

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

MACKENZIE BECKER,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

MATTHEW K. BELCHER
Interim Federal Public Defender

PERRIN TOURANGEAU
Assistant Federal Public Defender
Counsel of Record for Petitioner
633 17th Street, Suite 1000
Denver, Colorado 80202
(303) 294-7002

Question Presented

The Fourth Amendment permits a search warrant only on probable cause that evidence of a crime will be found at the place to be searched, and this Court has held that the warrant's supporting affidavit must give the magistrate judge facts from which to make that determination, not merely restate the officer's own conclusions. In other words, the supporting affidavit must set forth sufficient factual material to establish a probable-cause nexus between the evidence sought and the location to be searched.

This case presents a recurring factual scenario: where police have probable cause to believe that a suspect used a gun to commit a crime, and seek a warrant to search his residence for that firearm. The courts of appeals are deeply divided over what is needed to meet the nexus requirement in such circumstances: some hold that it is sufficient, without more, that police have probable cause to believe that the suspect used a gun—on the premise that such weapons are presumptively stored at home; whereas others hold that the supporting affidavit must instead tie the weapon sought to the home to be searched with case-specific facts.

As such, the question presented here is:

Whether a search warrant's supporting affidavit establishes probable cause to search a suspect's home for a firearm used in a crime based solely on the inference that firearms are generally kept at home, or whether the Fourth Amendment requires case-specific facts linking the weapon sought to the residence to be searched.

Parties to the Proceeding

The petitioner in this case is Mackenzie Becker, who was the defendant-appellant in the court below, and the respondent is the United States of America, who was the plaintiff-appellee in the court below. No party is a corporation.

Related Proceedings

United States District Court

On November 8, 2023, the United States District Court for the District of Colorado held an evidentiary hearing on Petitioner Mackenzie Becker's motion to suppress in *United States v. Becker*, 23-cr-00285-CNS (D. Colo.). At the conclusion of the hearing, the district court denied Mr. Becker's motion in an oral ruling. The complete transcript of that hearing appears in the Appendix at A16.

On August 16, 2024, the district court entered a criminal judgment against Mr. Becker, which appears in the Appendix at A53.

United States Court of Appeals

On March 9, 2026, the United States Court of Appeals for the Tenth Circuit affirmed the district court's judgment in *United States v. Becker*, No. 24-1331, 168 F.4th 1337 (10th Cir. 2026). That published opinion, which is the subject of this petition, appears in the Appendix at A1.

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Petition for a Writ of Certiorari

Mackenzie Becker respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Tenth Circuit.

Opinions and Orders Below

The Tenth Circuit's published opinion in Mr. Becker's appeal is reported at *United States v. Becker*, 168 F.4th 1337 (10th Cir. 2026), and appears in the Appendix at A1. The transcript of the hearing on Mr. Becker's motion to suppress, which includes the district court's oral ruling denying that motion, appears in the Appendix at A16.

Statement of Jurisdiction

The United States District Court for the District of Colorado had jurisdiction over the criminal case against Mr. Becker pursuant to 18 U.S.C. § 3231. The Tenth Circuit had jurisdiction over Mr. Becker's appeal pursuant to 28 U.S.C. § 1291. After entering judgment on March 9, 2026, the Tenth Circuit extended the time to file any petition for rehearing on March 18, 2026, and again on April 3, 2026. App. A60-A61. On June 3, 2026, Justice Gorsuch extended the time to file this petition to July 7, 2026. *Id.* at A62-A63. This Court has jurisdiction under 28 U.S.C. § 1254(1).

Constitutional Provision 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.

Statement of the Case

After an apparent road-rage incident where a firearm was allegedly discharged, police executed two search warrants for a house associated with Petitioner Mackenzie Becker, finding evidence used to convict him of federal firearms and drug charges. He moved to suppress that evidence, arguing that the initial warrant to search the house was not supported by probable cause because its supporting affidavit failed to establish the requisite factual nexus between the suspected crime and the residence to be searched. After the district court denied his motion, Mr. Becker appealed, renewing his challenge to the search warrant. The United States Court of Appeals for the Tenth Circuit ultimately affirmed. That ruling is the subject of this petition.

