

IN THE SUPREME COURT OF THE UNITED STATES

CAMERON WATKINS, PETITIONER

v.

UNITED STATES OF AMERICA

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

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTION PRESENTED

Whether a police officer who stood on an exterior common walkway and looked through a gap in curtains on a motel room's window violated the occupant's reasonable expectation of privacy.

PARTIES TO THE PROCEEDING

Petitioner (defendant-appellant below) is Cameron Watkins.

Respondent (plaintiff-appellee below) is the United States of America.

ADDITIONAL RELATED PROCEEDINGS

United States District Court (W.D. Okla.):

United States v. Watkins, No. 22-cr-325 (Dec. 14, 2023)

United States Court of Appeals (10th Cir.):

United States v. Watkins, No. 23-6210 (Oct. 14, 2025)

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No. 26-5272

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 1a-28a) is reported at 156 F.4th 1049. The order denying rehearing (Pet. App. 36a-41a) is reported at 175 F.4th 1244. The order of the district court (Pet. App. 30a-35a) is available at 2023 WL 258358.

JURISDICTION

The judgment of the court of appeals was entered on October 14, 2025. A petition for rehearing was denied on May 11, 2026 (Pet. App. 36a-41a). The petition for a writ of certiorari was filed on August 7, 2026. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a guilty plea and a jury trial in the United States District Court for the Western District of Oklahoma, petitioner was convicted of possessing a firearm following a felony conviction, in violation of 18 U.S.C. 922(g)(1) and 924(a)(2); and possessing ammunition following a felony conviction, in violation of 18 U.S.C. 922(g)(1) and 924(a)(8). Judgment 1. The district court sentenced him to 300 months of imprisonment, to be followed by three years of supervised release. Judgment 2-3. The court of appeals affirmed. Pet. App. 1a-28a.

1. Police officers arrived at an Oklahoma City motel about midnight on October 8, 2021, seeking a man who had violently carjacked and kidnapped a woman in the motel parking lot a few hours earlier. Pet. App. 2a. The victim had described her assailant as a short black man with dreadlocks and a goatee, wearing black jeans. Ibid. The motel manager said that description matched a man staying in Room 231, a second-floor unit at the end of an open-air walkway accessible from the parking lot by an outdoor stairway. Id. at 2a-3a. The curtains on one of the room's windows, overlooking the walkway, were open about an inch. Id. at 3a. One officer, standing on the accessible walkway, looked in the window and saw petitioner, a short black man with dreadlocks and a goatee, sitting on a bed without pants, next to a handgun with an extended magazine. Ibid.

The officers knocked and announced their presence. Pet. App. 3a. After a three-hour standoff, petitioner eventually emerged, and the officers arrested him. Ibid. The victim identified him as the man who had carjacked and kidnapped her. Id. at 3a-4a. Based on the victim's account, her identification of petitioner, and the officer's view of the gun, law enforcement obtained a search warrant for Room 231. Id. at 4a. Inside, they found a loaded handgun stashed inside a vacuum cleaner, an extended magazine stuffed into a hole for an electrical outlet, and 28 rounds of ammunition inside the magazine. Ibid.

The victim later learned a different man had carjacked her, and retracted her identification of petitioner. Pet. App. 4a n.1.

2. A grand jury in the Western District of Oklahoma charged petitioner with one count of possessing a firearm following a felony conviction, in violation of 18 U.S.C. 922(g)(1) and 924(a)(2); and one count of possessing ammunition following a felony conviction, in violation of 18 U.S.C. 922(g)(1) and 924(a)(8). Superseding Indictment 1-2.

Petitioner moved to suppress the handgun, magazine, and other evidence recovered from the motel room. Pet. App. 31a. He contended that the officer conducted an illegal search when he looked through the window. Ibid. The government opposed the motion on several grounds, including that the officer did not violate a reasonable expectation of privacy, D. Ct. Doc. 37, at 6-8 (Nov. 14, 2022), and alternatively, that suppression was unwarranted

under the good-faith exception to the exclusionary rule, id. at 1, 9-10; D. Ct. Doc. 51, at 3-11 (Jan. 3, 2023).

