No. _____

In the

Supreme Court of the United States

JOSE ALEJANDRO BELMONTE CARDOZO,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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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QUESTION PRESENTED

Whether the Fourth Amendment permits border agents to search the digital contents of a traveler's cell phone without a warrant or any individualized suspicion.

PARTIES TO THE PROCEEDING

Petitioner Jose Alejandro Belmonte Cardozo was the defendant in the district court and the appellant in the court of appeals. Respondent United States of America was the plaintiff in the district court and the appellee in the court of appeals. None of the parties to this proceeding are corporations, and none have stock ticker symbols. S. Ct. R. 14.1(b)(i).

RELATED PROCEEDINGS

This case arises from the following proceedings:

> *United States v. Belmonte Cardozo*, No. 24-cr-125 (E.D. Va.). Judgment entered April 15, 2025.
>
> *United States v. Belmonte Cardozo*, No. 25-4239 (4th Cir.). Judgment entered July 13, 2026.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Jose Alejandro Belmonte Cardozo respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit.

OPINION BELOW

The opinion of the court of appeals (App. 1a-19a) is reported at 181 F.4th 461.

JURISDICTION

The judgment of the court of appeals was entered on July 13, 2026. On October 5, 2026, the Chief Justice extended the time within which to file a petition for a writ of certiorari to and including October 27, 2026. The 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.

INTRODUCTION

This case presents a Fourth Amendment question of exceptional importance. Every day, one million people pass through U.S. Customs as they enter the country. Nearly all of them carry cell phones. The question presented is whether the government may search the digital contents of a traveler's cell phone at the border without a warrant—or even without reasonable suspicion that the device contains evidence of wrongdoing or that the traveler committed a crime.

The court of appeals held that the government may conduct suspicionless searches of cell phones at the border. Under its approach, border agents may search any traveler's phone for any reason. The consequences are far-reaching: "Modern cell phones are not just another technological convenience. With all they contain and all they may reveal, they hold for many Americans 'the privacies of life.'" *Riley v. California*, 573 U.S. 373, 403 (2014) (citation omitted). If the decision below stands, border agents will have carte blanche to search any traveler's camera roll, text messages, emails, voicemails, contact list, calendar, and personal notes. If the government chose to do so, it could demand that every traveler—every journalist, businessperson, politician, humanitarian, college student, and vacationer—returning from a trip abroad reveal the contents of his or her phone.

This Court must intervene. The Court has repeatedly acted "to ensure that the 'progress of science'"—including the advent of cell phones—"does not erode Fourth Amendment protections." *Chatrie v. United States*, 609 U.S. 605, 641 (2026) (quoting *Carpenter v. United States*, 585 U.S. 296, 320 (2018)). It has extended Fourth Amendment protection to cell phones found incident to arrest, *Riley*, 573 U.S.

at 386, cell-phone location information, *Carpenter*, 585 U.S. at 310-313, and, most recently, a cell-phone user's location history, *Chatrie*, 609 U.S. at 637-638. The stakes here are higher still. The class of people affected is far broader than in *Riley*, and the information revealed is far more detailed than in *Carpenter* or *Chatrie*. The result under the Fourth Amendment follows directly from those decisions: The government must obtain a warrant to search cell phones at the border; at a minimum, it must have reasonable suspicion to conduct the search.

The question presented is ripe for this Court's review. A majority of the courts of appeals have addressed the question, and their decisions have deeply eroded the Fourth Amendment's protection of digital privacy. They have done so despite this Court's repeated recognition that cell phones are "incomparably revealing" and "indispensable." *Chatrie*, 609 U.S. at 634 (citation omitted). In the four months since *Chatrie* issued, three courts of appeals—including the court below—have held that the government may conduct suspicionless searches of cell phones at the border. App. 3a; *United States v. Alisigwe*, No. 24-960, 2026 WL 2751713, at *18 (2d Cir. Sept. 17, 2026); *United States v. Eta*, 180 F.4th 936, 943 (7th Cir. 2026). If the government believes that it may wield unchecked power to search the cell phones of every law-abiding citizen returning from abroad, it should defend that position before this Court. And if suspicionless searches of devices at the border are permitted (and they should not be), that rule "should come from the Supreme Court."[1]

[1] Orin S. Kerr, *Second Circuit Rejects Limits on Border Searches of Cell Phones*, The Volokh Conspiracy (Sept. 18, 2026), https://reason.com/volokh/2026/09/18/second-circuit-rejects-limits-on-border-searches-of-cell-phones/.

