District of South Carolina, No.: 3:24-cv-01099-MGL
(March 26, 2025)

American Acceptance Corp. of SC v. John Gietz, et al.,
Fourth Circuit, No. 25-1448 (May 12, 2026, petition for
rehearing en banc denied on June 9, 2026)

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PETITION FOR A WRIT OF CERTIORARI

Petitioner American Acceptance Corporation of SC respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit in this case.

OPINIONS BELOW

The opinion of the Fourth Circuit is reported at 175 F.4th 502 and reproduced at App.1a-16a. The order of the district court is not reported in the Federal Supplement but is available at 2025 WL 919956 and reproduced at App.17a-28a.

JURISDICTION

The judgment of the court of appeals was entered on May 12, 2026. Petitioner's petition for rehearing en banc was denied on June 9, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

The Fourth Amendment to the United States Constitution 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.

Section 1 of the Fourteenth Amendment to the United States Constitution provides, in pertinent part,

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

INTRODUCTION

In *City of West Covina v. Perkins*, 525 U.S. 234, 240 (1999), this Court held that “when law enforcement agents seize property pursuant to warrant, due process requires them to take reasonable steps to give notice that the property has been taken so the owner can pursue available remedies for its return.” This Court’s holding on notice following seizure comports with a common sense understanding of procedural fairness—when law enforcement seizes moveable property outside of the presence of those with interests in the property, “[i]ndividualized notice that the officers have taken the property is necessary . . . because the property owner would have no other reasonable means of ascertaining who was responsible for his loss.” *Id.* at 241.

Because the parties in *Perkins* agreed that notice had been provided at the time of seizure, this Court did “not decide how detailed the notice of the seizure must be or when notice must be given.” *Id.* at 240. Further, because the seizure at issue in *Perkins* was conducted pursuant to warrant, the Court did not determine whether owners of

property seized pursuant to an exception to the warrant requirement are entitled to the same notice.

While Justice Thomas concurred in judgment in *Perkins*, he rejected the majority's reasoning on due process. Instead, he wrote, "In my view, if the Constitution imposes a 'notice' requirement on officers executing a search warrant, it does so because the failure to provide such notice renders an otherwise-lawful search 'unreasonable' under the Fourth Amendment," and represented that he "would be open to considering, in an appropriate case, whether the Fourth Amendment mandates the notice requirement." *Id.* at 247-48 (Thomas, J., concurring in judgment).

This case provides the Court with the ideal vehicle for answering the questions left open by both the majority opinion and the concurring opinion in *Perkins*.

The Petitioner is a secured creditor with perfected security interests in two motorcycles seized as potential evidence by the Respondents. App.2a. The Fourth Circuit acknowledged that following both a seizure pursuant to a warrant and a seizure pursuant to an exception to the warrant requirement, law enforcement failed to provide the Petitioner with notice of seizure. App.4a.

The Fourth Circuit did not find that law enforcement's failure to provide notice of the seizures to the Petitioner constituted either a violation of the Fourth or Fourteenth Amendments. Instead, it held that because law enforcement complied with the Fourth Amendment in effecting the seizures and had a lawful right to retain the property as evidence, it had necessarily afforded the Petitioner the full measure of process the Petitioner was due. App.11a-12a.

This holding creates a split with the Second and Third Circuits and undermines the foundational concern of procedural due process: procedural fairness. *See Daniels v. Williams*, 474 U.S. 327, 331 (1986). As in *Perkins*, no party to this case “contests the right of the State to have seized the property in the first instance or its ultimate obligation to return it.” 525 U.S. at 240. What the parties contest is the fairness of law enforcement’s refusal to promptly provide notice that the property has been seized at all.

Because this case provides the Court the opportunity to address important and recurring questions left unanswered following *Perkins*—questions that affect both individual owners and lenders in this country’s \$1.71T auto loan industry—while also resolving a newly formed circuit split, this Court should grant this petition.

STATEMENT OF THE CASE

1. The Petitioner is a creditor engaged in the business of financing motor vehicles and motorcycles. App.2a. On January 30, 2021, Timothy Harold Brock (“Brock”) executed a contract for the purchase of a motorcycle, and on July 13, 2021, Shane Adam Andrzejewski (“Andrzejewski”) executed a contract for the purchase of motorcycle. App.3a. The contracts for the motorcycles were assigned to the Petitioner, and the Petitioner was listed as a lienholder with the South Carolina Department of Motor Vehicles. App.3a. The contracts provided that if the prospect of payment, performance, or realization on the property was significantly impaired, the purchasers would be deemed to have defaulted and the Petitioner would be

entitled to remedies including immediate possession. App. 3a. On or about October 8, 2022, Brock was killed in a shooting. App.3a. The Respondents seized the Brock motorcycle at the scene of the shooting pursuant to an exception to the warrant requirement. App.3a. On November 4, 2022, the Andrzejewski motorcycle was seized pursuant to a search warrant. App.3a. Andrzejewski and three other defendants were arrested and each charged with murder, attempted murder, and criminal conspiracy in connection with Brock's death. App.3a.

The Respondents failed to provide the Petitioner with notice of the seizures. App.4a. The Petitioner determined the motorcycles had likely been seized by the Respondents, and on or about December 20, 2022, the Petitioner initiated contact with the Respondents. App.4a. The Respondents acknowledged possession of the motorcycles, represented it would be several years before the Petitioner could recover its collateral, and refused to respond to requests for further information. App.4a.

2. On January 30, 2023, Petitioner filed and served summonses and complaints in the Lexington County Court of Common Pleas. App.4a. The Respondents filed motions to dismiss for insufficiency of process. App.5a. The motions were granted with leave to perfect service. App.6a. The Petitioner then filed a summons and complaint in the Lexington County Court of Commons Pleas on February 1, 2024. App.6a.
3. The Respondents filed a notice of removal on March 1, 2024. The Petitioner filed an Amended Class Action

Complaint for Declaratory Judgment, Damages, and Injunctive Relief on March 21, 2024. App.6a. Therein, the Petitioner asserted causes of action for Declaratory Judgment, Permanent Injunction, violation of 42 U.S.C. § 1983, and claim and delivery against the Respondents. On April 4, 2024, Respondents filed a Motion to Dismiss for Failure to State a Claim. On May 19, 2024, Petitioner filed a Motion for Summary Judgment. App.6a.

On October 30, 2024, the Respondents filed a Motion to Compel Plaintiff to Take Possession of the Two Motorcycles, or in the Alternative, to Allow Defendants to Deposit Said Motorcycles with the Court. JA117.¹ At the time the Respondents filed this motion, there had been no conviction or adjudication as to any of the charges pending against Andrzejewski or the other three defendants. JA117-120.

4. On March 26, 2025, the district court filed a Memorandum Opinion and Order Granting Defendants' Motion to Dismiss as to Plaintiff's Federal Claim, in which the district court found that the Respondents failed to notify the Petitioner of the seizures. App.18a-19a. It nevertheless dismissed Petitioner's federal claims, holding, "Petitioner is unable to demonstrate a procedural due process violation occurred because [Respondents'] seizure of the motorcycles complied with the Fourth Amendment in the first instance." App.25a.

1. The Joint Appendix citations herein are citations to the Joint Appendix filed as Dkt. No. 13, American Acceptance Corp. of S.C. v. Gietz, No. 25-1448 (4th Cir. filed May 16, 2025).

On April 21, 2025, the Petitioner appealed the district court's order. App.6a.

5. Like the district court, the Fourth Circuit acknowledged that “[Respondents] did not notify [Petitioner] of the seizure or the location of the motorcycles.” App.4a. It nonetheless concluded that Respondents’ failure to take steps to provide notice of the seizures did not constitute a due process violation, holding, “because the motorcycles were lawfully seized under the Fourth Amendment and retained as evidence in an active criminal investigation, no further process was due.” App.11a-12a.