The district court denied the motion. Pet. App. 30a-35a. It explained that the officer “did not violate the Fourth Amendment when he looked through the window and observed [petitioner] and the handgun inside Room 231 because he was standing in a public place” -- i.e., “the exterior walkway leading to Room 231,” which the court found “was open to the public and undoubtedly used by other motel patrons and staff.” Id. at 32a. And the court had “little doubt that officers acted reasonably,” “[r]egardless” of whether the window’s curtains were only “partially open.” Id. at 31a-32a.

Petitioner pleaded guilty to the firearm charge, and a jury found him guilty on the ammunition charge. Pet. App. 5a. The district court sentenced him to 300 months of imprisonment, to be followed by three years of supervised release. Judgment 2-3.

3. The court of appeals affirmed. Pet. App. 1a-28a.

a. The court of appeals rejected petitioner’s contention that the officer “violated his reasonable expectation of privacy by peering through a window with ‘partially closed curtains.’” Pet. App. 4a (citation omitted). The court “recognize[d] that even when an officer has not entered the curtilage of a dwelling, his observations of people, effects, or activity within the dwelling may constitute a Fourth Amendment search” if he “uses extraordinary means to make the observations.” Id. at 9a. But it

explained, quoting this Court, that unaided "visual observation is no 'search' at all," ibid. (quoting Kyllo v. United States, 533 U.S. 27, 32 (2001)), when an officer observes "from a public vantage point where he has a right to be," ibid. (quoting California v. Ciraolo, 476 U.S. 207, 213 (1986)).

The court of appeals accordingly reasoned that "a person in a dwelling has no reasonable expectation of privacy with respect to what can be seen, heard, or smelled by someone in a public place with one's natural senses." Pet. App. 9a. And it explained that the officer here "made his observations from a place freely accessible to the public, the motel's open-air walkway" -- which the court found was "not curtilage" of the motel room -- "using only his unaided eyes." Id. at 8a-9a. Therefore, viewing "the evidence in the light most favorable to the government, accept[ing] the district court's findings of fact unless clearly erroneous, and review[ing] de novo the ultimate determination of reasonableness under the Fourth Amendment," the court of appeals determined that the officer's "observations did not amount to a search under the Fourth Amendment" because they "did not violate [petitioner's] reasonable expectation of privacy." Id. at 5a-6a, 9a-10a (quoting United States v. Ronquillo, 94 F.4th 1169, 1172 (10th Cir. 2024)).

The court of appeals also added that even if petitioner could establish "a violation of the Fourth Amendment," affirmance would still be required by "the good-faith exception to the exclusionary rule." Pet. App. 16a. The court explained that under that

exception, it “could not exclude the evidence obtained by the observation in this case, where the officer’s observation was in compliance with ample precedent permitting such an observation from a public place and using only his natural vision.” Ibid. (citing Davis v. United States, 564 U.S. 229, 239-241 (2011)); see id. at 9a-10a (collecting “robust support in the case law,” including this Court’s precedents and Reeves v. Churchich, 484 F.3d 1244, 1255 & n.20 (10th Cir. 2007), cert. denied, 552 U.S. 1179 (2008)).

b. Judge Moritz dissented. Pet. 17a-28a. In her view, on “the totality of the facts here,” petitioner “reasonably expected privacy in the interior of his motel room when he locked the door and drew the curtains,” even though he left a “one-inch gap,” regardless of whether he “might have closed” it. Id. at 17a, 21a, 22a.

4. The court of appeals denied petitioner’s request for rehearing en banc. Pet. App. 36a-37a.

Judge Hartz wrote an opinion supporting the denial of rehearing. Pet. App. 38a-39a. He noted in response to the dissent that “the record does not show how close” the officer was to the window, and “it is not obvious that the officer would need to press his face against the window to see” petitioner. Id. at 39a.

Judge Moritz, joined by Judge Federico, dissented from the denial of rehearing. Pet. App. 37a, 40a-41a. She reiterated her position that the officer violated petitioner’s reasonable

expectation of privacy when, in her view, the officer "placed his face so close to a motel room's window that he could peer through a one-inch gap in the curtains and view the entire room." Id. at 40a.