On February 13, 2023, a driver in Denver, Colorado, allegedly brandished and fired a handgun at another motorist during a road-rage encounter on Interstate 25. App. A1-A3. The victim photographed the other car's license plate, and Detective Gerald Sloan of the Denver Police Department traced the plate to a green Saab registered to Mr. Becker with an address at an apartment on South Parker Road in Denver. *Id.* at A3. Detective Sloan also learned that Mr. Becker had prior felony convictions and outstanding arrest warrants. *Id.*

Detective Sloan visited the apartment and found a green Saab bearing the same plate number as the car involved in the incident, but the car appeared to him to be

abandoned. App. A3. Although the plate was apparently a front plate (it had no registration stickers), it was attached to the car's rear. *Id.* A search of records from license-plate readers revealed that a plate with the same number had been observed on a gray Saab sedan 10 days before the road-rage incident. *Id.*

After consulting unspecified “law enforcement databases,” Detective Sloan found a second address attributed to Mr. Becker, a house on West Iliff Lane in Lakewood, Colorado (the “Iliff Lane house”). App. A3-A4. On March 1, 2023, just over two weeks after the alleged road-rage incident, Detective Sloan went to the Iliff Lane house. *Id.* at A4. Parked in the driveway, he saw a gray Saab sedan with the same license plate number as the sedan involved in the incident. *Id.* In Detective Sloan's view, the gray Saab matched the image of the sedan captured by the victim. *Id.* When officers returned five days later, they observed Mr. Becker exiting the house and entering the gray car several times. *Id.* They also saw him washing the car in the driveway. *Id.*

On March 7, 2023, twenty-two days after the road-rage incident, Detective Sloan applied for a warrant to search the Iliff Lane house for firearms, ammunition, and indicia of occupancy. App. A4. In his supporting affidavit, Detective Sloan recounted the suspected road-rage incident and his investigative steps. *Id.* at A2. The affidavit's sole link between the incident and the house was the assertion that “[a] firearm is not normally disposed of after the commission of a crime, and it is, therefore, still likely to be found in any location or vehicle to be searched associated with [Mr. Becker].” *Id.* at

A4. A state magistrate judge approved the warrant the same day. *Id.* at A5. When officers executed the search warrant two days later, they discovered evidence of drug trafficking, paused to obtain a second search warrant, and ultimately seized fentanyl, cocaine, firearms, and ammunition. *Id.*

Mr. Becker was subsequently indicted in the United States District Court for the District of Colorado on four charges related to the firearms and drugs found at the Iliff Lane house. App. A5. He moved to suppress the evidence obtained as a result of the search, arguing, among other things, that the initial search warrant's supporting affidavit lacked a probable-cause nexus between the road-rage incident and the house. *Id.* After a hearing, the district court denied the motion in an oral ruling, calling the nexus question a "closer call" but ultimately determining that the affidavit provided a sufficient factual basis to connect the house to the crime. *Id.* at A49. According to the district court, it was reasonable to think that Mr. Becker resided at or had access to the Iliff Lane house and, in its view, the magistrate judge who issued the warrant was "entitled to rely on the [affiant]'s opinion that a gun may [have] be[en] hidden" at the house, given that there are "only so many places one would hide a gun." *Id.* at A50.

Thereafter, Mr. Becker entered a conditional guilty plea to possession with intent to distribute fentanyl, possession with intent to distribute cocaine, and being a felon in possession of a firearm and ammunition, reserving his right to seek appellate review of

the district court's denial of his motion to suppress. App. A5. The district court ultimately sentenced Mr. Becker to 180 months' imprisonment. *Id.* at A54.

On appeal, Mr. Becker renewed his challenge to the search of the Iliff Lane house, arguing, in pertinent part, that the initial warrant's supporting affidavit established, at most, probable cause to arrest him, not probable cause to search his believed home for the gun involved in a three-week-old, alleged road-rage incident. App. A1-A2. The warrant's supporting affidavit, he contended, supplied no facts tying the firearm to the Iliff Lane house: it contained no sightings of a gun there, no report or tip that he stored one there, and no observations of suspicious activity at the house. *Id.* at A8-A9. Consequently, the affidavit lacked the requisite probable-cause nexus between the road-rage incident and the Iliff Lane house. *Id.*