The Fourth Circuit further held that because the motorcycles were held as “physical evidence . . . related to the conviction or adjudication of a person” pursuant to S.C. Code Ann. § 17-28-320(A), the Respondents “had not only a right, but an obligation to retain them.” App.12a. On this basis, the Fourth Circuit affirmed the district court’s dismissal.

REASONS FOR GRANTING THE PETITION

I. The Decision Below Creates A Conflict Amongst The Courts of Appeals

In *Perkins*, this Court had the opportunity to provide definitive guidance to the circuits as to when law enforcement must provide property owners with notice of seizure to comply with the Due Process Clause of the Fourteenth Amendment. It chose not to, and following the Fourth Circuit’s decision in this case, a constitutional amendment that should be interpreted and applied

consistently throughout the United States now receives wildly disparate treatment depending on the appellate district in which law enforcement seizes property.

Unlike the termination of a utility service at issue in *Memphis Light, Gas & Water Div. v. Craft*, 436 U.S. 1 (1978), when moveable property is seized by law enforcement, the deprivation alone does nothing to inform the person or persons with interests in the seized property of the party responsible for the deprivation. In such a case, this Court held in *Perkins* that due process requires “individualized notice that the officers have taken the property . . . because the property owner would have no other reasonable means of ascertaining who was responsible for his loss.” 525 U.S. at 241.

Since *Perkins*, few cases directly addressing the process due to an owner when an owner has “no other reasonable means of ascertaining who was responsible for his loss” have progressed to the circuits, but the decisions of the Second and Third Circuits in such cases differ markedly from the decision of the Fourth Circuit in the present case.

a. The Second and Third Circuits Require Law Enforcement to Furnish Owners and Lienholders With Notice of Seizure Shortly Following Seizure

In *Honda Lease Trust v. Malanga’s Automotive*, 152 F.4th 477, 486 (3rd Cir. 2025), the Third Circuit considered the period in which a lienholder is due notice following seizure in light of *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976), wherein this Court held that “[d]ue process is

flexible and calls for such procedural protections as the particular situation demands.” Applying *Stypmann v. City & Cnty. Of San Francisco*, 557 F.2d 1338, 1344 (9th Cir. 1977) and *Coleman v. Watt*, 40 F.3d 225, 261 (8th Cir. 1994), it distinguished the period in which a lienholder not entitled to immediate possession of a seized vehicle is due notice from the period in which a noncommercial driver or owner of a private vehicle is due the same.

The Third Circuit held that a lienholder’s “commercial interest is not like that of the driver who must use his vehicle to get to work” because a lienholder’s ability to access “jobs, schools, and recreation as well as . . . the daily necessities of life” is not immediately impacted by a seizure. *Honda Lease Trust*, 152 F.4th at 486. Thus, while the notice period may be more flexible for lienholders who do not have a right to immediate possession of seized vehicles, the Third Circuit held, “for most other situations, especially for owner or lessee-operators, a month-long notice period will be inadequate.” *Id.*

While the Third Circuit gave no indication in *Honda Lease Trust* that its evaluation of the notice period depended on the nature of a seizure, *Honda Lease Trust* did not involve seizure of property as evidence. Through the *Krimstock* cases and their progeny, however, the Second Circuit has explicitly considered the notice due to owners following seizure of moveable property as evidence. Like the Third Circuit, the Second Circuit recognizes a distinction between the interest a lienholder has in a seized vehicle compared to an individual who owns the vehicle outright, holding,

[A lienholder’s] interest in the present value of a seized vehicle, while not as great as the interest of the vehicle’s owner in possession of a seized vehicle—because seized vehicles are not used by [a lienholder] as ‘a mode of transportation . . . [or] the means to earn a livelihood,’—is still considerable. Indeed, the Supreme Court has affirmed the importance of the income stream derived from ownership of property. *See United States v. James Daniel Good Real Prop.*, 510 U.S. 43, 54, 114 S.Ct. 492, 126 L.Ed.2d 490 (1993).

Ford Motor Credit Co. v. NYC Police Dept., 503 F.3d 186, 194 (2nd Cir. 2007). [internal citations omitted].

Recognizing the considerable interests of both owners and lienholders in vehicles seized as evidence, the Second Circuit has repeatedly emphasized that when law enforcement seeks to retain vehicles seized as evidence, due process requires “a prompt post-seizure, pre-judgement hearing,” though such hearings need not be full dress adversarial hearings. *Krimstock v. Kelly*, 464 F.3d 246, 253 (2nd Cir. 2006). For such prompt post-seizure hearings to be meaningful, law enforcement must afford “notice of the seizure to various interested parties, including in many cases the holder of a security interest in the vehicle.” *Ford Motor Credit Co.*, 503 F.3d at 188. A prompt post-seizure hearing necessarily requires prompt notice of seizure, as the Third Circuit has also recognized. *See Honda Lease Trust*, 152 F.4th at 186 (“A person’s ‘interest in a speedy hearing’—which cannot occur before receiving notice of the car’s impoundment—is substantial.”). The United States District Court for the

District of Columbia has echoed this view on the timing of notice, holding that following seizure of property as evidence in a criminal investigation, “the notice must be prompt.” *Avila v. Dailey*, 246 F.Supp.3d 347, 363 (D.D.C 2017).

The Fourth Circuit addressed both *Honda Lease Trust* and *Krimstock*. Initially, it appears to have agreed with the Second and Third Circuits’ application of *Mathews* to the requirements of post-deprivation procedural due process because it observed, as the Second and Third Circuits would have, that following seizure, the circumstances for a lienholder are “less urgent” than those of an outright owner of a seized vehicle. App.13a. However, rather than hold that these “less urgent” circumstances justify a larger period in which to afford notice of seizure to a lienholder compared to an outright owner, as the Third Circuit held in *Honda Lease Trust*, the Fourth Circuit did not consider notice periods at all; instead, it concluded that “because the motorcycles were lawfully seized under the Fourth Amendment and retained as evidence in an active criminal investigation, no further process was due.” App.11a.² Inexplicably, the Fourth Circuit continued,

2. The Fourth Circuit’s conditioning of the process due to owners following seizure on whether law enforcement has a “lawful right to retain” the seized property is not mirrored in the Second or Third Circuit’s decisions, but, instead, appears to arise from a misapprehension of South Carolina law. The Fourth Circuit held that prior to the conviction or adjudication of any person, the motorcycles were held as “physical evidence . . . related to the conviction or adjudication of a person” pursuant to S.C. Code Ann. § 17-28-320(A). On this basis, it held the Respondents “had not only a right, but an obligation to retain them,” and because the motorcycles were lawfully retained, “no further process was due” to the Petitioner. App.11a. By its plain language, S.C. Code

“Even if this Court adopted the Second Circuit’s reasoning in *Krimstock*, [the Respondents’] actions were properly justified by an ‘interest in marshaling evidence’ for a pending murder investigation.” App.13a.

The Fourth Circuit’s contention regarding the Second Circuit’s reasoning is simply incorrect—nowhere in *Krimstock* does the Second Circuit even hint that law enforcement’s “interest in marshaling evidence” might justify a failure to promptly provide a lienholder with notice of seizure. Instead, pursuant to the Second Circuit’s reasoning in *Krimstock*, the Petitioner was entitled to notice of the seizure promptly following the seizure regardless of the Respondents’ interest in marshaling evidence, and law enforcement’s failure to provide such notice violated the Petitioner’s right to due process. Put differently, had this case arisen in the Second or Third Circuits rather than the Fourth Circuit, the outcome would have been different.