ARGUMENT

Petitioner contends (Pet. 6-22) that a police officer violated his reasonable expectation of privacy by looking from a common walkway through a gap in curtains on a motel-room window. The court of appeals correctly rejected that contention, and its decision does not conflict with any decision of this Court, another court of appeals, or a state supreme court. In addition, this case would be an unsuitable vehicle for resolving the question presented because petitioner's challenge to the denial of his suppression motion rests on disagreements with case-specific factual findings by the district court; invokes new arguments not made below; and independently fails under the good-faith exception to the exclusionary rule, as the court of appeals determined.

1. The court of appeals correctly determined that the officer violated no reasonable expectation of privacy. Pet. App. 9a-14a.

a. A person's ability to "claim the protection of the Fourth Amendment depends * * * upon whether" he "has a legitimate expectation of privacy in the invaded place." Rakas v. Illinois, 439 U.S. 128, 143 (1978). "[I]nside a home," warrantless searches "are presumptively unreasonable." Payton v. New York, 445 U.S.

573, 586 (1980). The “curtilage” also “enjoys protection as part of the home itself.” Florida v. Jardines, 569 U.S. 1, 6 (2013). But “Fourth Amendment protection of the home has never been extended to require law enforcement officers to shield their eyes when passing by a home on public thoroughfares.” California v. Ciraolo, 476 U.S. 207, 213 (1986).

The Fourth Amendment does “not forbid” observing protected areas in a home from a “vantage point[] * * * outside the curtilage.” United States v. Dunn, 480 U.S. 294, 304 (1987). Nothing “preclude[s] an officer’s observations from a public vantage point where he has a right to be and which renders the activities clearly visible.” Ciraolo, 476 U.S. at 213. This Court therefore “ha[s] held that visual observation” of “the portion of a house that is in plain public view” is “no ‘search’ at all,” at least where officers do not use “sense-enhancing technology” that is “not in general public use.” Kyllo v. United States, 533 U.S. 27, 32, 34 (2001).

The same is true even if one has “taken measures to restrict some views of his activities” in a home or curtilage. Ciraolo, 476 U.S. at 213. For example, in California v. Ciraolo, the Court rejected a Fourth Amendment challenge to aerial surveillance of a home despite a “6-foot outer fence and a 10-foot inner fence completely enclosing the yard” where the defendant grew marijuana. Id. at 209. Because “[a]ny member of the public flying in this airspace who glanced down could have seen everything that the[]

officers observed," the Court held that Ciraolo's "expectation that his garden was protected from such observation is unreasonable." Id. at 213-214; accord Florida v. Riley, 488 U.S. 445, 448-452 (1989) (plurality opinion) (no search in viewing curtilage from helicopter in public airspace, even where viewed area was 90% covered); Minnesota v. Carter, 525 U.S. 83, 103-105 (1998) (Breyer, J., concurring in the judgment) (no search where officer stood in public area "for about 15 minutes looking down through a set of venetian blinds" into apartment); cf. Dow Chem. Co. v. United States, 476 U.S. 227, 234-239 (1986) (rejecting challenge to aerial photography of commercial facilities "not open or exposed to the public from the ground," id. at 237).

The court of appeals correctly applied that precedent to find that an officer did not violate petitioner's reasonable expectation of privacy by looking in his motel room's window. The officer stood on an "open-air walkway," which was "directly accessible from the motel parking lot," "freely accessible to all staff, guests, and visitors," and "not curtilage." Pet. App. 7a-8a. And the officer "us[ed] only his unaided eyes," not any "extraordinary means." Id. at 9a. "Thus, his observations did not amount to a search under the Fourth Amendment." Ibid.

b. Petitioner's contrary arguments (Pet. 13-20) lack merit. He relies (Pet. 14) heavily on Kyllo v. United States, but as the court of appeals explained, Kyllo itself stated that unaided "visual observation" of a home from a public vantage point "is no

'search.'" Pet. App. 9a (quoting Kyllo, 533 U.S. at 32). He also contends, quoting Justice O'Connor's solo concurrence in the judgment in Florida v. Riley, 488 U.S. at 454-455, that "'the relevant inquiry after Ciraolo is not whether the officer was where he had a right to be,' but whether the 'observation' was 'from a vantage point generally used by the public.'" Pet. 15 (brackets omitted). Even assuming that were the controlling test, but see Riley, 488 U.S. at 449 (plurality opinion) ("As a general proposition, the police may see what may be seen 'from a public vantage point where they have a right to be.'" (quoting Ciraolo, 476 U.S. at 213) (brackets omitted), in this case, the district court found that the public walkway where the officer stood "was 'undoubtedly used by other motel patrons and staff,'" Pet. App. 4a (quoting id. at 32a); see id. at 7a ("evidence establishes" that "[a]nyone could stand there to check on a car in the parking lot below, smoke a cigarette, or simply catch a breath of fresh air").

