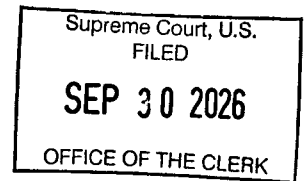


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No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



MARK ROOTE,
Petitioner,

v.

KERSHAW COUNTY, SOUTH CAROLINA, et al.,
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

1. Whether a court may uphold, as a matter of law, the enforcement of a speaking restriction against a citizen at a public meeting—and the citizen’s resulting removal and arrest—on the basis of an ordinance enacted three months after the arrest, where the ordinance actually in effect imposed no such restriction.
2. Whether a court may reject a claim that a speaking restriction was selectively enforced by demanding a comparator who violated the restriction in the same way as the plaintiff, where it is undisputed that four of the seven speakers who preceded the plaintiff exceeded the restriction without consequence and the sheriff testified that exceeding it was “not out of the ordinary.”
3. Whether, at summary judgment, a court may resolve the causation element of a First Amendment retaliatory-arrest claim against the plaintiff by crediting the government’s alternative explanations, where the arrest was announced immediately after the plaintiff’s protected criticism of officials and both the arresting officer and the county administrator testified they had not intended to arrest him before that moment.

LIST OF PARTIES

Petitioner Mark Roote was the plaintiff-appellant below. Respondents Kershaw County, South Carolina; Kershaw County Sheriff's Office; Sheriff Lee Boan, individually and in his official capacity; and Danny Templar were the defendants-appellees below. No party to the proceeding is a publicly traded corporation, and no party has a stock ticker symbol.

RELATED CASES

Roote v. Kershaw County, No. 2024-CP-28-00821, Court of Common Pleas, Kershaw County, South Carolina. Original action, removed to federal court March 6, 2025; state-law claims remanded March 5, 2026. Summary judgment granted September 10, 2026; formal order pending.

Roote v. Kershaw County, No. 3:25-cv-01392-SAL, U.S. District Court for the District of South Carolina. Judgment entered March 5, 2026.

Roote v. Kershaw County, No. 26-6380, U.S. Court of Appeals for the Fourth Circuit. Judgment entered July 21, 2026; rehearing denied August 18, 2026.

Roote v. Kershaw County, Nos. 3:26-cv-01960 and 3:26-cv-01961, U.S. District Court for the District of South Carolina. Pending actions arising from the same events.

TABLE OF CONTENTS

Questions Presented.....	i
List of Parties.....	ii
Related Cases.....	ii
Table of Authorities.....	v
Opinions Below	1
Jurisdiction.....	1
Constitutional and Statutory Provisions Involved	2
Statement of the Case	2
A. The Meeting and the Arrest.....	2
B. The Ordinance.....	3
C. Other Council Meetings.....	4
D. Proceedings Below	4
Reasons for Granting the Petition.....	6
I. The Courts Below Upheld Enforcement of a Restriction on the Strength of an Ordinance That Did Not Yet Exist.....	6
II. The Courts Below Demanded the Near-Identical Comparator This Court Rejected in Gonzalez v. Trevino	7
III. The Courts Below Resolved Causation Against the Nonmovant by Weighing the Government’s Explanations	8
Conclusion	10

INDEX TO APPENDICES

Appendix A	Opinion of the U.S. Court of Appeals for the Fourth Circuit (July 21, 2026)
Appendix B	Judgment of the U.S. Court of Appeals for the Fourth Circuit (July 21, 2026)
Appendix C	Order Denying Rehearing and Rehearing En Banc (4th Cir. Aug. 18, 2026)
Appendix D	Order of the U.S. District Court for the District of South Carolina (Mar. 5, 2026)
Appendix E	Report and Recommendation of the Magistrate Judge (D.S.C. Jan. 5, 2026)
Appendix F	Motion for Leave and Supplemental Brief, 4th Cir. ECF No. 18 (May 26, 2026)
Appendix G	Kershaw County Ordinance No. 387.2023 (D.S.C. ECF No. 14-8)
Appendix H	Kershaw County Ordinance No. 343.2020
Appendix I	Plaintiff’s Response in Opposition to Summary Judgment, D.S.C. ECF No. 18 (Dec. 15, 2025)

Appendix J	Deposition Excerpts of Sheriff Lee Boan, D.S.C. ECF No. 18-1
Appendix K	Deposition Excerpts of Danny Templar, D.S.C. ECF No. 18-2
Appendix L	Plaintiff's Objections to Report and Recommendation, D.S.C. ECF No. 21 (Jan. 20, 2026)
Appendix M	Petitioner's Compilation of Public Comment Speaking Times, Kershaw County Council Meetings, September 2021 -- December 2022
Appendix N	Appellant's Informal Opening Brief, 4th Cir. ECF No. 15 (Apr. 20, 2026)
Appendix O	Deposition Excerpts of Sheriff Lee Boan, D.S.C. ECF No. 14-13