In support of his argument, Mr. Becker relied on *United States v. Wilson*, 153 F.4th 478 (5th Cir. 2025), in which the Fifth Circuit affirmed suppression of evidence seized from a residence searched after the defendant brandished a pistol during a public altercation. *See* App. A12 n.1 (acknowledging argument). As Mr. Becker explained, the supporting affidavit to the search warrant challenged in *Wilson* was materially identical to the affidavit supporting the warrant to search the Iliff Lane house: it described the altercation; placed the suspect and his car at his supposed residence; and asserted that the evidence sought, namely, the gun, was "believed to be located" there. *See Wilson*, 153 F.4th at 485-86. This showing, the Fifth Circuit held, was constitutionally

insufficient; the affidavit did not provide information linking the crime to the defendant's home, and the affidavit's "lone, unexplained assertion that officers 'believed' contraband was 'located at [the suspect's] residence'" was "far too thin to make probable cause reasonable." *Id.* at 486. Because a firearm is "portable, easily transferred, and often quickly discarded," the court reasoned, its continued presence at a home following a public altercation cannot be presumed without some case-specific facts to support it. *Id.* at 486-88 & n.48.

The Tenth Circuit affirmed the district court's denial of Mr. Becker's motion to suppress. App. A2. Accepting that the affidavit supplied no direct evidence connecting the firearm to the house, the court held that the requisite nexus was supplied by the nature of the evidence itself: a "personal firearm is the type of evidence likely to be kept in a suspect's residence, and is likely to remain there for an extended period of time." *Id.* at A13 (quoting *United States v. Alqahtani*, 73 F.4th 835, 844 (10th Cir. 2023)). As such, it was sufficient that the affidavit alleged that "[a] firearm is not normally disposed of after the commission of a crime" and thus, that the firearm sought was "still likely to be found in any location or vehicle to be searched associated with [Mr. Becker]." *Id.* at A10-A11. Moreover, the court concluded, the inference that the firearm was at Mr. Becker's residence was not defeated by the three-week gap between the road-rage incident and the issuance of the warrant. *Id.* at A11-A12. Because it would be difficult for him to acquire a new gun given his criminal record, the court reasoned, Mr. Becker

was unlikely to dispose of the firearm; and his car, an “instrumentality of the crime,” had been seen at the house despite the passage of two weeks. In reaching its conclusion, the court expressly declined to follow the Fifth Circuit’s decision in *Wilson*, which it understood to be “inconsistent with [Tenth Circuit] precedents.” *Id.* at A12 n.1.

Finally, because it held that the warrant was supported by probable cause, the court did not reach the government’s alternative argument that suppression was improper because, in searching the Iliff Lane house, the officers had relied on the warrant in good faith. App. A14.

This petition follows.

Reasons for Granting the Writ

The Fourth Amendment forbids a warrant to search a home unless the supporting affidavit establishes “a fair probability that contraband or evidence of a crime will be found in [that] particular place.” *Illinois v. Gates*, 462 U.S. 213, 238 (1983). The courts of appeals are divided over what that so-called probable-cause nexus requirement demands when the evidence sought is a firearm.

Some circuits hold that probable cause to believe that a firearm was used in the commission of a crime is enough, by itself, to establish probable cause to search a suspect’s residence, on the presumption that firearms are typically kept at home. Other circuits hold the opposite: that firearms are precisely the kind of portable, disposable evidence whose presence in a home cannot be presumed, and that the affidavit thus

must tie the weapon to the residence to be searched with case-specific facts. The Tenth Circuit’s decision below and the Fifth Circuit’s decision in *United States v. Wilson*, 153 F.4th 478 (5th Cir. 2025), reach opposite results on materially indistinguishable facts, cleanly illustrating the conflict. The Court should grant review to resolve it.

I. The circuits are deeply divided over whether probable cause to believe a firearm was used to commit a crime can alone establish probable cause to search a suspect’s home.

The courts of appeals are deeply divided over an important, recurring constitutional question: whether the use of a gun in the commission of a crime can, by itself, give rise to probable cause to search a suspect’s home—i.e., establish the requisite probable-cause nexus between the evidence sought and the residence to be searched—or whether the Fourth Amendment instead requires case-specific facts tying the weapon sought to the home to be searched in order for a warrant to issue.