Ann. § 17-28-320(A) applies to preservation of evidence only after a “conviction or adjudication of a person” for an enumerated offense. At no relevant time in this case was there a conviction or adjudication of any person for any of the enumerated offenses in S.C. Code Ann. § 17-28-320(A), and it is undisputed that the Respondents attempted to dispose of the motorcycles while charges that would have required their preservation remained pending against Andrzejewski. JA117-124. Thus, even without reaching the issue of preemption, the Fourth Circuit’s analysis of the interplay between a state statute and constitutional amendment was plainly flawed.

b. The First Question Presented is Important and Recurring

The Due Process Clause serves to promote fairness in decisions on deprivation of life, liberty, and property. *Daniels*, 474 U.S. at 331. It is patently unfair to hold that law enforcement, knowing or with the ability to know the identities of persons with interests in seized property, may refuse to disclose the fact of seizure for an indefinite period. The Fourth Circuit’s decision not only creates a conflict between the circuits, but creates problems within the Fourth Circuit—in the State of North Carolina, for example, N.C.G.S. § 15-11.1(a) provides that when property is seized as evidence, “the lawful owner or a person, firm or corporation entitled to possession may make application to the court for return of property,” and “[t]he court, after notice to all parties . . . may in its discretion order any or all of the property returned to the lawful owner or a person, firm or corporation entitled to possession.” To make an application for the return of property, one must know that it has been seized in the first instance, and following the Fourth Circuit’s ruling, this state law remedy may be rendered illusory.

This case offers the Court an opportunity to resolve these conflicts by providing the circuits with an authoritative statement on the questions remaining from the majority opinion in *Perkins*. The material facts are undisputed—the Respondents acknowledge they seized the motorcycles, do not allege that they took any steps to notify the Petitioner of the seizure thereafter, and concede there was no contact between the Petitioner and the Respondents until the Petitioner initiated contact with the Respondents more than two and a half months following

the first seizure. Because the single issue of when notice is required would be dispositive of the case, this case presents an ideal vehicle. *See Relford v. Commandant*, 401 U.S. 355, 370 (1971).

The first question presented is important and the facts of this case demonstrate that it is recurring; in the space of a month, the Petitioner was twice confronted with the same issue from the same law enforcement agency in one South Carolina county. As the holdings in the Second and Third Circuits underscore, it is a question of fundamental societal significance—the personal automobile is an essential good for the vast majority of the American population, and owners should not be forced to rely on accidents of geography to determine whether or not they are entitled to notice of its seizure.

Further, obtaining clarity on the notice to which they are entitled following seizure is of the utmost importance to lenders in this country's \$1.71T automotive lending industry. Ctr. for Microeconomic Data, Fed. Rsrv. Bank of N.Y., *Quarterly Report on Household Debt and Credit: 2026 Q2* (2026). To offset the risk inherent in financing automobiles, lenders reserve the right to reclaim their collateral in the event of default. Prior to this case, lenders financing vehicles in the Fourth Circuit may have reasonably assumed that the due process protections afforded to them by the Second and Third Circuit would be the same as those afforded to them by the Fourth Circuit. Instead, the Fourth Circuit has dramatically shifted the risk calculus for lenders, and because the split on constitutional law with the Second and Third Circuits threatens to substantially impact an issue of

fundamental societal significance, this issue calls for the Court's attention.

II. The Decision Below Appears To Conflict With Both The Majority And Concurring Opinions In *Perkins*

While, pursuant to the majority opinion in *Perkins*, the Petitioner argued that the Fourteenth Amendment's Due Process Clause defines the process due to the Petitioner, the Fourth Circuit held that following seizure of property as evidence, "[T]he Fourth Amendment defines the process that is due." App.8a. In holding that the Fourth Amendment alone defines the process that is due to an owner or lienholder when property in which it holds interests is seized as evidence, the Fourth Circuit broke with the majority in *Perkins* and, instead, appears to have adopted the position set forth in Justice Thomas' concurrence.

Justice Thomas described the majority's decision on due process as "ahistorical," writing,

We have never before suggested that procedural due process governs the execution of a criminal search warrant. Indeed, we have assumed that "[t]he Fourth Amendment was tailored explicitly for the criminal justice system, and its balance between individual and public interests always has been thought to define the 'process that is due' for seizures of person or property in criminal cases." *Gerstein v. Pugh*, 420 U.S. 103, 125, n.27 (1975).

Id. at 246 (Thomas, J., concurring in judgment).

However, while the Fourth Circuit’s analysis did not contemplate any constitutional violation stemming from law enforcement’s failure to provide notice following the seizures, Justice Thomas’ concurrence suggests that failure to provide notice may constitute a Fourth Amendment violation rather than a due process violation. Justice Thomas argued that the “reasonableness” of a seizure under the English common law incorporated, amongst other things, an obligation by law enforcement to provide an inventory of property seized, and this understanding “profoundly influenced the Founders’ view of what a ‘reasonable’ search entailed.” *Id.* at 247 (Thomas, J., concurring in judgment); *see Wilkes v. Wood*, Lofft 1, 98 Eng. Rep. 489 (K.B.1763) (holding law enforcement’s failure to provide an inventory of items seized “touched the liberty of every subject of this country, and if found to be legal, would shake that most precious inheritance of Englishmen.”). On this basis, Justice Thomas suggested that if a failure to provide notice following seizure constitutes a violation of a constitutional right, it is because such failure renders an otherwise reasonable search unreasonable. In concluding his concurrence, he noted, “In light of this historical evidence, I would be open to considering, in an appropriate case, whether the Fourth Amendment mandates the notice requirement adopted by the majority today.” *Id.* at 247-48 (Thomas, J., concurring in judgment).

The Fourth Circuit’s decision provides this Court with such a case. By acknowledging that the Respondents failed to provide the Petitioner with notice of the seizures and concluding “the motorcycles were lawfully seized under the Fourth Amendment,” the Fourth Circuit necessarily reached the question of “whether the Fourth Amendment

mandates the notice requirement adopted by the majority today” and determined that it does not. App.11a. Thus, between the majority in *Perkins*, the concurrence in *Perkins*, and the Fourth Circuit’s decision in this case, there appears to be a three-way split on the existence of a constitutional requirement for notice following seizure, and this Court can resolve this split by providing an answer to the second question presented.

CONCLUSION

For the foregoing reasons, the Petition should be granted.

Respectfully submitted,

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**APPENDIX A — OPINION OF THE UNITED STATES
COURT OF APPEALS FOR THE FOURTH CIRCUIT,
FILED MAY 12, 2026**

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-1448

AMERICAN ACCEPTANCE CORPORATION OF
SC, ON BEHALF OF ITSELF AND ALL OTHERS
SIMILARLY SITUATED,

Plaintiff-Appellant,

v.

JOHN GIETZ; SHERIFF BRYAN KOON, A/K/A JAY
KOON, IN HIS OFFICIAL CAPACITY; SANDRA
BLACK; JOEL M. DEASON; JAMES WESTBURY;
JESSE LAINTZ; LEXINGTON COUNTY
SHERIFF'S DEPARTMENT,

Defendants-Appellees.

Appeal from the United States District Court for the
District of South Carolina, at Columbia. Mary G. Lewis,
District Judge. (3:24-cv-01099-MGL)

Argued: October 23, 2025

Decided: May 12, 2026

Before BENJAMIN, Circuit Judge, FLOYD, Senior
Circuit Judge, and Patricia Tolliver GILES, United States
District Judge for the Eastern District of Virginia, sitting
by designation.

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Affirmed by published opinion. Judge Giles wrote the opinion, in which Judge Benjamin and Judge Floyd joined.