This Court should grant the petition and set the case for plenary review. It may also wish to consider this case alongside *Anibowei v. Blanche*, No. 26-208 (U.S. filed on Aug. 14, 2026), a pending petition that presents the question whether border agents may search the digital contents of a cell phone "without a warrant." Pet. for Writ of Cert. at i, *Anibowei*, No. 26-208. This case is an important companion to that one. It squarely presents the question whether border agents may manually search a cell phone without reasonable suspicion, and together the cases would give the Court the fullest opportunity to address the relevant legal issues. Alternatively, if the Court grants review in *Anibowei* (or any other petition presenting the issue), it should hold this petition pending the resolution of that case. In all events, the decision below cannot stand.

STATEMENT OF THE CASE

A. Factual Background

On May 8, 2024, Mr. Belmonte Cardozo, a United States citizen, arrived at Dulles Airport on a flight from Bogota, Colombia, that had originated in Santa Cruz, Bolivia. App. 3a; C.A.J.A. 25, 149.[2] He was returning from a family visit in Bolivia. C.A.J.A. 25. While going through U.S. Customs, he was referred by Customs and Border Protection (CBP) agents to a secondary inspection area. C.A.J.A. 150. There, he was met by CBP Port Intelligence Officer Sara Oliphant, who had placed a

[2] Citations to the joint appendix filed in the Court of Appeals will be identified as "C.A.J.A." The joint appendix can be found at Docket Entry 22 on the Court of Appeals docket.

"lookout" for Mr. Belmonte Cardozo in a CBP database, instructing CBP officers to refer him to secondary inspection upon arrival. C.A.J.A. 150.

At the secondary inspection area, Officer Oliphant and her partner searched Mr. Belmonte Cardozo's luggage and physical belongings. C.A.J.A. 160. He was carrying two Apple iPhones, which were both locked by a passcode. App. 3a. The officers instructed Mr. Belmonte Cardozo to provide his passcode and gave him a CBP "tear sheet" that told him he was obligated to unlock his devices. C.A.J.A. 71, 160–161. Mr. Belmonte Cardozo complied. C.A.J.A. 161.

Officer Oliphant manually searched the phones. She immediately looked for hidden apps and folders. App. 3a. Approximately two minutes into her search, she found an image that she believed to be child pornography. App. 3a-4a; C.A.J.A. 162. She notified Homeland Security Investigations and continued searching the phone. App. 4a. HSI agents responded to the scene, examined the phones, and eventually arrested Mr. Belmonte Cardozo. App. 4a.

B. Procedural History

The arresting officer filed a criminal complaint in the United States District Court for the Eastern District of Virginia, accusing Mr. Belmonte Cardozo of transporting child pornography. App. 4a. He was later indicted by a federal grand jury on five counts of sexual exploitation of a minor in violation of 18 U.S.C. § 2251(a) and (e), two counts of coercion and enticement of a minor in violation of 18 U.S.C. § 2422(b), and one count each of transportation, receipt, and possession of child pornography in violation of 18 U.S.C. § 2252(a) and (b). App. 4a.

Mr. Belmonte Cardozo moved to suppress the evidence discovered during the search of his phones. App. 4a. He argued that the search exceeded the scope of the routine border search exception and therefore required an individualized showing of reasonable suspicion. The government argued that a manual search of a cell phone is a routine border search that does not require any individualized suspicion. The district court held a hearing on the motion, at which Officer Oliphant testified. App. 4a. At the end of the hearing, the district court denied Mr. Belmonte Cardozo's motion from the bench. App. 4a-5a. The court acknowledged that it was an open question whether a manual border search requires any individualized suspicion. App. 5a. But it concluded that the officers had some measure of suspicion when they issued the lookout for Mr. Belmonte Cardozo and searched his phones. App. 5a. In the alternative, the district court concluded that Officer Oliphant relied in good faith on case law allowing suspicionless manual border searches. App. 5a, 18a-19a n.9.

Following the denial of his motion to suppress, Mr. Belmonte Cardozo pleaded guilty to all ten counts in the Superseding Indictment. App. 5a. The plea agreement was conditional, preserving Mr. Belmonte Cardozo's right to appeal the district court's denial of his motion to suppress. App. 5a. The district court sentenced Mr. Belmonte Cardozo to 18 years in prison and 25 years of supervised release. App. 5a.

