NO. _____

IN THE

Supreme Court of the United States

_____ TERM, 20__

TODD AARON HOWARD HAMILTON SUTTON, JR.,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Mr. Sutton was arrested for driving while barred and taken to the Cerro Gordo County Jail. The jail has a policy of strip searching every individual charged with a serious misdemeanor[1] or higher, regardless of whether that individual enters the general population of the jail. Mr. Sutton had money to bond out and had not seen a judicial official, yet was strip searched. It is likely he would never have joined general population; however, during the strip search, officers found methamphetamine. Mr. Sutton's petition asks the Court to address:

1) **Whether an individual who is unlikely to enter a jail's general population can be strip searched under a blanket policy requiring strip searches of anyone charged with a misdemeanor or higher?**

[1] In Iowa, a serious misdemeanor is an offense punishable by a fine of between $430 and $2,560 and up to a year of imprisonment. Iowa Code § 903.1(1)(b).

PARTIES TO THE PROCEEDINGS

Petitioner is Todd Aaron Howard Hamilton Sutton, Jr., defendant and appellant below.

Respondent is the United States of America, appellee below.

DIRECTLY RELATED PROCEEDINGS

The case arises from the following proceedings in the United States District Court for the Northern District of Iowa and the United States Court of Appeals for the Eighth Circuit:

United States v. Sutton, 3:24-cr-03037-001, (N.D. Iowa) (criminal proceedings), judgment entered June 18, 2025.

United States v. Sutton, 25-2313 (8th Cir.) (direct criminal appeal), judgment entered August 5, 2026.

There are no other proceedings in state or federal trial or appellate courts, or in this Court directly related to this case.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Todd Aaron Howard Hamilton Suitton, Jr. respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eighth Circuit.

OPINION BELOW

The Eighth Circuit's published opinion in Mr. Sutton's case is available at 185 F.4th 858 and is reproduced in the appendix to this petition at Pet. App. p. 27.

JURISDICTION

The Eighth Circuit entered judgment in Mr. Sutton's case on August 5, 2026. Pet. App. p. 35. This Court has jurisdiction over this case under 28 U.S.C. § 1254(1).

RELEVANT STATUTORY AND CONSTITUTIONAL PROVISIONS

U.S. Const. amend. IV**.**

> 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

Mr. Sutton was indicted in the Northern District of Iowa on one count of possession of methamphetamine with intent to distribute, in violation of 21 U.S.C. §§ 841(a)(1) & (b)(1)(B). R. Doc. [2] 3. The charge was based upon methamphetamine found during a strip search at Cerro Gordo County Jail after Mr. Sutton was arrested for driving while barred.

Mr. Sutton filed a motion to suppress the methamphetamine, arguing the strip search violated his Fourth Amendment rights. R. Doc. 25. He argued the warrantless strip search was an unreasonable search, citing *Florence v. Board of Chosen Freeholders*, 566 U.S. 318 (2012). R. Doc. 25. Mr. Sutton asserted that *Florence*'s narrow holding did not apply to his circumstances because he was not going to enter the jail's general population. R. Doc. 25.

At a hearing on the motion to suppress, the following facts were established.

On July 27, 2024, at 3:08 AM, Deputy Noah Friese initiated a traffic stop of Mr. Sutton because a headlight was out. Supp. Tr. pp. 54-55. Ultimately, Friese arrested Mr. Sutton for driving while barred, an aggravated misdemeanor with a bond amount of $2,000. Supp. Tr. pp. 54-55, 57. Friese transported Mr. Sutton to the Cerro Gordo County Jail, where Mr. Sutton was taken to the booking room and processed. Supp. Tr. pp. 55-56.

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[2] In this petition, the following abbreviations will be used:
"R. Doc." -- district court clerk's record, followed by docket entry and page number, where noted; and
"Pet. App." – Petitioner's Appendix, followed by page number.

Friese showed Mr. Sutton the bond schedule, which indicated a $2,000 bond for Mr. Sutton's charge. Supp. Tr. p. 57. Mr. Sutton had $443 in cash on his person. Supp. Tr. p. 58. Friese explained to Mr. Sutton that he could use a bondsman who typically require payment of $300 to $500 and who could take several hours to arrive in the morning. Supp. Tr. pp. 58-59. Friese informed Mr. Sutton he would see a judge around 10 AM, and, if he waited, he could save the bondsman fee. Supp. Tr. p. 59. While being processed, Friese allowed Mr. Sutton to use his personal cell phone. Sent. Tr. pp. 59-60.