PATRICIA TOLLIVER GILES, District Judge:

Appellant American Acceptance Corporation of SC (“AAC”) brought a 42 U.S.C. § 1983 claim against the Lexington County Sheriff’s Department (“LCSD”).¹ The LCSD confiscated two motorcycles in connection with a murder investigation and subsequent prosecution. AAC held a security interest in the motorcycles and claimed LCSD violated its procedural due process rights by retaining its property during the pending criminal investigation without providing AAC notice and an opportunity to be heard. The district court granted LCSD’s motion to dismiss. For the reasons set forth below, we affirm.

I.

A.

AAC finances the acquisition of motor vehicles and motorcycles. Essentially, AAC purchases the retail installment contracts (“RISCs”) that purchasers execute to finance the motor vehicle or motorcycle, and thereby obtains a security interest in the property, or

1. The Appellees include the Sheriff’s Department; Sheriff Byran “Jay” Koon in his official capacity; LCSD’s General Counsel Joel Deason; as well as John Gietz, James Westbury, Sandra Black, and Jesse Laintz, who are also members of the Department. Throughout this opinion, any reference to LCSD includes all Appellees.

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collateral. When a purchaser is in default—either by failing to make a payment or because “the prospect of payment, performance, or realization on the collateral is significantly impaired”—AAC obtains the right to take possession. Joint Appendix (“J.A.”) 10.

AAC acquired the RISCs for the two Harley-Davidson motorcycles at issue here. In particular, AAC purchased the RISC that Timothy Harold Brock executed on January 30, 2021, to finance his motorcycle. AAC also purchased the RISC that Shane Adam Andrzejewski executed on July 13, 2021, to finance his motorcycle. Both Brock and Andrzejewski titled their respective motorcycles with the South Carolina Department of Motor Vehicles under their names and listed AAC as a lienholder. Additionally, both Brock and Andrzejewski agreed to make monthly payments to AAC and continued to make those payments until October 7, 2022, and November 1, 2022, respectively.

In early October 2022, Brock was shot and killed while riding his motorcycle during a shootout between rival motorcycle gangs. LCSD launched an investigation and collected Brock’s motorcycle at the scene as material evidence. On November 8, 2022, Andrzejewski was arrested as a suspect. Two days later, Andrzejewski, along with three others, were charged with murder, conspiracy, and attempted murder related to the incident. On November 8, 2022, LCSD also executed a search warrant and seized Andrzejewski’s motorcycle as material evidence pursuant to that warrant. LCSD’s seizure of both Brock’s and Andrzejewski’s motorcycles constituted defaults under the executed RISCs.

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LCSD did not notify AAC of the seizure or the location of the motorcycles. Instead, AAC learned of LCSD's seizure of the motorcycles through the news. In December 2022, AAC contacted LCSD's Captain Laintz, "who advised that it would be several years" before AAC could receive the motorcycles. J.A. 11. Captain Laintz then asked two other LCSD officers, Deputies Westbury and Black, to "handle how is appropriate." *Id.* at 33. Neither of these deputies provided further notice or information to AAC. Subsequently, AAC's counsel requested incident reports for the matter, first by email and then through a Freedom of Information Act ("FOIA") request.

B.

In January 2023, AAC filed a complaint for claim and delivery for each of the motorcycles in the Lexington County Circuit Court. On February 9, 2023, LCSD's General Counsel, Joel Deason, emailed AAC's counsel, stating:

Please know these motorcycles are essential evidence in a series of events that produced the criminal charges [against Andrzejewski]. . . .

The law states that if the bikes are even closely related to evidence, LCSD will be allowed to retain possession — See *Palmetto State Bank v. English*[,], 181 S.C. 69, 186 S.E. 638 (1936). Accordingly, . . . I am asking you to dismiss your complaints against the sheriff so I do not have to prepare responsive motions. . . .

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As for [the] FOIA request[,] we respectfully decline to produce requested documents involving Mr. Andrzejewski at this time since related charges are currently pending in the Court of General Sessions. S.C. Code § 30-4-40(a)(3) exempts the disclosure of information compiled for law enforcement purposes for several reasons[,] [i]ncluding those that would interfere with a prospective law enforcement proceeding or deprive an [i]ndividual of a fair and impartial trial. . . . Accordingly, if you need these records before the charges have been adjudicated, please direct your request to the Solicitor's Office so they can evaluate the disclosure in light of the above.

J.A. 38, 138. The record does not indicate whether AAC contacted the Solicitor's Office.

In April 2023, Deason notified AAC's counsel that LCSD filed motions to dismiss the suits for insufficiency of process. On July 17, 2023, the circuit court held a hearing on the matter, during which it noted:

I can tell you that there's no way that I would order seized evidence to be released on a claim and delivery action while the case is still pending. It may present a hardship and it always does, particularly where you have innocent parties involved. But that's the nature of the abyss. And with a — this being a murder case, there's no way that I would interject

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myself into the litigation and order the state to release evidence. And that's without analyzing all the rules that you all have cited except that Rule 4(d)(d) that requires service on the attorney general.

J.A. 45. Thereafter, the circuit court dismissed AAC's state court actions for improper service with leave to cure the service defects.

On February 1, 2024, AAC filed its lawsuit in the Lexington County Court of Common Pleas, seeking claim and delivery under state law as well as declaratory, injunctive, and monetary relief under Section 1983. LCSD removed the case to federal court. On March 21, 2025, AAC filed an amended class action complaint. On April 4, 2024, LCSD moved to dismiss the amended complaint for failure to state a claim. On May 19, 2024, AAC moved for summary judgment. On July 17, 2024, the district court stayed the matter until ruling on the pending motions.

On March 26, 2025, the district court issued a memorandum opinion and order granting LCSD's motion to dismiss AAC's procedural due process claim. The district court concluded that the initial seizure of the motorcycles was lawful under the Fourth Amendment, and AAC's protected property interest in the motorcycles "must necessarily give way" to a defendant's "constitutionally guaranteed access to evidence." J.A. 142-43. The court further remanded the claim and delivery claims to state court. AAC timely appealed.

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We review the district court’s grant of a motion to dismiss for failure to state a claim *de novo*, focusing “only on the legal sufficiency of the complaint” and “tak[ing] the facts in the light most favorable to the plaintiff.” *Giarratano v. Johnson*, 521 F.3d 298, 302 (4th Cir. 2008) (quoting *Eastern Shore Mkts., Inc. v. J.D. Assocs. Ltd. Pshp.*, 213 F.3d 175, 180 (4th Cir. 2000)).

A.**1.**

The Due Process Clause of the Fourteenth Amendment prevents states from “depriv[ing] any person of life, liberty or property, without due process of law.” U.S. Const. amend. XIV. To establish a Section 1983 procedural due process claim, a claimant must allege: “(1) that it had a protected property interest; (2) of which [a government party] deprived it; (3) without due process of law.” *Rockville Cars, LLC v. City of Rockville*, 891 F.3d 141, 146 (4th Cir. 2018). Typically, due process requires notice and the opportunity to be heard. *Id.*

As an initial matter, the Court must determine the proper standard for assessing what due process AAC was entitled to given the temporary deprivation of its property during the pendency of a criminal investigation.²

2. The parties do not dispute that AAC, as lienholder, has a property interest in the motorcycles.

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The parties disagree as to whether the Fourth or the Fourteenth Amendment defines the scope of the process owed to AAC. AAC contends that LCSD violated the Fourteenth Amendment's Due Process Clause by failing to provide AAC with notice and an opportunity to be heard with respect to the retention of the motorcycles. LCSD, however, characterizes this matter as a Fourth Amendment case and avers that its compliance with the Fourth Amendment satisfied due process. For the reasons stated below, we find the Fourth Amendment defines the process that is due.³

Under the Fourteenth Amendment's Due Process Clause, the right to notice and a hearing is not limitless. In "extraordinary situations," property may be lawfully seized absent either notice or hearing. *Fuentes v. Shevin*, 407 U.S. 67, 91, 92 S. Ct. 1983, 32 L. Ed. 2d 556 (1972) (holding that seizure absent notice or a hearing is permissible where "directly necessary to secure an important governmental or general public interest," "there has been a special need for very prompt action," and the seizure was initiated by a government official "under the standards of a narrowly drawn statute").