On appeal, the Fourth Circuit held that manual searches of cell phones at the border are routine and therefore do not require individualized suspicion. App. 3a. In a prior case, the Fourth Circuit had held that forensic cell phone searches at the border are nonroutine and require individualized suspicion. App. 11a (citing *United*

States v. Kolsuz, 890 F.3d 133 (4th Cir. 2018)). But the panel in Mr. Belmonte Cardozo's case ultimately concluded that "manual searches are different." App. 15a. The panel emphasized that forensic searches are comprehensive and require the government to make a copy of the digital evidence, whereas manual searches are limited by time and resource constraints. App. 15a-17a. At bottom, the panel concluded that "the privacy expectations one has in the digital contents of his or her cell phones do not overcome the government's interests" in preventing contraband from entering the country. App. 15a.

Finally, in a footnote at the end of the opinion, the panel expressly declined to address whether the search was supported by individualized suspicion because it concluded the search did not require any individualized suspicion. App. 18a n.9. The panel further stated that "even if individualized suspicion were required and even if Officer Oliphant did not have the requisite level of suspicion, suppression would still not be appropriate based on Officer Oliphant's good-faith reliance 'on the established and uniform body of precedent' that allows suspicionless manual searches of cell phones at the border." App. 18a-19a n.9 (citation omitted).

REASONS FOR GRANTING THE PETITION

This case presents a question of unusual importance: Whether the government may conduct suspicionless searches of cell phones at the border. The courts of appeals with major ports of entry have now weighed in on the question presented, and they have reached the wrong result. If left to stand, their decisions will jeopardize the privacy rights of the many million Americans who travel internationally each year.

Only this Court can realign the border-search doctrine with its Fourth Amendment jurisprudence. The Court should grant the petition for certiorari.

A. The Question Presented Is Exceptionally Important.

1. The question presented has profound implications for the hundreds of millions of travelers who enter this country. Every year, U.S. Customs and Border Protection (CBP) processes more than 400 million travelers at ports of entry. *See* U.S. Customs & Border Prot., *Border Search of Electronic Devices at Ports of Entry* (last modified Aug. 4, 2026), https://www.cbp.gov/travel/cbp-search-authority/border-search-electronic-devices (CBP Statistics). Virtually all of them carry cell phones. *See Carpenter*, 585 U.S. at 311.

Border searches of cell phones are frequent and increasing. In fiscal year 2025, CBP searched the electronic devices of 55,318 international travelers—roughly 150 every day. CBP Statistics, *supra*. That is more than six times the 8,503 travelers whose devices CBP searched in fiscal year 2015. U.S. Customs & Border Prot., *CBP Releases Statistics on Electronic Device Searches* (Apr. 11, 2017), https://www.cbp.gov/newsroom/national-media-release/cbp-releases-statistics-electronic-device-searches-0. And the pace is accelerating: In just the first three quarters of fiscal year 2026, CBP searched the devices of 52,081 travelers—19,732 of them in the third quarter alone. CBP Statistics, *supra*. The overwhelming majority of those searches (92 percent in fiscal year 2025) were "basic" searches—also known as "manual" searches—in which the officer does not connect the device to external equipment to review, copy, or analyze its contents. *Ibid.*

Those searches intrude deeply on privacy. This Court has recognized that cell phones "differ in both a quantitative and a qualitative sense from other objects that might be kept on an arrestee's person." *Riley*, 573 U.S. at 393. The term "cell phone" is itself "misleading shorthand": These devices are "minicomputers" with "immense storage capacity," capable of holding "millions of pages of text, thousands of pictures, or hundreds of videos." *Id.* at 393-394. A search of that device strikes at "the privacies of life." *Id.* at 403 (quoting *Boyd v. United States*, 116 U.S. 616, 630 (1886)). It "would typically expose to the government far *more* than the most exhaustive search of a house." *Id.* at 396. And a manual search can reach all of that with a few taps: Here, the officer opened both of petitioner's phones, navigated to their "hidden" photo galleries, and, within about two minutes, found the images that led to this prosecution. App. 3a-4a & n.2.

Cell phones are also inescapable. They are "such a pervasive and insistent part of daily life that the proverbial visitor from Mars might conclude they were an important feature of human anatomy." *Riley*, 573 U.S. at 385. "[M]any of the more than 90% of American adults who own a cell phone keep on their person a digital record of nearly every aspect of their lives—from the mundane to the intimate." *Id.* at 395. Today, "more than nine in ten Americans own a smartphone," *Chatrie*, 609 U.S. at 612, and people "compulsively carry cell phones with them all the time," *Carpenter*, 585 U.S. at 311. A phone is not something a traveler selectively packs for the trip: It goes where the traveler goes, and it holds everything the traveler has accumulated over years.