After Friese completed his paperwork in the pre-booking room, he transferred Sutton to the jail staff for intake processing where Sergeants Beaver and LeClere took over. Supp. Tr. pp. 60-61. Beaver and LeClere took Mr. Sutton into the search/shower room. Supp. Tr. p. 45. There, they conducted a strip search. Supp. Tr. p. 46-47. The strip search procedures of the Cerro Gordo County Jail are as follows:

After completing paperwork in the pre-booking room, arrestees are moved to the intake/booking area where jail staff take custody. Supp. Tr. pp. 7, 31, 42. Any individual charged with a serious misdemeanor or above is subjected to a strip search and "changed out" into jail clothing. Supp. Tr. pp. 14, 25-26, 67-68. Individuals charged with simple misdemeanors are only strip searched if there is probable cause to believe they have contraband concealed on them. Supp. Tr. pp. 14, 25, 43.

Individuals who are not strip searched are still placed in holding cells with others, including those charged with more serious offenses. Supp. Tr. p. 25.

Strip searches occur in the search/shower room that has a wooden door which is closed for privacy. Supp. Tr. pp. 14, 39, 45. During the search, the individual must completely disrobe, and correctional officers conduct a visual inspection that includes having the individual lift their genitals and perform a "cough and squat" to ensure nothing is concealed. Supp. Tr. pp. 15, 36-37.

After being changed out, pretrial detainees are housed in the intake area, either in individual holding cells or in dormitories (referred to as "dorms"). Supp. Tr. pp. 7-8, 31-32. Dorm 1 is a communal area with four double bunks, a table, television, phone, and bathroom facilities that can hold up to ten people. Supp. Tr. pp. 14, 32. The jail also has four individual holding cells in the intake area. Supp. Tr. pp. 30, 32. Officers could not testify as to whether those cells were empty or were occupied at the time of Mr. Sutton's intake. Supp. Tr. pp. 30-31.

Individuals remain in the intake area until they see a magistrate judge for their initial appearance which occurs daily around 10 AM. Supp. Tr. pp. 12, 59. Only after seeing the judge and being classified are individuals moved to the general population pods. Supp. Tr. pp. 25-26, 68-69. If an individual bonds out or is released by the magistrate, they never go to general population. Supp. Tr. p. 26. When individuals are moved from intake to general population, they undergo another shower and search. Supp. Tr. pp. 26, 69.

In Mr. Sutton's case, Beaver and LeClere took him to the search/shower room and closed the door, then instructed him to remove all his clothing. Supp. Tr. pp. 45-46. After Mr. Sutton had removed all his clothing, Beaver asked him to lift his genital area. Supp. Tr. pp. 46-47. When Mr. Sutton did so, Beaver observed what appeared to be a round baggie containing a white substance behind Mr. Sutton's testicles and between his buttocks. Supp. Tr. p. 47.

After being searched, Mr. Sutton was placed in Dorm 1 with two other detainees. Supp. Tr. pp. 13, 30, 32. Friese testified that prior to the strip search, there was no reason to believe Sutton had contraband on him until he was told about Sutton's prior history of concealing contraband. Supp. Tr. p. 64. Officers acknowledged there were no smells or other indications that Sutton had contraband on him prior to the search. Supp. Tr. pp. 40, 50, 63-64.

Based on the evidence presented, the magistrate court filed a report and recommendation recommending the motion to suppress be denied. R. Doc. 41, Pet. App. p. 1. The court found whether Mr. Sutton would have or could have bonded out before being transferred to the jail's general population was speculative. R. Doc. 41, p. 6, Pet. App. p. 6. Still, the court noted that Friese told Mr. Sutton he would be released after his initial appearance. R. Doc. 41, p. 6, Pet. App. p. 6. Therefore, the court framed the legal question as: "whether a policy allowing the strip search of all arrestees (charged with at least a serious misdemeanor) is an exaggerated response to ensure jail security, when the arrestees will have contact with others awaiting

their initial appearance, but not with detainees in the general population." R. Doc. 41, pp. 6-7, Pet. App. pp. 6-7.