Courts have routinely recognized that criminal matters pose unique considerations with respect to due process rights. In *Fuentes v. Shevin*, the Supreme Court acknowledged the "highly important governmental need" of property seizures for criminal investigations, especially in "situations demanding prompt action." *Id.* at 93 n.30. Furthermore, both this Court and other circuits have

3. The Fourth Amendment is made applicable to states by way of the Fourteenth Amendment.

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relied on the Fourth Amendment for guidance as to the proper process that is due for seizure of property in the context of criminal cases. *See Smith v. Travelpiece*, 31 F.4th 878, 884 (4th Cir. 2022) (quoting *Gerstein v. Pugh*, 420 U.S. 103, 125 n.27, 95 S. Ct. 854, 43 L. Ed. 2d 54 (1975)) (“[T]he Fourth Amendment was tailored explicitly for the criminal justice system, and its balance between individual and public interests always has been thought to define the ‘process that is due’ for seizures of person or property in criminal cases.”); *see also Abbott v. Latshaw*, 164 F.3d 141, 146 (3d Cir. 1998)) (“Prior notice is not, however, absolutely necessary so long as other procedures guarantee protection against erroneous or arbitrary seizures.” (citing *Mitchell v. W.T. Grant Co.*, 416 U.S. 600, 605-06, 94 S. Ct. 1895, 40 L. Ed. 2d 406 (1974)).⁴

In *Rodgers v. Knight*, the Eighth Circuit addressed an analogous challenge to law enforcement’s retention of seized property for a criminal investigation. 781 F.3d 932, 941 (8th Cir. 2015). Ultimately, the court concluded that “[w]hen seizing property for criminal investigatory purposes, compliance with the Fourth Amendment satisfies pre-deprivation procedural due process’ . . . [and w]here retention of evidence is justified by pending charges or an arrest warrant, no further process is required.” *Id.* (quoting *Walters v. Wolf*, 660 F.3d 307, 314

4. Likewise, the Supreme Court has implicitly endorsed the procedural protections under the Fourth Amendment. *Fuentes*, 407 U.S. at 93 n.30 (stating that “our decision today in no way implies that there must be opportunity for an adversary hearing before a search warrant is issued,” especially where “the Fourth Amendment guarantees that the State will not issue search warrants merely upon the conclusory application of a private party.”).

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(8th Cir. 2011); *see also Serio v. Balt. Cnty.*, 115 F. Supp. 2d 509, 517 (D. Md. 2000) (finding no procedural due process violation where law enforcement officers lawfully seized and retained the plaintiff's weapons during a criminal investigation).

In accordance with our well-established precedent that the Fourth Amendment has been “thought to define the ‘process that is due’ for seizures of person or property in criminal cases,” and the reasoning in *Rodgers*, we find that the Fourth Amendment applies in this case as well. *Travelpiece*, 31 F.4th at 884. This Court finds no reason to change the analysis simply because the property interest belongs to a third party.

2.

Having established that the Fourth Amendment guides our analysis, we find no due process violation exists here. The parties agree that the motorcycles were properly seized under the Fourth Amendment's warrant requirement with respect to Andrzejewski and pursuant to a warrant exception with respect to Brock. Given the connection of the motorcycles, LCSD had a reasonable basis to retain them as evidence for Andrzejewski's pending charges and Brock's murder investigation. LCSD's actions were also in accordance with South Carolina law providing that “[a] custodian of evidence must preserve all physical evidence . . . related to the conviction or adjudication of a person,” including for murder. S.C. Code Ann. § 17-28-320(A).

We do not dispute that AAC has a legitimate property interest in the two motorcycles here. However, to require

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further due process in this instance would impede South Carolina's ability to carry out its public interest duties to investigate crimes in a prompt manner. It would further permit future third-party lienholders to intervene in and delay criminal investigations by attempting to take possession of critical physical evidence. Accordingly, because the motorcycles were lawfully seized under the Fourth Amendment and retained as evidence in an active criminal investigation, no further process was due.

3.

AAC makes two counterarguments. We find both unpersuasive. First, AAC invokes the Supreme Court's decision in *City of West Covina v. Perkins* to argue that LCSD owed it notice and an opportunity to be heard after the initial seizures, even if the seizures were "pursuant to warrant." 525 U.S. 234, 240-41, 119 S. Ct. 678, 142 L. Ed. 2d 636 (1999). *Perkins* is not helpful to AAC. There, police executed a search warrant at a residence in connection with an investigation into a former boarder suspected of homicide. *Id.* at 236. Later, the homeowner and his family sued, claiming police violated their Fourth and Fourteenth Amendment rights in connection with the search and subsequent seizure of property. The Supreme Court noted that the issue before it concerned "the obligation of the State to provide fair procedures to ensure return of the property when the State *no longer has a lawful right to retain it*," so that "the owner can pursue available remedies for its return." *Id.* at 241 (emphasis added).

Here, both motorcycles were material evidence in a criminal investigation and ongoing prosecution. Under

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South Carolina law, LCSD had not only a right, but an obligation to retain them. *See* S.C. Code Ann. § 17-28-320(A) (“[A] custodian of evidence must preserve all physical evidence and biological material related to the conviction or adjudication of a person”).⁵

“The general rule is that seized property, other than contraband, should be returned to its rightful owner once the criminal proceedings have terminated.” *United States v. Farrell*, 606 F.2d 1341, 1343, 196 U.S. App. D.C. 434 (D.C. Cir. 1979) (quoting *United States v. LaFatch*, 565 F.2d 81, 83 (6th Cir. 1977)); *see also AmeriSource Corp. v. United States*, 525 F.3d 1149, 1154 (Fed. Cir. 2008) (“Once the government has lawfully seized property to be used as evidence in a criminal prosecution, it has wide latitude to retain it so long as the investigation continues, regardless of the effect on that property.”). AAC’s challenge concerns LCSD’s actions during the investigation, while LCSD still had a “lawful right to retain” the property.⁶ Therefore, *Perkins* is not dispositive for the facts before us.

5. Essentially, AAC is asking this Court to rewrite South Carolina law.

6. *Perkins*, 525 U.S. at 241. We recognize that district courts in this Circuit, as well as other circuits, have required notice and a hearing in instances where law enforcement planned to dispose of or destroy physical evidence *after* an investigation concluded. That was not the case here. Thus, we find no need to address those circumstances. *Serio*, 115 F. Supp. 2d at 516 (finding “no denial of due process” during a pending investigation where “[t]he County has not disposed of Serio’s weapons or proposed to do so”); *Cooper v. City of Greenwood*, 904 F.2d 302, 304-06 (5th Cir. 1990) (finding a due process violation where municipality seized and later sold felon’s firearms after conviction without providing notice or a hearing).