The implications of the decision below are striking. If it stands, border agents could demand to see the cell phones of every person flying internationally into Washington Dulles International Airport, regardless of whether the agent reasonably suspects that the device contains evidence of wrongdoing or that the traveler committed any crime. Indeed, under the Fourth Circuit's approach, "any person who goes on vacation or a business trip anywhere outside the country can be subject, upon their return home, to review of their medical records, financial information, personal messages, internet search and viewing habits, location tracking, and any other private information that may be contained on their cellphone through stored data, apps, or cloud connection." *Alisigwe*, 2026 WL 2751713, at *19 (Lee, J., concurring in the judgment).

2. The Court's intervention is necessary now. The courts of appeals with a major port of entry—the First, Second, Fourth, Fifth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuits—have addressed how the border-search exception applies to cell phones. They have uniformly reached the wrong result as to manual searches: Every court of appeals to consider the question has held that a manual search requires neither a warrant nor any suspicion. *See* App. 17a-18a ("[E]very one of our sister circuits to have considered the issue has reached the same result.") (collecting cases); *United States v. Mendez*, 103 F.4th 1303, 1310 (7th Cir. 2024); *United States v. Castillo*, 70 F.4th 894, 898 (5th Cir. 2023); *Alasaad v. Mayorkas*, 988 F.3d 8, 19 (1st Cir. 2021); *United States v. Cano*, 934 F.3d 1002, 1014 (9th Cir. 2019). Their positions are entrenched. Within a week of *Chatrie*, the Seventh Circuit reaffirmed its rule,

Eta, 180 F.4th at 943, and the Fourth Circuit joined the consensus a week later. App. 3a, 17a. Last month, the Second Circuit did the same. *Alisigwe*, 2026 WL 2751713, at *1.

The constitutionality of warrantless or suspicionless manual searches warrants this Court's review. A manual search can expose immensely private material—years of messages, photographs, medical and financial records, and location history. And a manual search is not the brief, surface-level inspection the court of appeals assumed. Modern phones let an officer search by keyword, location, or a person's face, and return matching images. App. 13a. As this case shows, an officer conducting a manual search can still access folders that the owner has designated as hidden. App. 3a & n.2.

The question presented also sits alongside a closely related conflict. The courts of appeals are divided over whether a forensic search of a cell phone—one in which officers connect the device to external equipment to copy and analyze its contents—requires any suspicion. *Compare Kolsuz*, 890 F.3d at 137, 144-147 (forensic search is nonroutine and requires "some measure of individualized suspicion"), *and United States v. Cotterman*, 709 F.3d 952, 968 (9th Cir. 2013) (en banc) (requiring reasonable suspicion), *with United States v. Pulido*, 133 F.4th 1256, 1275 (11th Cir. 2025) ("[F]orensic searches of electronic devices don't require any level of suspicion."). This Court has before it a pending petition that squarely presents the question whether border agents may conduct forensic searches "without a warrant." Pet. for Writ of Cert. at i, 11-12, *Anibowei*, No. 26-208. If this Court takes up the question of forensic

searches, it should do so with the manual-search question before it as well. Otherwise it risks leaving unresolved the constitutionality of the great majority of searches at the border. *See supra* p. 8.

The public—and border agents—need an answer now. The government itself has told this Court that the constitutionality of border searches is an "important and recurring Fourth Amendment issue" of "considerable practical importance for border officials' inspection of the hundreds of millions of travelers at U.S. ports of entry each year." Pet. for Writ of Cert. at 13, 22, *United States v. Cano*, No. 20-1043 (U.S. filed on Jan. 29, 2021). Since then, the number of searches has continued to climb, *see supra* p. 8, and this Court has only reaffirmed the magnitude of the privacy interests at stake. *See Chatrie*, 609 U.S. at 621. Yet the courts of appeals have continued to apply to smartphones a border-search precedents developed for suitcases, fuel tanks, and envelopes. In short, "[l]ots of lower courts have weighed in on the question, with lots of different rationales." Kerr, *supra* note 1. "At this point, whatever the right answer is, it should come from the Supreme Court." *Id.*

B. The Decision Below Is Incorrect.

The court of appeals held that the government may manually search any traveler's cell phone at the border with no suspicion. That ruling cannot be squared with this Court's decisions applying the Fourth Amendment in the digital context, and it is untethered from the traditional justifications for allowing the government to conduct certain routine searches at the border without a warrant. The Fourth Amendment requires the government to obtain a warrant, based on probable cause,

to search the digital contents of a cell phone, including at the border. At a minimum, the government must have reasonable suspicion to conduct the search.