The magistrate held this was a reasonable procedure, relying on *Rattray v. Woodbury Cnty., Iowa*, 908 F. Supp. 2d 976, 999-1000 (N.D. Iowa 2012). R. Doc. 41, pp. 7-9, Pet. App. pp. 7-9. In *Rattray*, the court rejected an inmate's similar proposal, finding the exception to be "unworkable." R. Doc. 41, p. 7, Pet. App. p. 7. *Rattray* relied on the fact that during intake, even though the inmate was not placed in general population, he was still in a cell where they were sometimes "doubled up," and jail staff did not need to implement a "wait and see" procedure. R. Doc. 41, pp. 7-8, Pet. App. pp. 7-8.

Mr. Sutton objected to the report and recommendation; specifically, he objected to the finding that the strip search was reasonable. R. Doc. 45. Mr. Sutton cited *Hinkle v. Beckham County Board of County Commissioners*, 962 F.3d 1204, 1237 (10th Cir. 2020), wherein the Tenth Circuit rejected a jail policy allowing strip searches of individuals before determining whether the individual would be housed in general population. R. Doc. 45.

The district court adopted the report and recommendation, denying the motion to suppress. R. Doc. 49, Pet. App. p. 19. The court adopted the reasoning of the magistrate court. R. Doc. 49, Pet. App. p. 17. The court acknowledge that "*Florence* does not demand this result, nor does it preclude it." R. Doc. 49, p. 8, Pet. App. p. 18.

Mr. Sutton entered a conditional guilty plea to one count of possession of methamphetamine with intent to distribute, pursuant to a plea agreement. R. Doc. 56-1. Mr. Sutton preserved the right to challenge the denial of the motion to suppress on appeal. R. Doc. 56-1.

Mr. Sutton appealed his motion to suppress, and the Eighth Circuit issued its ruling on August 5, 2026. Pet. App. pp. 27-34; *United States v. Sutton*, 185 F.4th 858 (8th Cir. 2026). The Eighth Circuit upheld the district court's denial of the motion to suppress. It framed the question as follows:

> Here, we must address whether jail officials could strip-search Sutton without reasonable suspicion or probable cause because he would be held in an intake dormitory alongside other detainees.

Id. at 861, Pet. App. p. 31. The Eighth Circuit noted that Mr. Sutton would have unrestricted contact with other detainees, posing "risks for facility staff, for the existing detainee population, and for [himself]." *Id*., Pet. App. p. 31.

The court then applied the "substantial evidence" framework outlined in *Florence* — that deference must be given to the officials in charge of the jail unless there is substantial evidence demonstrating their response to the situation is exaggerated — and found that the record did not contain said substantial evidence. *Id*. at 862-63, Pet. App. pp. 32-33. The court left open the question whether "detainees who will not be held with others" fall under *Florence*'s substantial evidence framework. *Id*. at 863.

REASONS FOR GRANTING THE WRIT

In *Florence v. Board of Chosen Freeholders*, 566 U.S. 318 (2012), the Supreme Court rejected a challenge to a jail's policy of strip searching arrestees. *Florence* was a narrow ruling, with the Supreme Court framing the issue as regarding searches of detainees who will be admitted into the jail's general population. *Id* at 339-40. *Florence* did not hold that a jail policy of searching all detainees, even those who will not enter the jail's general population, is reasonable. *Id.*

This Court should grant the petition to address this question, as it was expressly left unanswered in *Florence.* Leaving this question unanswered will lead to further confusion and disagreement among lower courts regarding this issue.

I. The strip search of Mr. Sutton violated his Fourth Amendment rights. The jail's policy of strip searching anyone charged with at least a serious misdemeanor, even if the individual will not go to the jail's general population, is unreasonable as applied to Mr. Sutton.

The question of whether individuals who will not be entering general population can be strip searched was left unanswered in *Florence*. In *Florence*, this Court framed the question as follows:

> The Federal Court of Appeals have come to differing conclusions as to whether the Fourth Amendment requires correctional officials to exempt some detainees *who will be admitted to a jail's general population* from searches here at issue. This Court granted certiorari to address the question.

Id at 325-26 (emphasis added). The Court, in a five to four split with two concurrences, upheld the jail policy that required strip searches for those admitted to

the jail's general population. Justice Kennedy, in part IV his majority opinion[3], specified that "[t]his case does not require the Court to rule on the types of searches that would be reasonable in instances where, for example, a detainee will be held without assignment and without substantial contact with other detainees." *Id* at 339.