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Second, AAC relies on certain language in *Krimstock v. Kelly* to bolster its arguments. 464 F.3d 246 (2d Cir. 2006). There, the Second Circuit noted that “[a] prosecutor’s right to retain material evidence necessary for trial does not mean that prosecutors can decide unilaterally that an automobile is material and its retention necessary.” *Id.* at 255. *Krimstock* involved a similar Section 1983 action challenging New York City’s post-seizure retention of vehicles being held as evidence. *Id.* at 248. But the court’s reasoning emphasized “[t]he particular importance of motor vehicles . . . as a mode of transportation and, for some, the means to earn a livelihood.” *Id.* at 253 (citation omitted). Here, the circumstances for AAC—a third-party lienholder—are far less urgent, even if its property interest is valid. In fact, *Krimstock* recognized that the other circumstances of the case weighed in the government’s favor nonetheless, given the government had probable cause for its seizure and an “interest in marshaling evidence.” *Id.* at 255. Both factors exist here. Accordingly, while *Krimstock* may delineate some limitations to law enforcement’s right to retain evidence, those limitations do not apply here. Even if this Court adopted the Second Circuit’s reasoning in *Krimstock*, LCSD’s actions were properly justified by an “interest in marshaling evidence” for a pending murder investigation.⁷

7. *Id.* at 255. On December 8, 2025, AAC submitted a supplemental filing pointing this Court to the Third Circuit’s recent decision in *Honda Lease Trust v. Malanga’s Automotive*. 152 F.4th 477 (3rd Cir. 2025). In *Honda Lease*, a lessor brought suit against a towing company and a municipality, alleging they violated its due process rights after law enforcement officers seized the vehicle of a lessee without notifying the lessor of the seizure. *Id.* at 482. The

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Accordingly, the district court properly found no plausible claim for a due process violation.⁸ On that basis, we affirm.

Third Circuit reversed the district court's summary judgment opinion on the grounds that the city's towing policy violated the Fourteenth Amendment's Due Process Clause. *Id.*

However, *Honda Lease* is consistent with this Court's opinion here and does not aid AAC. First, unlike the motorcycles seized by LCSD, the *Honda Lease* vehicle was not seized and held as evidence in a pending criminal investigation; rather, it was seized as abandoned property. *Id.* at 485. More importantly, in its analysis of the Fourth Amendment claims, the Third Circuit made clear:

[W]e have held, as a matter of due process and the Fifth Amendment's Takings Clause, that property legally seized as part of a criminal trial must be returned after the end of a trial unless it is contraband or subject to forfeiture. *See United States v. 608 Taylor Ave., Apartment 302, Pittsburgh, Pa.*, 584 F.2d 1297, 1302 (3d Cir. 1978) (“[T]he government may not[,] by exercising its power to seize, effect a [d]e facto forfeiture by retaining the property seized indefinitely.”); *Frein v. Pennsylvania State Police*, 47 F.4th 247, 252-53 (3d Cir. 2022) (“If the government wants to keep the property after the conviction becomes final, it needs some justification.”). ***In those cases, we explained that the government may lawfully seize property if some Fourth Amendment justification exists, see 608 Taylor Ave.***, 584 F.2d at 1302, *Frein*, 47 F.4th at 252, but this justification can run out, *see id.* at 253.

Honda Lease, 152 F.4th at 489 (emphasis added). Accordingly, the Third Circuit's analysis in *Honda Lease* is congruous with this Court's reasoning here.

8. AAC further argued in oral argument that the claim and delivery suit in state court did not constitute an opportunity to be heard because the case was never heard on the merits. However,

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Before concluding, we briefly address AAC's contention that the district court improperly considered material outside of the complaint in resolving the motion to dismiss. First, AAC argues the district court erred by stating that it considered "the motion, the response, the reply, the record, and the applicable law" on a motion to dismiss. J.A. 137. We find no impropriety here. It is undoubtedly the province of the district court to consider the parties' briefings and applicable law when reviewing a motion to dismiss. Courts need not rely on a complaint for legal conclusions. *Giarratano*, 521 F.3d at 302.

Second, AAC argues that the district court erroneously referred to the fact that Brock was riding his motorcycle at the time of his murder because it was not stated in the complaint. However, one exhibit attached to the amended complaint expressly included a statement from LCSD to AAC stating, "[i]t is believed that the rider of one bike shot and killed a person riding the other," with a citation to a news article directly referencing the fact. J.A. 38; *see Goines v. Valley Cmty. Servs. Bd.*, 822 F.3d 159, 165-66 (2016) (stating the court may "consider documents that are explicitly incorporated into the complaint by reference . . . and those attached to the complaint as exhibits."). Accordingly, the district court properly considered the pleadings in rendering its decision. We find no error.

"[d]ue process does not, of course, require that the defendant in every civil case actually have a hearing on the merits." *Boddie v. Connecticut*, 401 U.S. 371, 378, 91 S. Ct. 780, 28 L. Ed. 2d 113 (1971). Accordingly, it is clear AAC received, at minimum, an opportunity to be heard.

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III.

For the reasons set forth in this opinion, we affirm the district court's order granting the defendants' motion to dismiss.

AFFIRMED.

**APPENDIX B — MEMORANDUM OPINION
AND ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF
SOUTH CAROLINA, COLUMBIA DIVISION,
FILED MARCH 26, 2025**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Civil Action No. 3:24-1099-MGL

AMERICAN ACCEPTANCE CORPORATION OF
SC, ON BEHALF OF ITSELF AND ALL OTHERS
SIMILARLY SITUATED,

Plaintiff,

vs.

JOHN GIETZ, JAMES WESTBURY, SANDRA
BLACK, JESSE LAINTZ, JOEL M. DEASON,
LEXINGTON COUNTY SHERIFF'S
DEPARTMENT, AND SHERIFF BRYAN "JAY"
KON, IN HIS OFFICIAL CAPACITY,

Defendants.

**MEMORANDUM OPINION AND ORDER
GRANTING DEFENDANTS' MOTION TO DISMISS
AS TO PLAINTIFF'S FEDERAL CLAIM**

I. INTRODUCTION

Plaintiff American Acceptance Corporation of SC (AAC), on behalf of itself and all others similarly situated, filed this putative class action in the Lexington County

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Court of Common Pleas against Defendants John Gietz (Gietz), James Westbury (Westbury), Sandra Black (Black), Jesse Laintz (Laintz), Joel M. Deason (Deason), Lexington County Sheriff's Department (LCSD), and Sheriff Bryan "Jay" Koon (Koon), in his official capacity, (collectively, Defendants). Plaintiff alleges violations of its due process rights under 42 U.S.C. § 1983 (Section 1983), as well as a claim and delivery cause of action under state law.

Defendants removed the matter to this Court in accordance with 28 U.S.C. § 1446. The Court has jurisdiction over AAC's Section 1983 claims as per 28 U.S.C. § 1331 and over the state law claim as per 28 U.S.C. § 1367.

Pending before the Court is Defendants' motion to dismiss AAC's amended complaint. Having carefully considered the motion, the response, the reply, the record, and the applicable law, it is the judgment of the Court Defendants' motion to dismiss will be granted as to AAC's Section 1983 claim.

II. FACTUAL AND PROCEDURAL HISTORY

After a shootout between rival motorcycle gangs tragically ended in the death of Timothy Brock (Brock), LCSD commenced an investigation into Brock's killing. At the scene of the crime, LCSD collected Brock's motorcycle, which he was riding when he was shot. LCSD later seized the motorcycle of suspect Shane Andrzejewski (Andrzejewski) under a facially valid warrant. But, LCSD

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failed to notify AAC, the lienholder of the motorcycles, of their seizure. AAC claims it subsequently learned about the seizures through news media.

As the result of LCSD's investigation, the state charged Andrzejewski with one count of murder, seven counts of attempted murder, and one count of conspiracy. While Andrzejewski's charges were pending, AAC contacted Laintz, a captain at LCSD. Laintz advised AAC would be unable to recover the motorcycles for several years and instructed two other officers, Westbury and Black, to assist AAC in handling the matter.