On one side of the split, the Fourth, Sixth, Eighth, Tenth, and Eleventh Circuits hold that because it is reasonable to think people generally store their guns at home, probable cause to believe that a suspect used a gun in committing a crime is, on its own, enough establish probable cause to search his residence. *See, e.g.*, App. A10-A14; *United States v. Anderson*, 851 F.2d 727, 729 (4th Cir. 1988) (search warrant was supported by probable cause “even though the affidavit contained no facts that the weapons were located in defendant’s trailer” because “[i]t was reasonable for the magistrate to believe that the defendant’s gun and the silencer would be found in his residence”), *cert. denied*,

488 U.S. 1031 (1989) (mem.); *Peffer v. Stephens*, 880 F.3d 256, 271-72 (6th Cir. 2018) (explaining that “the use of a gun in the commission of a crime is sufficient to establish a nexus between the suspected criminal’s gun and his residence” because “individuals who own guns keep them at their homes”), *cert. denied*, 586 U.S. 820 (2018) (mem.); *United States v. Cowling*, 648 F.3d 690, 696 (8th Cir. 2011) (“Because the warrant affidavit established probable cause that [the defendant] possessed stolen firearms, it follows that probable cause existed to search [his] residence, because people generally keep firearms at home or on their persons.” (cleaned up)), *cert. denied*, 566 U.S. 940 (2012) (mem.); *United States v. Anton*, 546 F.3d 1355, 1358 (11th Cir. 2008) (concluding that affidavit established sufficient nexus to defendant’s home based on affiant’s assertion that, in his “experience, convicted felons and firearms dealers possessing contraband typically store these items on their property”), *cert. denied*, 556 U.S. 1184 (2009) (mem.).¹

For example, as explained in the opinion below, the Tenth Circuit treats firearms as a “special class” of evidence that, by its nature, is “likely to be kept in a suspect’s residence” and “remain there for an extended period of time.” App. A13 (quoting *United States v. Alqabtani*, 73 F.4th 835, 844 (10th Cir. 2023)). Under this approach, a warrant’s supporting affidavit need not allege facts connecting the specific weapon

¹ At least one state court has taken a similar approach. *See, e.g., Maryland v. Ward*, 712 A.2d 534, 537-40 (Md. 1998) (probable cause to search a defendant’s home established where there is “probable cause to believe that a crime of violence, involving the use of a weapon, had been committed, that the defendant was the criminal agent, and that the defendant resided [there]”).

sought to the suspect’s residence; the inference is supplied categorically, “merely on the basis of the affiant-officer’s experience” that individuals ordinarily store their weapons at home. *Id.* (quoting *United States v. Mora*, 989 F.3d 794, 801 (10th Cir. 2021)); *see also* *United States v. Holt*, 173 F.4th 1335, 1341-42 (10th Cir. 2026) (citing *Becker* for proposition that probable-cause nexus requirement can be satisfied in gun cases by officer’s observation that firearms are the type of evidence likely to be kept at a suspect’s residence because such an inference is reasonable). In Mr. Becker’s case, the Tenth Circuit applied that rule to uphold the warrant to search the Iliff Lane house, which rested on nothing more than the affiant’s assertion that “[a] firearm is not normally disposed of after the commission of a crime,” and was, “therefore,” likely to be found at any place “associated with” Mr. Becker. *Id.* at A10-A14.

At the opposite end, the Fifth and First Circuits hold that such inferences about where firearms are generally stored cannot substitute for a case-specific nexus. In *Wilson*, the Fifth Circuit upheld the district court’s order suppressing evidence seized from an apartment searched after the defendant brandished a pistol during a public altercation. 153 F.4th at 481-90.² The supporting affidavit to the challenged search

² In reviewing a defendant’s challenge to a search warrant, the Fifth Circuit first addresses whether the good-faith exception to the Fourth Amendment’s exclusionary rule applies before turning to whether probable cause supported the warrant. *See Wilson*, 153 F.4th at 484, 489. Following that framework, the *Wilson* court resolved both questions against the government, holding that the affidavit was bare bones, i.e., “so lacking in indicia of probable cause as to render official belief in its existence entirely unreasonable,” *id.* at 484, after which it “necessarily follow[ed] that probable cause was absent,” *id.* at 489. In any event, the court’s good-faith determination hinged on the fact that the affidavit failed to