1. "[T]he ultimate touchstone of the Fourth Amendment is 'reasonableness,'" and "[w]here a search is undertaken by law enforcement officials to discover evidence of criminal wrongdoing, * * * reasonableness generally requires the obtaining of a judicial warrant." *Riley*, 573 U.S. at 381-82 (citations omitted). "In the absence of a warrant, a search is reasonable only if it falls within a specific exception to the warrant requirement." *Id.* at 382. And even when this Court has recognized an exception to the warrant requirement for the search of physical objects, it has refused to "mechanical[ly]" extend that exception to modern cell phones. *Id.* at 385-386.

In *Riley*, this Court considered "how the search incident to arrest doctrine applies to modern cell phones." 573 U.S. at 385. The Court had long recognized an exception to the warrant requirement for searches incident to arrest, *United States v. Robinson*, 414 U.S. 218 (1973), and the Court in *Riley* acknowledged that "a mechanical application of *Robinson* might well support the warrantless searches" of cell phones, too. *Riley*, 573 U.S. at 386. The Court, however, distinguished cell phones from other "physical objects": The government's "assert[ion] that a search of all data stored on a cell phone is 'materially indistinguishable' from searches of * * * physical items," the Court observed, "is like saying a ride on horseback is materially indistinguishable from a flight to the moon." *Id.* at 393 (citation omitted). The Court "therefore decline[d] to extend *Robinson* to searches of data on cell phones, and h[e]ld

instead that officers must generally secure a warrant before conducting such a search." *Id.* at 386.

Since *Riley*, this Court has repeatedly afforded cell phones special solicitude. In *Carpenter*, the Court "decline[d] to extend" the third-party doctrine to the "novel circumstances" of digital records exposing "a detailed chronicle of a person's physical presence." 585 U.S. at 309, 315. Last Term, in *Chatrie*, this Court confirmed that the Fourth Amendment protects a person's cell-phone location data, thereby ensuring that technological "[i]nnovations" do not unconstitutionally "enhance[] the Government's capacity to encroach upon areas normally guarded from inquisitive eyes." 609 U.S. at 621 (citation omitted).

2. The application of that case law here is straightforward. This Court has recognized an exception to the warrant requirement for "routine searches of the persons and effects of entrants" into the country. *United States v. Montoya de Hernandez*, 473 U.S. 531, 538 (1985). But that exception reflects a balance between the "sovereign's interests at the border" and the privacy "rights" of the individual. *Id.* at 539. The exception cannot extend to the search of modern-day cell phones. The search of an individual's cell phone is an extraordinary privacy intrusion, even at the border. In contrast, the governmental interests advanced by the border-search exception retain scant vitality in the context of digital data. Accordingly, just as "*Riley* ended warrantless digital searches incident to arrest," this Court "should likewise end warrantless digital border searches." Orin S. Kerr, *The Digital Fourth Amendment: Privacy and Policing in Our Online World* 120 (2025).

a. Individuals have paramount privacy interests in the digital content on their devices, including at the border. The decision below mechanically imports the conventional border-search exception's premise that "an individual's privacy expectations at the border" are diminished. App. 9a (citing *Montoya de Hernandez*, 473 U.S. at 539-540). But this Court has rejected that wooden approach. "Cell phones differ in both a quantitative and a qualitative sense from other objects that might be kept on an [individual's] person." *Riley*, 573 U.S. at 393. The "privacy interests" implicated by searching a cell phone therefore "dwarf those" involved in searching one's physical belongings. *Id.* at 398.

A search of a cell phone strikes at "the privacies of life," *Riley*, 573 U.S. at 403 (quoting *Boyd*, 116 U.S. at 630)—regardless of where it occurs. When the government searches travelers' cell phones, it may access "nearly every aspect of their lives—from the mundane to the intimate." *Id.* at 395. The location data on cell phones alone may reveal "indisputably private" trips to "the psychiatrist, the plastic surgeon, the abortion clinic, the AIDS treatment center, the strip club, the criminal defense attorney, [or] the by-the-hour motel." *Chatrie*, 609 U.S. at 629 (quoting *United States v. Jones*, 565 U.S. 400, 415 (2012) (Sotomayor, J., concurring)). But the privacy interests here far exceed those in *Carpenter* and *Chatrie*. A manual search of a cell phone could easily reveal financial or medical information, the owner's most private thoughts and communications, photos, videos, and more.

b. Conversely, the justifications for the border-search exception do not extend to cell phone searches. The exception is grounded in the government's interest in the

"collection of duties," "preventing the entry of unwanted persons," and "prevent[ing] the introduction of contraband into this country." *United States v. Flores-Montano*, 541 U.S. 149, 152-53 (2004) (citations omitted). Those interests lack "force with respect to digital content on cell phones." *Riley*, 573 U.S. at 386.