TABLE OF AUTHORITIES

Cases

Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986).....	8
Bouie v. City of Columbia, 378 U.S. 347 (1964).....	6, 7
Cohen v. California, 403 U.S. 15 (1971).....	10
Connally v. General Construction Co., 269 U.S. 385 (1926).....	6, 7
Gonzalez v. Trevino, 602 U.S. 653 (2024).....	7, 8, 9
Lozman v. City of Riviera Beach, 585 U.S. 87 (2018)	9
Nieves v. Bartlett, 587 U.S. 391 (2019)	7, 8, 9
Tolan v. Cotton, 572 U.S. 650 (2014)	9
United States v. Lanier, 520 U.S. 259 (1997).....	6, 7

Constitutional Provisions

U.S. Const. amend. I.....	2
U.S. Const. amend. XIV, § 1	2

Statutes and Rules

28 U.S.C. § 1254(1).....	1
28 U.S.C. § 1331.....	5
28 U.S.C. § 1343.....	5
28 U.S.C. § 1441.....	4
42 U.S.C. § 1983.....	2, 5
Sup. Ct. R. 13.....	1

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR A WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The unpublished per curiam opinion of the United States Court of Appeals for the Fourth Circuit (4th Cir. ECF No. 20) appears at Appendix A. The court of appeals' judgment (4th Cir. ECF No. 21) appears at Appendix B, and its order denying rehearing and rehearing en banc (4th Cir. ECF No. 24) appears at Appendix C.

The unpublished order of the United States District Court for the District of South Carolina adopting the magistrate judge's report and recommendation and granting summary judgment (D.S.C. ECF No. 25) appears at Appendix D. The magistrate judge's report and recommendation (D.S.C. ECF No. 20) appears at Appendix E.

JURISDICTION

The court of appeals entered judgment on July 21, 2026. App. B. It denied a timely petition for rehearing and rehearing en banc on August 18, 2026. App. C. This petition is filed within ninety days of that denial. Sup. Ct. R. 13.1, 13.3. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The First Amendment to the United States Constitution provides, in relevant part:

“Congress shall make no law . . . abridging the freedom of speech . . . or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

Section 1 of the Fourteenth Amendment provides, in relevant part: “[N]or shall any State deprive any person of life, liberty, or property, without due process of law”

42 U.S.C. § 1983 provides, in relevant part, that every person who, under color of any statute, ordinance, regulation, custom, or usage of any State, subjects any citizen to the deprivation of any rights secured by the Constitution shall be liable to the party injured.

STATEMENT OF THE CASE

A. The Meeting and the Arrest

Petitioner was a regular speaker at Kershaw County Council meetings who often criticized the council. App. E at 4. Kershaw County Sheriff Lee Boan testified that Petitioner “has every right to do that,” that he “never saw him as, like, a threat,” and that speakers going beyond their time is “not out of the ordinary.” App. E at 3–4; App. J. Asked whether he had “ever had to arrest anybody else at a council meeting,” the Sheriff answered, “No. No, I don’t” App. O (Boan Dep. 11:4–6).

At the council’s October 11, 2022 meeting, the County Attorney announced that each of the nine people signed up for public comment would have approximately three minutes and twenty seconds, and that he would ring a bell at that mark. App. E at 4. It is undisputed that four of the seven speakers who preceded Petitioner exceeded that time—by twenty-five seconds,

forty-four seconds, fifty-three seconds, and one minute and twelve seconds—and that the bell was rung for only two of them. App. E at 5. The second speaker continued for thirty-eight seconds past his bell. Ibid. None of the four was approached, removed, or arrested.

Petitioner spoke eighth. The bell rang at the four-minute mark, and by Respondents' own account Petitioner was interrupted fifteen seconds later, when a council member raised the length of his remarks with the chair. App. E at 5, 16. The chair directed that Petitioner's microphone be turned off, and Sheriff Boan approached the podium as Petitioner continued reading his prepared remarks. Id. at 6. About a minute and a half later, County Administrator Danny Templar stood up from the table and told the Sheriff, "I want him out of here, Lee." D.S.C. ECF No. 14-2 at 0:06:25; see App. E at 6 (quoting the statement as "I want him out . . ."). When the Sheriff took his arm, Petitioner sat down in passive resistance, and the Sheriff and a deputy slid him across the floor toward the exit. App. E at 6–7. As they neared the door, Petitioner said he was "trying to be a good citizen and show how dirty these fuckers are," and the Sheriff responded, "now you are under arrest." Id. at 8. The Sheriff and Administrator Templar both testified that, until that moment, neither intended to arrest him. Id. at 7 n.3; App. J; App. K.

Petitioner was charged with disorderly conduct and resisting arrest. After the district court entered judgment, a jury unanimously acquitted him of disorderly conduct on March 27, 2026, and the resisting-arrest charge was dismissed four days later.

B. The Ordinance

The courts below treated Kershaw County Ordinance No. 387.2023 as the rule governing the meeting. The magistrate judge's report, whose facts the district court incorporated, begins its account of the governing rules: "The County has passed and filed Ordinance No. 387.2023,