warrant, like the one here, recounted the incident; placed the defendant and his car at the apartment, his suspected residence; and asserted that the evidence sought, namely, the firearm, was “believed to be located” there. *Id.* at 482-83, 485-88 & n.36. That, the Fifth Circuit held, was not sufficient. Although the affidavit’s allegations were “likely enough for probable cause to *arrest*,” the court explained, “probable cause to arrest is not probable cause to search.” *Id.* at 485. In the court’s view, the affidavit failed to create a factual link between the altercation and the apartment—it “alleged no suspicious activity at or near [the apartment], and its lone, unexplained assertion that officers ‘believed’ contraband was ‘located at [the suspect’s] residence’” was “far too thin to make probable cause reasonable.” *Id.* at 485-86.

Nor could “[s]peculation about what might be found at a residence” establish probable cause to search the apartment. *Wilson*, 153 F.4th at 486. The court explained that firearms “brandished in public altercations are not akin to passports in a drawer”; rather, “[t]hey are portable, easily transferred, and often quickly discarded,” and even if a suspect “initially stashes” a gun at home, “the likelihood that it remains there ‘quickly dwindles’ with each passing day.” *Id.* (quoting *Bastida v. Henderson*, 487 F.2d 860, 864 (5th Cir. 1973)). Although “it can sometimes be reasonable to infer that criminals hide

connect the suspected crime to the residence to be searched: Because the affidavit “offered nothing—no observations, no inferences, no corroborated tips—linking the [altercation] to the [apartment],” no reasonable officer could have believed that the requisite probable-cause nexus existed. *Id.* at 485-89.

firearms in their homes,” the court explained, “the Fourth Amendment demands more than generalities: each affidavit must tether such an inference to the particular circumstances of the case.” *Id.* In other decisions where the court had relied in part on such “common-sense” inferences about where criminals might store contraband, they were “anchored in case-specific circumstances, not in generalized assumptions about what ‘most people’ might do.” *Id.* at 487-88 & n.48. The Fifth Circuit thus rejected the rule the Tenth Circuit applied in Mr. Becker’s case—treating the inference that guns are typically stored at home as sufficient alone to satisfy the nexus requirement—demanding instead “facts suggesting” that the weapon sought had “made its way to” the residence to be searched and was likely to “still be there” weeks later. *Id.*; *see also id.* (“For guns-on-the-go items such as ammunition, drum magazines, and weapons, the affidavit still had to connect the house with the criminal operations.” (cleaned up)).

Similarly, the First Circuit has held that a supporting affidavit failed to establish probable cause to search the suspect’s home where it contained no allegations “from which a factual finding could be made that the gun used in the shooting [under investigation] was probably located at defendant’s premises.” *United States v. Charest*, 602 F.2d 1015, 1016-17 (1st Cir. 1979). In the court’s view, “[c]ommon sense” suggests “that it is unlikely that a murderer would hide in his own home a gun used to shoot someone,” given the ease of disposing of such weapons and the “well-known” use of ballistics testing to accurately trace bullets to the gun that fired them. *Id.* at 1017. This

was especially true, the court reasoned, in light of the 16-day lag between the commission of the shooting and the issuance of the search warrant; “[i]t is contrary to common sense and logic to expect a murderer to keep the murder weapon in his own premises for almost three weeks.” *Id.* at 1018. Without some additional evidence linking the gun to the suspect’s home, the court held that the affidavit was insufficient to supply probable cause. *Id.* at 1016-18.

Between these poles sit courts that acknowledge that it might be reasonable to assume that people keep their guns in their homes while nevertheless relying on case-specific evidence supporting that inference in finding probable cause. *See, e.g., United States v. Hicks*, 650 F.3d 1058, 1067-69 (7th Cir. 2011) (distinguishing *Charest*, 602 F.2d at 1017, and concluding that officer “had a reasonable factual basis” to believe that the suspects kept semi-automatic firearm nicknamed “the chopper” rather than disposing of it after a public shooting where officer “gathered information from several sources indicating that [the suspects] maintained shared possession of the weapon” and had a tip that the weapon was probably at one of their houses); *United States v. Buchanan*, 910 F.2d 1571, 1573-74 (7th Cir. 1990) (distinguishing *Charest*, 602 F.2d at 1017, and concluding that it was reasonable to believe gun used in murder would be found in fugitive suspect’s hotel room where suspect was living in temporary quarters under a false name, and thus could “reasonably be supposed to have made the gun unavailable by making himself unavailable”; as a fugitive, was vulnerable and constrained “in

movement and activity”; and was independently suspected of drug dealing, guns being a tool of that trade). Still others have yet to address “whether in every case the fact that a suspect committed a crime involving . . . a gun automatically provides a magistrate with enough information to approve a search of a suspect’s home,” while recognizing that it is reasonable to assume that people keep their guns in their homes. *See, e.g., United States v. Jones*, 994 F.2d 1051, 1056-57 (3d Cir. 1993).