AAC thereafter submitted a Freedom of Information Act (FOIA) request for all related incident reports. AAC also filed claim and delivery actions against Koon in the Lexington County Court of Common Pleas, alleging it was entitled to legal possession of the motorcycles.

In response to AAC's lawsuits, Deason, General Counsel for the LCSD, sent AAC's counsel the following email:

Please know these motorcycles are essential evidence in a series of events that produced the criminal charges [against Andrzejewski]. . . .

The law states that if the bikes are even closely related to evidence, LCSD will be allowed to retain possession - *See Palmetto State Bank v. English*[,] 181 S.C. 69, 186 S.E. 638 (1936). Accordingly, . . . I am asking you to dismiss your

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complaints against the sheriff so I do not have to prepare responsive motions. . . .

As for [the] FOIA request[,] we respectfully decline to produce requested documents involving Mr. Andrzejewski at this time since related charges are currently pending in the Court of General Sessions. S.C. Code § 30-4-40(a)(3) exempts the disclosure of information compiled for law enforcement purposes for several reasons[,] including those that would interfere with a prospective law enforcement proceeding or deprive an individual of a fair and impartial trial. . . . Accordingly, if you need these records before the charges have been adjudicated, please direct your request to the Solicitor's Office so they can evaluate the disclosure in light of the above.

Amended Complaint at Ex. I (emphasis added).

The prosecutor apparently subsequently informed Deason he could release the motorcycles, which Deason relayed to AAC's counsel. But, the prosecutor later changed his mind. Accordingly, Deason filed motions to dismiss the claim and delivery actions and emailed AAC's counsel, "Sorry to send conflicting messages, but the prosecutor changed his mind and asked me to advocate to hold on to [the motorcycles] after initially saying we could let them go." *Id.* at Ex. L.

At a hearing on LCSD's motions to dismiss, the circuit judge explained,

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[T]here's no way that I would order seized evidence to be released on a claim and delivery while the case is still pending. It may present a hardship[,] and it always does, particularly where you have innocent parties involved. But that's the nature of the abyss. And with . . . this being a murder case, there's no way that I would interject myself into the litigation and order the state to release evidence. And that's without analyzing all the rules that you all have cited except that [South Carolina Rule of Civil Procedure 4(d)(5)] that requires service on the attorney general.

Id. at Ex. N. So, the circuit judge dismissed the actions without prejudice on the most limited grounds—improper service—and granted AAC leave to perfect service upon the South Carolina Attorney General, rather than LCSD.

AAC later filed this matter in the Lexington County Court of Common Pleas, seeking declaratory, injunctive, and monetary relief under Section 1983, as well as claim and delivery under state law. Defendants removed the action and filed a motion to dismiss AAC's amended complaint. Having been fully briefed on the relevant issues, the Court will now adjudicate the motion.

III. STANDARD OF REVIEW

A party may move to dismiss a complaint based on its “failure to state a claim upon which relief can be granted[.]” Fed. R. Civ. P. 12(b)(6). “The purpose of a Rule 12(b)(6) motion is to test the sufficiency of a complaint[.]”

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Edwards v. City of Goldsboro, 178 F.3d 231, 243 (4th Cir. 1999). To survive a motion to dismiss under Rule 12(b)(6), a complaint must have “enough facts to state a claim to relief that is plausible on its face[.]” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007), and contain more than “an unadorned, the-defendant-unlawfully-harmed-me accusation[.]” *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009).

In considering a motion to dismiss for failure to state a claim, “the court should accept as true all well-pleaded allegations and should view the complaint in a light most favorable to the plaintiff.” *Mylan Lab’ys, Inc. v. Matkari*, 7 F.3d 1130, 1134 (4th Cir. 1993). But, the Court need not “accept as true the legal conclusions set forth in a plaintiff’s complaint.” *Edwards*, 178 F.3d at 244.

IV. DISCUSSION AND ANALYSIS

As an initial matter, AAC brings a Section 1983 claim for declaratory and injunctive relief against all Defendants. To the extent this claim is brought against Koon in his official capacity, however, it is duplicative of the claim brought against LCSD and should thus be dismissed. *See Love-Lane v. Martin*, 355 F.3d 766, 783 (4th Cir. 2004) (explaining a Section 1983 claim against a defendant “in his official capacity . . . is essentially a claim against the [entity] and thus should be dismissed as duplicative”). The Court will therefore proceed to consider this claim as against LCSD rather than Koon.

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In the amended complaint, AAC avers “[i]t is the practice and custom of the Defendants to ignore the rights of owners and lienholders to notice and an opportunity to be heard.” Amended Complaint ¶ 97. But, AAC maintains “due process requires a prompt hearing before a neutral fact-finder to test the validity of the deprivation . . . , including the probable cause for the initial seizure [of the motorcycles] and the necessity and legitimacy of [their] continued impoundment.” *Id.* ¶ 102. According to AAC, Defendants’ failure to hold a prompt hearing regarding the seizures has deprived AAC of its procedural due process rights.

To state a Section 1983 procedural due process claim, a plaintiff “must show: (1) that it had a protected property interest; (2) of which the [defendants] deprived it; (3) without due process of law.” *Rockville Cars, LLC v. City of Rockville*, 891 F.3d 141, 146 (4th Cir. 2018) (citing *Tri Cnty. Paving, Inc. v. Ashe Cnty.*, 281 F.3d 430, 436 (4th Cir. 2002)).

As to the first element, Defendants contest whether AAC had a protected property interest in the motorcycles.

Defendants maintain, “[o]ther than a conclusory allegation that the motorcycle owners were in default, there was no other allegation made by [AAC] that it complied with the terms of the contract and provided notice of default to the motorcycle owners.” Defendants’ Motion at 11. They insist “[o]nly after the motorcycle owners have failed to cure the default would [AAC] be entitled to possession of the motorcycles, potentially

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triggering the [d]ue [p]rocess rights that it claims have been violated.” *Id.*

AAC, on the other hand, asserts “[a] security interest is indisputably a property interest protected by the Fourteenth Amendment.” AAC’s Response at 3. Thus, according to AAC, “where property that is encumbered by a lien is seized by the [s]tate, even on a temporary basis, the rights of the lienholder are affected, and the [s]tate must afford the lienholder due process.” *Id.*

The Court agrees with AAC it had a protected property interest in the motorcycles. *See Wiswall v. Sampson*, 55 U.S. 52, 67, 14 L. Ed. 322 (1852) (noting a lienholder is entitled to notice and an opportunity to be heard). AAC has thus satisfied the first element of stating a Section 1983 procedural due process claim.

Turning now to the second and third elements—deprivation by Defendants without due process of law—Defendants cite *Mora v. City of Gaithersburg*, 519 F.3d 216 (4th Cir. 2008), in support of their contention AAC is unable to show a deprivation has occurred because it has yet to pursue postdeprivation remedies in state court. Defendants thus assert it is unnecessary for the Court to decide whether there was a due process violation.

AAC neglects to respond to Defendants’ *Mora*-related arguments. Rather, AAC asserts “lienholders whose property has been seized as evidence are entitled to notice and a hearing before a neutral fact finder[.]” AAC’s Response at 4 (citing *Krimstock v. Kelly*, 464 F.3d 246,

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254 (2d Cir. 2006)). AAC maintains “[a] prosecutor’s right to retain material evidence necessary for trial does not mean that prosecutors can decide unilaterally that . . . [a motorcycle] is material and that its retention is necessary.” *Id.* (alterations in original) (quoting *Krimstock*, 464 F.3d at 254).