Consider each in turn. First, a cell-phone search does not advance the government's interest in collecting duties on imported goods because "[t]ariffs and customs duties apply to physical items, not mere data." Kerr, *The Digital Fourth Amendment* 122. Second, "the government does not need to search data at the border to find people crossing illegally" because "[t]he CBP will not find a person smuggled inside a computer hard drive." *Ibid.*[3] Third, digital searches at the border do not materially enhance the government's ability to prevent contraband from entering the country. "Unlike physical contraband, electronic contraband is borderless and can be accessed and viewed in the United States without ever having crossed a physical border." *United States v. Vergara*, 884 F.3d 1309, 1317 (11th Cir. 2018) (Pryor, J., dissenting); *see Alisigwe*, 2026 WL 2751713, at *22 (Lee, J., concurring in the judgment) ("Digital data stored on a cellphone is not 'carried' across a border in any real sense."). Anyone determined to "import" digital contraband can transmit it to the United States without "carrying" the contraband on their phone while traveling—or without traveling across the border at all. *See* App. 14a (acknowledging that

[3] The government's interest in "preventing the entry of unwanted persons" also has no application to U.S. citizens, including Mr. Belmonte Cardozo. *See, e.g.*, *Nguyen v. INS*, 533 U.S. 53, 67 (2001) (describing a citizen's entitlement to "the full protection of the United States," and "the absolute right to enter its borders").

"digital contraband can cross the border electronically"). Accordingly, "cell phone searches are ill suited to prevent the type of contraband that may be present on a cell phone from entering into the United States." *Vergara*, 884 F.3d at 1317 (Pryor, J., dissenting).

What is more, any argument about the government's interest in intercepting "digital contraband" has no limiting principle. If the need to "interdict[] digital contraband," App. 14a, justified searching every device entering the country without suspicion, then it would justify suspicionless searches of every digital communication from someone outside the country to someone inside the country—including texts from a relative vacationing abroad or emails from a colleague in Europe. The Fourth Amendment has never tolerated such a profound intrusion into private communications.

3. The court of appeals offered three principal reasons for holding that the Fourth Amendment has nothing to say about suspicionless searches of cell phones at the border. None withstands scrutiny.

First, the court of appeals invoked historical practice at the border "[s]ince the founding of our Republic." App. 8a (quoting *Montoya de Hernandez*, 473 U.S. at 537). But the relevant excerpt in *Montoya de Hernandez* merely explains that customs statutes have long authorized "*routine* searches and seizures at the border * * * *in order to* regulate the collection of duties and to prevent the introduction of contraband into this country." *Montoya de Hernandez*, 473 U.S. at 537 (emphasis added). During the Founding era, "colonists expected complete privacy for their communications

except under extraordinary circumstances." David H. Flaherty, *Privacy in Colonial New England* 127 (1972). In 1782, the Continental Congress forbade the government from opening mail without a warrant. *See* Anuj C. Desai, *Wiretapping Before the Wires: The Post Office and the Birth of Communications Privacy*, 60 Stan. L. Rev. 553, 565-66 (2007). A cell phone with years of private correspondence is entitled to at least the protection the Founders gave an envelope.

If anything, *Riley* teaches that searching a cell phone is akin to searching the home—which has required a warrant since the Founding. "Indeed, a cell phone search would typically expose to the government far *more* than the most exhaustive search of a house." 573 U.S. at 396. Founding-era customs statutes required a warrant to search a home for goods subject to duty or for evidence of border offenses. *See* An Act to Regulate the Collection of the Duties Imposed by Law on the Tonnage of Ships or Vessels, and on Goods, Wares and Merchandises Imported into the United States, ch. 5, § 24, 1 Stat. 29, 43 (1789).