The result is a genuine and acknowledged conflict over a recurring question of Fourth Amendment law. *See* App. A11-A12 & n.1.

II. The Fifth and Tenth Circuits have now reached opposite results on materially indistinguishable facts.

The Tenth Circuit’s decision below and the Fifth Circuit’s decision in *Wilson* are not merely in tension in the abstract; they cannot be reconciled on their facts.

In *Wilson*, police sought a warrant to search an apartment for a firearm used in a public altercation weeks earlier, based primarily on the defendant’s association with the residence. The warrant’s supporting affidavit recounted the incident, in which the suspect brandished a pistol during a verbal altercation at a restaurant and then drove away from the scene; labeled the apartment to be searched as the suspect’s “residence”;³ noted that the suspect had been seen there; stated that police had observed the suspect’s

³ Although the Fifth Circuit was skeptical of the affidavit’s assertion that the defendant lived at the apartment, noting that the claim was “dubious, at best,” its probable-cause analysis assumed that the apartment was the defendant’s residence. *Wilson*, 153 F.4th at 485-86 & n.24.

car (which the victim had identified) parked at the apartment a few days after the altercation; and asserted that items “related to” the incident were “believed to be located” at the apartment. *Wilson*, 482-83, 485-89 & n.36.

The affidavit at issue here suffers from the same defect that the Fifth Circuit found fatal in *Wilson*. Detective Sloan sought to search the Iliff Lane house based only on the fact that Mr. Becker and his car had been seen there weeks after the road-rage incident. App. A4. To connect the incident to the house, the affidavit offered nothing more than the generalized assertion that “[a] firearm is not normally disposed of after the commission of a crime.” *Id.* That the affidavit in *Wilson* contained no rationale at all, whereas the affidavit here supplied a generic one, is a distinction without a difference for nexus purposes: a conclusory proposition that would be true in every gun case supplies no case-specific fact tying *this* weapon to *this* home. As in *Wilson*, then, “the affidavit offered nothing—no observations, no inferences, no corroborated tips—linking [the road-rage incident] to [the Iliff Lane house].” 153 F.4th at 485.

Consequently, in each case, a gun was involved in a public altercation; police located a residence associated with the suspect and noted sightings of him and his vehicle there; the affidavit offered no observation of a firearm at the home, no tip that a weapon was stored there, and no reports or sightings of criminal activity at the residence; and the affidavit bridged the gap between the crime and the home with a conclusory assertion that the firearm was “believed to be located” at the residence, or

“still likely” to be found at any place “associated with” the suspect. *Compare* App. A4, A10-A14, *with Wilson*, 153 F.4th at 482-83, 485-89 & n.36. On these materially indistinguishable nexus showings, the two circuits reached opposite results. The panel below acknowledged as much, declining to follow *Wilson* because it was “inconsistent with [Tenth Circuit] precedents.” App. A12 n.1.

III. The Tenth Circuit’s approach is wrong.

The Tenth Circuit’s rule is wrong on the merits because it allows an officer’s conclusion to displace the facts that the Fourth Amendment requires a neutral magistrate to weigh. The rule below cannot be squared with this Court’s decision in *Illinois v. Gates* and the warrant requirement it protects. *Gates* holds that an affidavit must give the magistrate judge the underlying facts, not the officer’s bottom line: “Sufficient information must be presented to the magistrate to allow that official to determine probable cause; his action cannot be a mere ratification of the bare conclusions of others.” 462 U.S. at 239. An affidavit that supplies only “a mere conclusory statement” is insufficient, because it “gives the magistrate virtually no basis at all for making a judgment regarding probable cause.” *Id.* Indeed, the “essential protection of the warrant requirement . . . is in ‘requiring that the usual inferences which reasonable men draw from evidence be drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime.’” *Id.* at 240 (cleaned up) (quoting *Johnson v. United States*, 333 U.S. 10, 13-14 (1948)).