In his concurrence, Justice Alito noted that the holding was limited to finding "that jail administrators may require all arrestees who are committed to the general population of a jail to undergo visual strip searches not involving physical contact by corrections officers." *Id* at 340 (Alito, J. concurring). In another concurrence, Justice Roberts emphasized that *Florence* was detained for a warrant rather than a minor traffic offense and "that there was apparently no alternative, if *Florence* were to be detained, to holding him in the general jail population." *Id* at 340 (Roberts, C.J., concurring).

The fractured opinion was specifically narrow, with the majority opinion limited to "arrestees who are committed to the general population of a jail." *Id* at 340 (Alito, J., concurring); *see also id* at 338-39 (majority opinion). And Justice Alito, who was a necessary vote for the majority, carefully noted that it did "not hold that it is always reasonable to conduct a full strip search of an arrestee whose detention has not been reviewed by a judicial officer and who could be held in available facilities apart from the general population." *Id* at 341 (Alito, J., concurring).

[3] Justice Thomas did not join this part of the majority opinion.

Mr. Sutton's case requires this Court address this left-open question: is a strip search of a detainee who is unlikely to enter the jail's general population unreasonable? The answer is that such a search is unreasonable.

Under *Florence*, courts must defer to correctional officials "unless the record contains substantial evidence showing their policies are an unnecessary or unjustified response to the problems of jail security." *Id* at 327. The *Florence* Court, which acknowledged strip searches of those entering general population were not an unjustified response to jail security problems, specifically distinguished general population from individuals held without assignment and without substantial contact with other detainees. *Id* at 338-39.

In pre-arraignment holding, like in Mr. Sutton's case, detainment is more temporary and transitional, and most of the cells are for individuals or small groups. Some individuals might bond out before ever making it to general population. Here, Mr. Sutton had money and his cell phone to contact people to help him bond out; it cannot be shown that post-arraignment, he would end up in general population. In addition, some cells might only have one person in them, and those cells containing small groups lack general population's large-group concerns of infectious disease, gangs, and contraband. *See Hinkle v. Beckham Cnty Bd. Of Cnty Comm.*, 962 F.3d 1204, 1237 (10th Cir. 2020).

Mr. Sutton's pre-arraignment holding does not meet the definition of "substantial contact" that raises security stakes and necessitates a strip-search. If it

did, the policy would also apply to simple misdemeanants, as they are also held in the dorms with others prior to arraignment. Simple misdemeanants are not searched under the policy, showing security concerns are unrelated to the searches. And here, the government could not establish that a private cell was unavailable to Mr. Sutton.

In addition, recognizing the pre-arraignment holding as "substantial contact" with other detainees would eliminate *Florence*'s limitation to those admitted to general population. Because many people bond out or are released on their own recognizance prior to entering general population, eliminating this limitation would increase strip searches in jails to those never entering general population and would discard any connection to jail security.

II. The Circuits are split on whether strip searching detainees who may never enter general population violates the Fourth Amendment. Guidance from the Supreme Court on the issue is necessary.

Second, the unanswered nature of this question has left the few Circuits who have addressed the issue confused. As explained herein, the Eighth Circuit held the search was reasonable under *Florence*. 185 F.4th at 862. In the Tenth Circuit, in *Hinkle v. Beckham Cnty. Bd. Of Cnty. Comm'rs,* 962 F.3d 1204 (10th Cir. 2020), the court held that a strip search of a suspect *before* a determination regarding how he would be classified and housed fell outside the holding in *Florence*. *Id* at 1235-38. The Eighth Circuit differentiated Mr. Sutton's case from *Hinkle* by noting that jail staff already determined he would be placed in Dorm 1 with two individuals prior to

searching him. *Sutton*, 185 F.4th at 862. So, to the Eighth Circuit, the two cases are not in conflict.

Mr. Sutton disagrees. Both cases fall within the question left unanswered in *Florence*; neither defendant was likely to join the jails' general population. Therefore, the two cases are in conflict because the issue raised is whether there is an exception for those not entering general population, not whether the individual's housing has been determined prior to the search.

Confusion among the Circuits runs the risk of continued unreasonable searches. If the Eighth Circuit is applying the law incorrectly, then violations of the Fourth Amendment will continue without recourse. A clear answer for the Circuits regarding how to apply the law will resolve this concern.

CONCLUSION

For the reasons stated herein, Mr. Sutton respectfully requests that the Petition for Writ of Certiorari be granted.

RESPECTFULLY SUBMITTED,

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