The plaintiff in *Mora* brought a Section 1983 claim challenging law enforcement’s initial, warrantless seizure of his weapons, as well as its continued retention. At first blush, this appears to mirror AAC’s Section 1983 claim, albeit in the context of a lienholder. But, “the availability of . . . postdeprivation remedies is irrelevant” where the plaintiff alleges a deprivation of property “pursuant to established policies.” *Lawrence v. Swanson Inmate Commissary Servs.*, 151 F.3d 1029, 1029 (4th Cir. 1998) (unpublished table decision). And here, AAC maintains it was deprived of its property interest as the result of Defendants’ “practice and custom to ignore the rights of . . . lienholders to notice and an opportunity to be heard.” Amended Complaint ¶ 97. The Court therefore concludes AAC’s failure to pursue postdeprivation remedies is inconsequential.

Nevertheless, AAC is unable to demonstrate a procedural due process violation occurred because Defendants’ seizure of the motorcycles complied with the Fourth Amendment in the first instance.

“Although the text of the Fourth Amendment does not specify when a search warrant must be obtained, [the Supreme Court] has inferred that a warrant must

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generally be secured.” *Kentucky v. King*, 563 U.S. 452, 459, 131 S. Ct. 1849, 179 L. Ed. 2d 865 (2011). But, “the warrant requirement is subject to certain reasonable exceptions.” *Id.* (citing *Brigham City v. Stuart*, 547 U.S. 398, 403, 126 S. Ct. 1943, 164 L. Ed. 2d 650 (2006)). One such exception is the automobile exception, which exists “where probable cause is established to believe that a vehicle contains contraband or evidence of a crime.” *United States v. Lawing*, 703 F.3d 229, 239 (4th Cir. 2012).

“[W]hen seizing property for criminal investigatory purposes, compliance with the Fourth Amendment satisfies pre-deprivation procedural due process.” *Sanders v. City of San Diego*, 93 F.3d 1423, 1429 (9th Cir. 1996). Moreover, where an exception to the warrant requirement “justifies a warrantless seizure for valid law enforcement purposes in a criminal investigation under the Fourth Amendment, any predeprivation due process protections are necessarily subsumed within the Fourth Amendment analysis.” *PPS, Inc. v. Faulkner Cnty.*, 630 F.3d 1098, 1107 (8th Cir. 2011)

Here, Brock was riding his motorcycle when he was shot and killed in a shootout between rival motorcycle gangs. The motorcycle thus contained evidence of a crime, justifying its seizure under the automobile exception. And, the seizure of Andrzejewski’s motorcycle was supported by a facially valid warrant, which AAC has failed to challenge. Therefore, the Court is convinced neither the initial seizures of the motorcycles nor their retention during the pendency of the investigation and related proceedings violated AAC’s procedural due process rights.

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This is especially clear where, as here, a third party's interest in physical evidence of a crime must necessarily give way to a criminal defendant's "constitutionally guaranteed access to evidence" while criminal charges remain pending against him. *United States v. Valenzuela-Bernal*, 458 U.S. 858, 867, 102 S. Ct. 3440, 73 L. Ed. 2d 1193 (1982). Indeed, state law requires a custodian of evidence to preserve all physical evidence collected against a defendant charged with murder. S.C. Code Ann. § 17-28-320(A)(1) ("A custodian of evidence must preserve all physical evidence . . . related to the conviction or adjudication of a person for . . . murder . . ."); 2011 S.C. AG LEXIS 109, 2011 WL 3346426 (S.C.A.G. July 15, 2011) ("[I]t would be consistent with the intent of the Act that evidence for the crimes enumerated in [section] 17-28-320(A), once 'collected' by law enforcement, i.e., gathered and retained for processing, becomes . . . 'physical evidence' . . . for purposes of the Act." (emphasis omitted)).

For all these reasons, the Court holds AAC has failed to state a Section 1983 procedural due process claim. The Court will thus grant Defendants' motion to dismiss this claim. Because this issue is dispositive, it is unnecessary for the Court to address the other arguments advanced by the parties. *See Karsten v. Kaiser Found. Health Plan of Mid-Atlantic States, Inc.*, 36 F.3d 8, 11 (4th Cir. 1994) ("If the first reason given is independently sufficient, then all those that follow are surplusage; thus, the strength of the first makes all the rest dicta.").

*Appendix B***V. CONCLUSION**

Based on the foregoing discussion and analysis, it is the judgment of the Court Defendants' motion to dismiss is **GRANTED** as to AAC's Section 1983 claim, which is **DISMISSED WITH PREJUDICE**. Further, AAC's state law cause of action for claim and delivery is **REMANDED** to the Lexington County Court of Common Pleas for adjudication there. *See* 28 U.S.C. § 1367 (explaining a district court may decline to exercise supplemental jurisdiction where it "has dismissed all claims over which it has original jurisdiction").

IT IS SO ORDERED.

Signed this 26th day of March 2025, in Columbia,
South Carolina.

/s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

**APPENDIX C — JUDGMENT OF THE
UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF SOUTH CAROLINA,
FILED MARCH 26, 2025**

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF SOUTH CAROLINA

Civil Action No. 3:24-1099-MGL

AMERICAN ACCEPTANCE CORPORATION OF
SC, ON BEHALF OF ITSELF AND ALL OTHERS
SIMILARLY SITUATED,

Plaintiff,

v.

JOHN GIETZ; SHERIFF BRYAN KOON, A/K/A
“JAY” KOON, IN HIS OFFICIAL CAPACITY;
JAMES WESTBURY; SANDRA BLACK; JOEL M.
DEASON; JESSE LAINTZ; AND LEXINGTON
COUNTY SHERIFF’S DEPARTMENT,

Defendants.

JUDGMENT IN A CIVIL ACTION

The court has ordered that (*check one*):

☐ the plaintiff (*name*) _____ recover from
the defendant (*name*) _____ the amount
of _____ dollars (\$ ____), which includes prejudgment
interest at the rate of ____ %, plus postjudgment interest
at the rate of ____ %, along with costs.

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☐ the plaintiff recover nothing, the action be dismissed on the merits, and the defendant *(name)* _____ recover costs from the plaintiff *(name)* _____.

☒ The Plaintiff, American Acceptance Corporation of SC, on behalf of itself and all others similarly situated, take nothing of the Defendants, John Gietz, Sheriff Bryan Koon, a/k/a “Jay” Koon, in his official capacity, James Westbury, Sandra Black, Joel M. Deason, Jesse Laintz, and Lexington County Sheriff’s Department, as to the federal claim and it is dismissed with prejudice.

This action was *(check one)*:

☐ tried by a jury, the Honorable _____ presiding, and the jury has rendered a verdict.

☐ tried by the Honorable _____ presiding, without a jury and the above decision was reached.

☒ decided by the Honorable Mary Geiger Lewis, United States District Judge, presiding. The Court having granted the defendants; motion to dismiss the federal claim.

Date: March 26, 2025

CLERK OF COURT

s/Mary Deal
Signature of Clerk or Deputy Clerk

**APPENDIX D — DENIAL OF REHEARING OF
THE UNITED STATES COURT OF APPEALS FOR
THE FOURTH CIRCUIT, FILED JUNE 9, 2026**

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-1448
(3:24-cv-01099-MGL)

AMERICAN ACCEPTANCE CORPORATION OF
SC, ON BEHALF OF ITSELF AND ALL OTHERS
SIMILARLY SITUATED,

Plaintiff-Appellant,

v.

JOHN GIETZ; SHERIFF BRYAN KOON, A/K/A JAY
KOON, IN HIS OFFICIAL CAPACITY; SANDRA
BLACK; JOEL M. DEASON; JAMES WESTBURY;
JESSE LAINTZ; LEXINGTON COUNTY
SHERIFF'S DEPARTMENT,

Defendants-Appellees.

ORDER

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 40 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Benjamin, Senior Judge Floyd, and Judge Giles.

For the Court
/s/ Nwamaka Anowi, Clerk