The affidavit here does exactly what *Gates* forbids, as its only link between the road-rage incident and the Iliff Lane house was the affiant's conclusory assertion that "[a] firearm is not normally disposed of after the commission of a crime," and, thus, the gun sought was "still likely to be found in any location or vehicle to be searched associated with [Mr. Becker]." App. A4. That is not a fact from which the magistrate could independently assess probable cause; it is the affiant's conclusion, offered as its own justification. That Detective Sloan offered a reason for that conclusion—the stock statement that firearms are not usually discarded after crimes—does not cure the defect. That premise is a generalization about what gun users typically do, and, even assuming it is sound, it establishes probable cause to search a particular home only if the affidavit presents facts showing that this suspect, under these circumstances, likely conformed to that general pattern. The affidavit here supplied none: nothing about Mr. Becker or the road-rage incident suggested that he, in particular, had kept the firearm at the Iliff Lane house rather than discarded it or stored it elsewhere.

Nor was this generalization even tied to the type of crime under investigation. It asserted that firearms are not normally disposed of "after the commission of a crime," any crime, and the gun was, "therefore, still likely to be found in any location or vehicle to be searched associated with" Mr. Becker. That is boilerplate in the most literal sense: a proposition that could be copied, unaltered, into the affidavit for a warrant to search a home in any investigation where police suspected a gun was involved. It cannot be

true that the probable-cause requirement is satisfied in every gun case by the mere insertion of a generalized statement that applies equally in each.

Moreover, such a categorical presumption is especially unwarranted for firearms used in public crimes. Unlike the “mail, passports, or bank records” that people inherently keep at home, a gun displayed in public is “portable, easily transferred, and often quickly discarded.” *Wilson*, 153 F.4th at 486. The premise that such a weapon will be at the suspect’s residence, and will remain there weeks later, is not a self-evident, common sense inference; it is a contestable, empirical claim that requires factual support in the particular case. *See id.*; *Charest*, 602 F.2d at 1017 (“Common sense tells us that it is unlikely that a murderer would hide in his own home a gun used to shoot someone.”). *Gates* and the neutral-magistrate requirement demand that the affidavit furnish that support, not that the magistrate judge accept the officer’s say-so. By holding otherwise, the Tenth Circuit collapsed two distinct questions the Fourth Amendment keeps separate: probable cause to believe the suspect committed a crime, and probable cause to believe evidence of it will be found in his home. *See Wilson*, 153 F.4th at 485.

As the Tenth Circuit’s approval of the affidavit here indicates, its “special class” approach allows the presumption that firearms are stored at home to do the work the Fourth Amendment assigns to the magistrate judge, “hollow[ing] out the Fourth Amendment’s nexus requirement” and reducing the magistrate judge’s role to “a ministerial rubber stamp.” *Wilson*, 153 F.4th at 485.

IV. This question of constitutional law is important and recurring.

The question presented warrants this Court’s review because it governs a large and recurring category of searches, and because the Tenth Circuit’s approach undermines a structural protection at the heart of the Fourth Amendment.

As this Court has repeatedly explained, “[f]reedom in one’s own dwelling is the archetype of the privacy protection secured by the Fourth Amendment.” *Lange v. California*, 594 U.S. 295, 303 (2021) (cleaned up); *see also Florida v. Jardines*, 569 U.S. 1, 6 (2013) (“[W]hen it comes to the Fourth Amendment, the home is first among equals.”); *Segura v. United States*, 468 U.S. 796, 810 (1984) (observing that “the home is sacred in Fourth Amendment terms not primarily because of the occupants’ possessory interests in the premises, but because of their privacy interests in the activities that take place within”). The warrant requirement safeguards that privacy by requiring that the inferences supporting probable cause be “drawn by a neutral and detached magistrate”—not the affiant-officer himself. *Johnson*, 333 U.S. at 13-14. “When the right of privacy must reasonably yield to the right of search is, as a rule, to be decided by a judicial officer, not by a policeman or Government enforcement agent.” *Id.* at 14. The Tenth Circuit’s “special class” approach thus erodes the warrant requirement’s structural guarantee where it matters most, by permitting officers to search a home based solely on their own generalized inferences about where guns are kept rather than

a neutral magistrate judge’s case-specific assessment of whether the particular firearm sought is likely to be found in the specific home to be searched.