Second, the court of appeals believed that this Court's physical-contraband border cases control, but that is mistaken. *See* App. 8a-9a. Each of those cases addressed searches for physical contraband, which implicate distinct privacy and governmental interests. In *United States v. Ramsey*, 431 U.S. 606 (1977), this Court upheld the inspection of international mail for physical contraband, but its holding was predicated on the understanding that "the reading of any correspondence inside the envelopes is forbidden." *Id.* at 624. *Montoya de Hernandez* addressed "the detention of a traveler at the border" based on individualized suspicion that she was

smuggling drugs, and expressed "no view on what level of suspicion * * * is required for nonroutine border searches." 473 U.S. at 541 n.4. And *Flores-Montano* permitted a suspicionless search of a vehicle's fuel tank because the "privacy interests" implicated by "highly intrusive" searches "simply do not carry over to vehicles." 541 U.S. at 152. Each case involved the government's authority to intercept physical contraband from entering the country. That is worlds apart from searching digital content on cell phones to pursue law-enforcement interests unrelated to the border.

Third, the court of appeals asserted that "manual searches are different" from "forensic cell phone searches at the border." App. 15a. The court accepted that forensic searches are "nonroutine" and require individualized suspicion, but held that suspicionless manual searches are permissible because "a person does the looking," the "breadth of the searches is different," a "manual search sees only what a user can access on a device," and "a manual search is subject to an officer's fading memory or imperfect notes." App. 15a-17a.

Those are distinctions without a difference. There is nothing "routine" about a manual search of a cell phone: During a manual search, officers can scroll through a person's photos, videos, text messages, emails, calendars, contact lists, and private notes. Modern phones also have built-in search tools that allow an officer to type in a keyword, or to select a person's face, and return every matching saved image. *See* App. 13a. With a few taps, officers can access a person's medical records, account balances and transactions, and location history—not to mention years of private conversations with a spouse, a lawyer, a confidential source, or a religious leader.

Riley itself drew no such distinction: The officers there searched the phones manually, yet this Court required a warrant. *See* 573 U.S. at 378-81. The question under the Fourth Amendment is what is searched—namely, digital content on cell phones—not who (or what) did the searching. *Id.* at 393. The court of appeals never explained why the differences it identified between manual and forensic searches matter under the Fourth Amendment. Under the court of appeals' reasoning, it does not matter how vast or sensitive the searched content is, so long as a person does the searching and does not keep a copy of the data. This Court has never endorsed so cramped a view of the Fourth Amendment.

4. At a minimum, any search of a cell phone is so intrusive as to require reasonable suspicion—*i.e.*, "officials at the border must have a 'particularized and objective basis for suspecting the particular person'" of committing a crime. *Montoya de Hernandez*, 473 U.S. at 541-542 (citation omitted). "The 'reasonable suspicion' standard has been applied in a number of contexts, and effects a needed balance between private and public interests." *Id.* at 541. The Court has thus required reasonable suspicion for searches even in settings where privacy interests diminished—for instance, to search a student's belongings in a school, *New Jersey v. T.L.O.*, 469 U.S. 325, 341-42 (1985), or the passenger compartment of a car, *Michigan v. Long*, 463 U.S. 1032, 1049-50 (1983).

This Court has also recognized that some searches at the border require reasonable suspicion. In *Montoya de Hernandez*, this Court adopted a reasonable suspicion standard for detention of a traveler "beyond the scope of a routine customs

search and inspection." 473 U.S. at 541-542. The Court has reserved the related question whether other searches at the border may be so "highly intrusive" that they require "'reasonable suspicion, probable cause, or [a] warrant.'" *Flores-Montano*, 541 U.S. at 152.

The search of a cell phone is at least intrusive enough to require reasonable suspicion. *See Alisigwe*, 2026 WL 2751713, at *18 (Lee, J., concurring in the judgment) (concluding that "such searches" are not "routine" and require "reasonable suspicion"). It would be anomalous to hold that the government may conduct an invasive search of a traveler's cell phone with no suspicion whatsoever. It would mean that the government needs a warrant to search an arrestee's cell phone, *Riley*, 573 U.S. at 386, but needs nothing to search the phone of any law-abiding traveler returning from abroad. Even the court of appeals recognized that a forensic search of a cell phone "must be considered a nonroutine border search, requiring some measure of individualized suspicion." *Kolsuz*, 890 F.3d at 137; *see* App. 11a. Because the "manual" search here is no different from a "forensic" search in the legally relevant respects, *see supra* p. 19, the same requirement should apply.

"The Fourth Amendment must, as ever, protect against unjustified governmental intrusion on the privacy of the individual." *Chatrie*, 609 U.S. at 641. But "[a]llowing suspicionless searches of cellphones at the border undermines the essential privacy principles the Fourth Amendment was intended to protect." *Alisigwe*, 2026 WL 2751713, at *25 (Lee, J., concurring in the judgment).