Petitioner does not acknowledge that district-court finding or argue that it is clearly erroneous, as he must to prevail in this posture. See Pet. App. 5a-6a. Nor does he dispute the court of appeals' ruling that the officer was not in the curtilage of petitioner's motel room. See Pet. 19-20. He nonetheless asserts (Pet. i, 15, 17) that his room "was not 'clearly' visible" from the walkway and the officer must have "pressed himself against the window" or otherwise engaged in "unnatural maneuvering" to see inside. "But the record does not show how close [the officer]

was, and it is not obvious that the officer would need to press his face against the window to see [petitioner]." Pet. App. 39a (Hartz, J., supporting the denial of rehearing en banc). At a minimum, petitioner's reliance on that disputed factual premise makes this case a poor vehicle for further review. See United States v. Johnston, 268 U.S. 220, 227 (1925) ("We do not grant a certiorari to review evidence and discuss specific facts."); Sup. Ct. R. 10.

Petitioner also now argues (Pet. 17-19) that state "Peeping Tom" laws support his claim to a reasonable expectation of privacy. But petitioner did not make that argument in the court of appeals, see Pet. C.A. Br. 32-36; Pet. C.A. Reply Br. 7-10; Pet. C.A. Reh'g Pet. 4-13, and the court did not address it. "Where issues are neither raised before nor considered by the Court of Appeals, this Court will not ordinarily consider them." Pennsylvania Dep't of Corr. v. Yeskey, 524 U.S. 206, 212-213 (1998) (quoting Adickes v. S.H. Kress & Co., 398 U.S. 144, 147 n.2 (1970)). In any event, Judge Hartz catalogued such statutes in his opinion supporting the denial of rehearing en banc, and even giving petitioner the benefit of statutes that Judge Hartz distinguished only on the basis of a law-enforcement exception, he found that only a minority of jurisdictions might prohibit looking into the window here. See Pet. App. 38a n.*.

2. The decision below does not conflict with any of the state supreme court or circuit decisions on which petitioner relies

(Pet. 8-13). None of those cases shows that any court would reach a contrary result on the facts here.

Petitioner's primary authority (Pet. 9) is a Minnesota Supreme Court case, State v. Carter, 569 N.W.2d 169 (1997), that this Court reversed on other grounds, 525 U.S. 83, and that predated Kyllo's affirmation that unaided "visual observation is no 'search,'" 533 U.S. at 32. Regardless, Carter found a search only where the record made "clear" that an officer used "extraordinary measures to enable himself to view the inside of a private dwelling": He "left the sidewalk, walked across the grass, climbed over some bushes, crouched down and placed his face 12 to 18 inches from the window." 569 N.W.2d at 177-178.

Petitioners' other two state cases are similar: One found a search in reliance on the "facts" that a detective "searched the back wall until he found cracks in the wall between the doors," "maneuver[ed] his body," and "had to bend and peer with a flashlight" through "tiny," "quarter-inch cracks" near "the floor on the interior wall of a second-floor porch." State v. Tarantino, 368 S.E.2d 588, 590-592 (N.C. 1988), cert. denied, 489 U.S. 1010 (1989). The other found a search based on officers' "artificial creation of [a] vantage point" by "stack[ing] a crate upon a bench" to look through a high-up hole in the wall, while stating that a "completely different situation with a different result would be presented if the aperture were at the eye level of one merely

standing on the sidewalk instead of being high off the ground.”
State v. Kaaheena, 575 P.2d 462, 464, 467 (Haw. 1978).

It is far from clear that any of those decisions -- the most recent of which (Carter) is almost three decades old -- would require suppression on the facts here, where an officer simply looked through a gap in the curtains while standing in a public area that the district court found was “undoubtedly used by other[s].” Pet. App. 4a, 9a (citation omitted). And “all the federal appellate authorities that [petitioner] ha[s] found point in the opposite direction” from his view. Id. at 12a.