Moreover, the question presented here is almost certain to recur. Firearm offenses make up one of the largest categories of criminal prosecutions in the federal system, encompassing 12% of cases in fiscal year 2025, and surpassed only by immigration and drug crimes. U.S. Sent’g Comm’n, *2025 Annual Report*, 14 (2025). Roughly one third of aggravated-assault offenses in 2022-2024 reported by local police to the Federal Bureau of Investigation involved a firearm. U.S. Dep’t of Just., Fed. Bureau of Investigation, Criminal Just. Info. Servs. Div., *Aggravated Assault with a Firearm, 2022-2024* (Mar. 2026). Because firearm offenses are prosecuted in great numbers in both federal and state court, the question this case presents—how much information an affidavit must provide to connect a gun crime to a suspect’s home before a warrant may issue—is one that courts will likely confront again and again. *Cf., e.g., United States v. Magee*, No. 25-cr-03, 2026 WL 1030324, at *1, *5-6 (E.D. La. Apr. 16, 2026) (relying on *Wilson*, 153 F.4th at 485-86, in concluding that although affidavit gave rise to probable cause that suspect was illegally possessing a firearm as a convicted felon, it failed to establish probable cause to believe that suspect’s house contained firearms where it alleged only that suspect’s car had been parked there once and was registered to the address without information “to suggest that he held firearms in that residence”), *gov’t appeal docketed then voluntarily dismissed*, No. 26-30298 (5th Cir. June 12, 2026).

The affidavit in this case illustrates how routine the issue likely is. Detective Sloan’s nexus showing rested on a single, evidently boilerplate proposition—that “[a] firearm is not normally disposed of after the commission of a crime, and [] is, therefore, still likely to be found in any location or vehicle to be searched associated with [the suspect].” App. A4. That is not a fact peculiar to this investigation; it is a stock recitation that, under the Tenth Circuit’s approach, will validate the search of a home in any case involving a firearm. The decision below thus does not resolve an isolated dispute. It supplies a categorical answer that will likely authorize a large and recurring class of residential searches until this Court intervenes.

V. This case presents an ideal vehicle.

This case presents an ideal vehicle to address the question presented. The issue was raised below, fully litigated, and decided on the merits; Mr. Becker preserved his challenge to the denial of his motion to suppress through a conditional plea, *see* Fed. R. Crim. P. 11(a)(2); and no jurisdictional or procedural barrier stands in the way. Moreover, the question is dispositive of the judgment below: the Tenth Circuit affirmed solely on probable cause and, having found the warrant valid, expressly declined to reach the government’s alternative good-faith argument. App. A14. A decision applying the Fifth Circuit’s rule would require the court below to confront that reserved question for the first time on remand. *See, e.g., Chatrue v. United States*, 609 U.S. ---, 2026 WL 1855568, at *16-17 (2026) (having concluded that Fourth Amendment search had

occurred when police accessed cell-phone location data, remanding for Fourth Circuit to consider, in the first instance, whether search warrant complied with the Fourth Amendment's warrant requirement).

The facts also frame the question with unusual precision. The supporting affidavit's link between the road-rage incident and the Iliff Lane house rested on a single assertion: that a firearm used in a crime was "still likely to be found in any location or vehicle to be searched associated with" Mr. Becker because such weapons are not typically discarded. App. A4. There is no confounding evidence to muddy the analysis: no firearm was seen at the Iliff Lane house, no informant placed one there, and no suspicious activity was observed at the residence. The case thus isolates the precise question that divides the circuits: whether the presumption that firearms are stored at home can, without more, establish probable cause to search a defendant's residence.

Conclusion

This Court should grant Mr. Becker's petition.

Respectfully submitted,

MATTHEW K. BELCHER
Interim Federal Public Defender

/s/ Perrin Tourangeau
PERRIN TOURANGEAU
Assistant Federal Public Defender
Counsel of Record for Petitioner
633 17th Street, Suite 1000
Denver, Colorado 80202
(303) 294-7002