C. This Case Is An Excellent Vehicle For The Court's Review.

1. This case squarely presents the question whether the Fourth Amendment permits border agents to search the digital contents of a traveler's cell phone without a warrant or individualized suspicion. Mr. Belmonte Cardozo moved to suppress the evidence recovered from the search of his cell phones, and the district court denied the motion after an evidentiary hearing. App. 4a-5a. The court of appeals affirmed in a published decision, holding as a matter of first impression that manual searches of cell phones at the border "do not require individualized suspicion." App. 3a.

There is no obstacle to the Court's review of the constitutional question in this case. All along, Mr. Belmonte Cardozo has argued that the border agent lacked any individualized suspicion to support the search, and that the good-faith exception does not apply. App. 18a n.9. Because the court of appeals held that no individualized suspicion was required, it declined to address whether the search was supported by such suspicion. App. 18a n.9. And although the court of appeals stated in a footnote that suppression would be unwarranted based on the officer's good-faith reliance on precedent, App. 18a n.9, that cursory declaration does not insulate review of the underlying constitutional question. *See Chatrie*, 609 U.S. at 619 n.4 ("[C]ourts should feel free to 'resolv[e] the Fourth Amendment issue' before the good-faith issue, either to better assess good faith or 'to guide future action by law enforcement officers and magistrates.'" (quoting *United States v. Leon*, 468 U.S. 897, 925 (1984))). If this Court holds that a search of a cell phone at the border requires individualized suspicion or a warrant, it can remand for the lower courts to conduct the good-faith inquiry—as it

routinely does in Fourth Amendment cases. *See, e.g.*, *ibid.* (stating the Fourth Circuit was "free to revisit" the good-faith exception "in light of [the] opinion and to provide [petitioner] with relief"); *Collins v. Virginia,* 584 U.S. 586, 601 (2018); *Carpenter*, 585 U.S. at 321.

2. This case is a particularly suitable vehicle for review because the decision below stakes out the outer limit of the border-search exception. The court of appeals held that the border agent could search Mr. Belmonte Cardozo's cell phones without individualized suspicion, let alone a warrant. App. 13a-18a. While the better view is that a warrant is required, the Court may benefit from having the full menu of options before it as it resolves this constitutional question. If the Court grants review only in a case that does not squarely raise the question whether suspicionless searches are appropriate, a decision that a warrant is not required would leave a substantial category of searches in constitutional limbo.

The Court accordingly may wish to grant the petition in this case along with the petition in *Anibowei v. Blanche*, No. 26-208 (U.S. filed on Aug. 14, 2026), so that it has a full opportunity to address the relevant legal issues and minimize any vehicle concerns. That petition presents the question whether border agents may search the digital contents of a cell phone "without a warrant." Pet. for Writ of Cert. at i, *Anibowei*, No. 26-208; *see Anibowei v. Bondi*, No. 24-11042, 2025 WL 3231720, at *2 (5th Cir. Nov. 19, 2025) (holding that circuit precedent "foreclose[s]" the argument that the Fourth Amendment "generally requires warrants to search cell phones at the border"). This Court has regularly consolidated, or set for argument in tandem,

petitions that present related questions arising from different courts of appeals. *See, e.g.*, *West Virginia v. B.P.J.*, 146 S. Ct. 2356, 2367 (2026); *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 384 (2024); *Moody v. NetChoice, LLC*, 603 U.S. 707, 719-24 (2024); *Brown v. United States*, 602 U.S. 101, 105-06 (2024); *Axon Enterprise, Inc. v. FTC*, 598 U.S. 175, 180 (2023). Following that course here would also be consistent with the Court's past practice in digital privacy cases, as it enables the Court to consider the constitutional question across a range of circumstances and select the approach that best accords with the Fourth Amendment. *See, e.g.*, *Riley*, 573 U.S. at 378-381 (considering search-incident-to-arrest exception in two consolidated cases involving searches of a smart phone and a flip phone, respectively).

At a minimum, if the Court grants review in *Anibowei*, the Court should hold this petition pending resolution of that case. If the Court grants relief in that case, or otherwise clarifies the standard applicable to border searches of cell phones, it should then grant this petition, vacate the judgment below, and remand for reconsideration in light of that guidance.

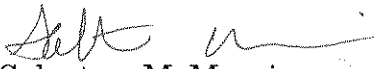
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This Court's intervention is urgently needed. A majority of the courts of appeals have weighed in on the question presented, and their approval of suspicionless searches threatens the privacy interests of millions of travelers. Only this Court can restore the Fourth Amendment's protections for digital privacy at the border.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



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