United States v. White, 890 F.2d 1012 (8th Cir. 1989), cert. denied, 497 U.S. 1010 (1990), found that a reasonable expectation of privacy was “not violated” where an officer looked “through a gap between the bathroom stall door and the bathroom stall wall” via “reflections of the bathroom mirror.” Id. at 1015 (emphasis added). And the unpublished table decision in United States v. Lewis, No. 95-5426, 1996 WL 193993 (4th Cir. Apr. 23, 1996) (per curiam) -- which is “not precedential,” Hogan v. Carter, 85 F.3d 1113, 1118 (4th Cir.), cert. denied, 519 U.S. 974 (1996), and therefore could not demonstrate a conflict with the decision below -- relied on White to similarly find that a reasonable expectation of privacy was “not violated” by bathroom-stall observation. Lewis, 1996 WL 193993, at *2 (emphasis added). Neither would compel a finding that petitioner’s reasonable expectation of privacy was violated here.

3. At all events, this case is an unsuitable vehicle to address the question presented because suppression of the evidence is unwarranted under the good-faith exception to the exclusionary rule, as the court of appeals determined below. Pet. App. 16a.

The exclusionary rule is a "judicially created remedy designed to safeguard Fourth Amendment rights generally through its deterrent effect." United States v. Leon, 468 U.S. 897, 906 (1984) (quoting United States v. Calandra, 414 U.S. 338, 348 (1974)). This Court has emphasized, however, that suppression is an "extreme sanction," id. at 916, recognizing that the "exclusion of relevant incriminating evidence always entails" "grave" societal costs, Hudson v. Michigan, 547 U.S. 586, 595 (2006). Most obviously, it allows "guilty and possibly dangerous defendants [to] go free -- something that 'offends basic concepts of the criminal justice system.'" Herring v. United States, 555 U.S. 135, 141 (2009) (quoting Leon, 468 U.S. at 908).

This Court has thus held that, "[t]o trigger the exclusionary rule, police conduct must be sufficiently deliberate that exclusion can meaningfully deter it, and sufficiently culpable that such deterrence is worth the price paid by the justice system." Herring, 555 U.S. at 144. Suppression may be warranted "[w]hen the police exhibit 'deliberate,' 'reckless,' or 'grossly negligent' disregard for Fourth Amendment rights." Davis v. United States, 564 U.S. 229, 238 (2011) (quoting Herring, 555 U.S. at 144). "But when the police act with an objectively reasonable

good-faith belief that their conduct is lawful, * * * the deterrence rationale loses much of its force, and exclusion cannot pay its way.” Ibid. (citation and internal quotation marks omitted). Reliance on “binding appellate precedent” can establish the applicability of the good-faith exception. Id. at 241.

Those principles confirm that suppression would not be appropriate here even if a Fourth Amendment violation had occurred. As the Tenth Circuit noted below (Pet. App. 7a-10a), it previously held in Reeves v. Churchich, 484 F.3d 1244 (2007), cert. denied, 552 U.S. 1179 (2008), that an officer’s “mere visual observation of objects or people inside [an] apartment through [the tenant’s] bedroom window from the front yard was not a search under the Fourth Amendment,” even where the “window contained bars covered in foliage.” Id. at 1255 & n.20. Here, it was reasonable for the officer looking through petitioner’s window to rely on “binding appellate precedent specifically authoriz[ing]” that “particular police practice.” Davis, 564 U.S. at 241. Petitioner cannot show that the officer exhibited anything approaching the “‘deliberate,’ ‘reckless,’ or ‘grossly negligent’ disregard for Fourth Amendment rights” that is required to justify the high costs of suppressing evidence of petitioner’s crimes. Id. at 238 (citation omitted).

Petitioner disputes (Pet. 22) that the court of appeals rendered an alternative “holding” on the good-faith exception. But the court clearly stated: “Under the good-faith exception to the exclusionary rule, we could not exclude the evidence obtained by

the observation in this case, where the officer's observation was in compliance with ample precedent permitting such an observation from a public place and using only his natural vision." Pet. App. 16a. Regardless, a prevailing party may rely on any ground to support the judgment, "whether or not that ground was relied upon" below. Dandridge v. Williams, 397 U.S. 471, 475 n.6 (1970).

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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